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DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION  
(DNHRQAC)

Eagle's Law Staffing Ratio Waiver Subcommittee

In-person & Virtual Meeting

Cisco Webex

Anchor Location: Kentmere Rehabilitation  
& Skilled Nursing

1900 Lovering Ave

Wilmington, DE 19806

**Meeting of October 4, 2024 @ 10:00 am**

FINAL

Subcommittee members present: Norma Jones; Cheryl Heiks; Lisa Furber, Chair; Mary Peterson, RN and Dr. Melissa Winters, PsyD. Subcommittee members attended virtually, except for Norma Jones who hosted the meeting @ anchor location. A quorum of subcommittee members was present.

Subcommittee members not in attendance: N/A

Others Present: Margaret Bailey, DNHRQAC Executive Director (attended @ in-person location); Rob Smith, Division of Health Care Quality (DHCQ); Maggie Goonan, Public and one individual by phone (not identified).

1. Call to order

This meeting was called to order at 10:03 am.

2. Approval of minutes

Meeting minutes draft of September 13, 2024 was approved as written. Motion to approve meeting minutes was seconded and carried by a majority of members present. One subcommittee member abstained from voting on the meeting minutes.

3. Discussion of:

Mr. Rob Smith mentioned DHCQ has been gathering staffing ratios per shift data since 2<sup>nd</sup> quarter 2024 but enforcement will not begin until 1/1/2025. The Division does enforce 3.28 hours per resident per day (HPRD), which is another component of Eagle's Law.

Waiver Application

Subcommittee members discussed creating a one-page document to highlight changes made to the waiver application since the implementation date was changed from 7/1/2024 until 1/1/2025.

Ms. Peterson offered to create a document to highlight the changes and will forward draft to subcommittee members.

The subcommittee also talked about presenting the changes during the next DHCQ call with long term-care (LTC) providers. Ms. Bailey mentioned DHCQ will not be hosting a meeting in November and shared the next meeting will be held on Tuesday December 3, 2024 @ 11:00 am. Ms. Furber offered to present the waiver changes during the virtual meeting on Dec. 3, 2024.

**Action Item(s):** Ms. Peterson will create one-page document highlighting waiver changes.

Ms. Furber will present waiver changes during next DHCQ call with providers.  
Ms. Bailey will contact DHCQ to request to be added to Dec 3, 2024 meeting agenda.

#### Power Point Presentation (PPP) Updates

Subcommittee members reviewed the PPP and decided to remove language in waiver application on page 26: “to be completed no later than August 8, 2024” to mirror language already approved on the application from the full commission.

All subcommittee members approved the language, no subcommittee members abstained or opposed. Dr. Winters sent a copy of the updated PPP to subcommittee members during the meeting. The updated form will also be shared during DNHRQAC full Meeting of October 15, 2024.

Additionally, subcommittee members discussed “effective date”, and all subcommittee members agreed to keep the effective date “1/1/2025”. No subcommittee members abstained or opposed. Changes to the form were implemented live by Dr. Winters.

**Action Item:** The subcommittee will make a recommendation during 10/15/2024 DNHRQAC full Meeting to approve the PPP as written.

#### Waiver Application Review Team

Ms. Furber has been having discussions with several DNHRQAC members regarding their interest in serving on the waiver application review team. Currently, the waiver application review team consists of Norma Jones, Lisa Furber and Mary Peterson. The goal of the review team is to do the heavy lifting once applications are submitted and make a recommendation to the full commission whether to approve or deny a waiver application.

**Action Item(s):** Ms. Furber will continue outreach efforts with DNHRQAC members about the waiver application decision team.

Ms. Furber will check with DAG Smith to see if there will be any issues should there be a three-person application review team, should no other commission members volunteer to serve.

#### Decision Pathway Rubric

The decision pathway document was discussed by subcommittee members, in particular, core components being evaluated by the commission during an application waiver review. Nothing was added to the already approved decision pathway form.

During this subcommittee meeting, the form was cleaned up and additional sidebar questions noted on the form were removed. The final version of the pathway form was sent to subcommittee members during the meeting. The decision pathway form will be brought forward for a vote to finalize it during DNHRQAC full Meeting of October 15, 2024.

Subcommittee members also discussed the core component language within the “proposed critical areas”.

It was mentioned the subcommittee would need to figure out whether to include the critical area’s, how the critical area’s would be defined.

The purpose of the critical area’s was to capture objective data to give an idea on performance. Perhaps this could be achieved through nationally recognized/evidence-based factors relating to staffing and resident safety to avoid subjectivity in evaluations and ensure fairness. Relative information would be extrapolated from an existing technique.

Ms. Peterson mentioned most Delaware skilled nursing facilities do not contract with The Joint Commission but rely on Center for Medicare and Medicaid Services (CMS) for safety measures. The national safety patient goals were reviewed and considered when the staffing ratio waiver application questions were developed (falls, medication

errors, infection prevention, pressure ulcers, etc). There isn't a way to confirm the data because of not having access to reports such as one from The Joint Commission. The key quality measures were considered when writing the application questions, too. As a result, the information DHCQ will provide on the application over the past 1-2 years will help (citation history, staffing issues, etc).

Dr. Winters agreed the information in the critical area's is being captured but wondered whether the information is being scored in any other section of the decision pathway. She added that the weight of deficiencies might not be equal. The example provided: an outdated sandwich in the fridge vs a pressure ulcer. Mr. Rob Smith reminded the subcommittee that DHCQ scopes the deficiency reports and anything at an actual harm level or above is where all the enforcement action takes place. He suggested this group consider focusing on higher level severity and scope deficiencies, such as a "G" level and above or citations regarding substandard quality of care. Additionally, Mr. Smith mentioned the subcommittee may also want to consider the number of quality care tags/deficiencies cited, too.

Dr. Winter's asked whether the critical area's section of the decision pathway should be removed. Ms. Peterson agreed the information will be provided by DHCQ but wondered if the application should state something like the staffing ratio waiver application was created after careful consideration of information being collected at a national level relating to safety standards. Mr. Smith confirmed that none of the Delaware nursing homes are currently Joint Commission accredited and DHCQ does not collect data from the SNFs about whether they are using any safety measures from The Joint Commission. DHCQ is strictly looking at CMS requirements.

As a result of the discussion, the section critical areas were removed from the decision pathway form and the "voice of the customer" section was deferred. Subcommittee members elected to defer "the Voice of the Customer" in the rubric due to recent staffing changes within LTCOP. Subcommittee members would like to consider revisiting this core component later.

It was noted that the application and scoring process will be reevaluated and potentially revised at certain intervals to assess the validity and reliability of the tools.

A motion was made and seconded to move the decision pathway form forward with revisions made during this meeting to the full commission. All subcommittee members agreed. No subcommittee members expressed opposition or abstained from approving the form. The form was shared during the meeting and members received a final copy (via email) after the meeting.

Subcommittee members discussed capturing agency and employee overtime usage but there was uncertainty about including bonuses also. A discussion ensued relating to overtime and use of bonuses and other employee incentives.

**Action Item:** Subcommittee members will make a recommendation to approve the Waiver Decision Pathway form during 10/15/2024 DNHRQAC full Meeting.

#### 4. Public Comment

No members of the public provided comment during this subcommittee meeting.

#### 5. Next Meeting

The next DNHRQAC Eagle's Law Staffing Ratio Waiver Subcommittee Meeting will be held on Friday November 15, 2024 @ 10:00 am. In-person and virtual attendance options will be available. Meeting information will be posted on the Delaware Public Meeting Calendar.

#### 6. Adjournment

The meeting was adjourned at 11:28 am.

Attachments: 10/4/2024 Eagle's Law Staffing Ratio Waiver Subcommittee Meeting agenda  
9/13/2024 Eagle's Law Staffing Ratio Waiver Subcommittee Meeting minutes draft  
Eagle's Law Staffing Ratio Waiver Application, PPP & Rubric