
*Delaware Nursing Home Residents
Quality Assurance Commission*

DNHRQAC Meeting of January 21, 2025

9:30 a.m.

Virtually via Cisco Webex

Anchor Location: DE CLASI – Georgetown

10251 Office Circle

Georgetown, DE 19963

FINAL

Commission member(s) present: Lisa Furber, DNHRQAC Chair; Cheryl Heiks; Norma Jones; Mary Peterson, RN, BSN; Dr. Melissa Winters, PsyD; Hooshang Shanehsaz, RPH; Taylor Green, proxy for Representative Eric Morrison; Jennifer McLaughlin, OT; Kori Bingaman, RN, NHA; Chris Marques, Esquire; Brandon Williams as proxy for Senator Mantzavinos and Dr Avani Virani, MD.

Deputy Attorney General (DAG) Patrick Smith, Esquire was also in attendance.

Commission members not in attendance: Brian Frazee.

Ms. Peterson and Ms. Furber attended in-person @ the anchor location. The remainder of meeting participants attended virtually or by phone. A quorum of commission members was present.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Kevin Andrews, Public; Jim McCracken, LeadingAge; Harry Palmer, Delaware Hospital for the Chronically Ill (DHCI); Steve Constantino, DHSS; Corinna Getchell, DHCQ; Olga Beskrone, Esquire, DE CLASI; Denise Elliott, DHCQ; Kim Reed, DHCQ; Karen Crowley, DHCQ; Rob Smith, DHCQ; Lauren McGuire, Esquire; Paul Smiley, Gilpin Hall and Staci Marvell, DMMA. 2 participants attended by phone and were not identified.

1. Call to Order

This meeting was called to order @ 9:52 am by DNHRQAC Chair, Lisa Furber. There were a few technical challenges that caused a delay to the start of the meeting.

2. Approval of the meeting minutes

Meeting minutes draft for 12/7.2024 were approved as written.

3. Discussion of

Eagles Law Staffing Ratio Waiver Applications

Ms. Furber mentioned there have not been any waiver applications submitted as of this meeting.

DNHRQAC Waiver Application Decision Subcommittee

A discussion took place regarding whether the full commission can delegate authority to the smaller waiver application decision pathway subcommittee to decide the outcome of waiver applications.

The reason for this discussion was because previously a motion was made during a full commission meeting that gave this subcommittee authority to make a recommendation to the full commission regarding the final decision of staffing ratio waiver applications.

Members expressed concern during today’s meeting with not having enough time to review all materials when asked to vote on whether to approve or deny a waiver application.

Deputy Attorney General (DAG) Patrick Smith, Esquire stated the smaller waiver application decision subcommittee would need to bring their recommendations to the full commission for a vote.

4. Executive Session

Commission members went into virtual executive session @ 10:15 am to discuss personnel matters. The executive session ended @ 10:24 am.

After returning to the public meeting, a motion was raised and seconded to extend a job offer to one of the candidates that applied for the f/t Administrative Specialist position. 7 commission members voted “yes” and 4 members/proxys “abstained”.

5. Old Business/New Business

FY 26 Joint Finance Committee (JFC) Budget Hearings

Ms. Furber mentioned this year, DNHRQAC and other non-Judicial agencies will have an opportunity to present their budget requests. In the past, this information was included in the Judicial Branches submission.

The non-judicial budget hearing will occur on February 20, 2025 @ 12:45 pm. Ms. Bailey will lead the preparation and Ms. Furber will attend to support the budget request.

As mentioned, DNHRQAC voted on FY 26 budget request months ago, asking for an additional \$8,500 for office, travel and contractual expenses.

Division of Health Care Quality (DHCQ) Updates

Ms. Corinna Getchell, DHCQ Director, provided information relating to the Division’s activities during 4th Qtr 2024.

	<u>Skilled Nursing Facilities (SNFs)</u>	<u>Assisted Living Facilities (ALFs)</u>
Annual Surveys	13	11
Complaints	17	13
Follow-Up	<u>5</u>	<u>1</u>
Total	35	25

During 4th Qtr 2024, DHCQ had 7 staff vacancies: 3 compliance nurses (1 in Office of Healthcare Facilities Licensing and Certification Section) and 4 staff in the investigation section. Ms. Getchell mentioned that the staff DHCQ currently has is relatively new. New staff members are not fully trained or certified and therefore unable to aid the Division in completing their mission. DHCQ staff that is not fully certified cannot complete Federal annual surveys. Ms. Peterson stated, “that as a commission, we need to advocate more on behalf of DHCQ for more funding for additional staffing complements.”

Ms. Mary Peterson mentioned some commission members have spoken about concerns regarding staffing challenges within DHQC during State budget hearings, JFC hearings and other avenues. Ms. Peterson added that DHSS Secretary mentioned during this year’s budget hearing that no additional funds will be asked for to assist with more staffing complements within DHCQ unless

there are discretionary funds available. “There have not been any additional staffing complements added since 1999, yet the number of facilities continues to increase and the Division is expected to keep up with the work. The Division prioritizes the Federal surveys”. As a result, Ms. Peterson encourages others to continue advocating for DHCQ to be able to increase their staffing complement and therefore address issues in a timely manner.

Ms. Bingaman agreed and mentioned that surveyors and others in DHCQ pay rates need to be adjusted also. Ms. Peterson added that she is aware DHCQ has been aggressively working to increase pay scales, but they remain low compared to the private industry, so it makes it difficult to recruit and retain employees.

Mr. Steven Constantino, DHSS Cabinet Secretary’s Office, spoke up as a representative of DHCQ. “We internally do a lot of pushing to fund DHCQ as much as possible. We are subject to a budget process which sometimes puts constraints on the entire Government based on revenue and other issues. I don’t want anyone to leave this meeting thinking the Secretary does not advocate for resources in this Division, it’s just that we are subject to a budget process which has a lot of other divisions asking for very critical needs. We do believe this is an important issue and understand the challenges.”

Ms. Peterson mentioned \$100k DHCQ received to fund Federal surveyors would have helped to staff 2 of the vacant compliance nurses as well as 2 more individuals in a survey position.” In addition, Ms. Peterson shared her ideas about staffing requirements (RN, BSN and MSN) needed for ALF surveys vs SNF surveys and hopes the Division will still require BSN surveyors to complete SNF surveys to understand the complexity of care needed for some residents. Ms. Getchell mentioned DHCQ is looking at other job titles that could be used for these positions.

Ms. Furber suggests members revisit the discussion of DHCQ staffing complements and survey positions during a future subcommittee and full commission meeting.

Ms. Bailey shared a recent scenario and ask DHCQ what they would do. A facility was cited for several deficient practices during their annual survey. The facility was back in compliance during DHCQ’s follow-up survey. Shortly afterwards, family is stating the issues found during the original annual survey are happening again.

Ms. Getchell mentioned DHCQ triages priorities. Complaints are triaged based on severity and can result in immediate action or future on-site visits. She added that annual and complaint surveys are conducted separately and done at different times. Ms. Getchell added that a new complaint would be triaged as a new complaint. The new complaint could be triaged as an immediate jeopardy to something looked at during the next on-site annual survey depending how it was triaged and depending on the allegations. Finally, Ms. Getchell mentioned DHCQ is understaffed and lacks funding that impacts their ability to address compliance issues and therefore cannot send someone out for every complaint.

4th Qtr 2024 Quality Assurance Review Team (QART) Report

Mr. Rob Smith, DHCQ Licensing Administrator, presented the 4th Qtr 2024 QART Report. During this quarter, there were seven “G” level deficiencies identified by the survey team. One “G” level deficiency was downgraded after QART review since they were not able to prove it was caused because of a deficient practice.

Ms. Peterson asked whether the Division could provide summaries to explain the deficient practice. This was something previously provided on the QART Report. Going forward, DHCQ will reference the summaries on QART Reports.

Ms. Bingaman provided an example for one of the summaries listed on the QART Report and asked whether the hospitalization for all 3 residents was a result of the medication errors. Mr. Smith said he believes so but would check with the Division's Quality Assurance Nurse and get back to the commission.

4th Qtr 2024 Staffing Report

Mr. Rob Smith, DHCQ Licensing Administrator, provided staffing data relating to the 4th quarter 2024. During this quarter, the hours per resident per day (HPRD) were as follows:

Privately owned skilled nursing facilities (SNFs) – 3.86 HPRD
State operated SNFs – 8.11 HPRD

Mr. Rob Smith stated, "There were a few facilities not in compliance during this quarter, for a few days." As a result, deficiencies were noted, plans of correction were written and civil monetary penalties were imposed.

"Starting January 1, 2025, the shift ratios will also be enforced." Per Mr. Rob Smith.

The requirement for SNFs to meet required nurse/aide staffing ratios was waived during the pandemic. DHCQ began informally tracking nurse/aide staffing ratios again, however, during the 2nd Qtr 2024.

During this quarter, Mr. Smith mentioned the LPN/RN ratios to resident shifts were mostly in compliance but several CNA to resident shifts were not in compliance with the Eagle's Law staffing ratio requirements.

Ms. Heiks suggested the State look at facilities that are not meeting the ratios per shift and not able to provide CNA training due to a prior high-level citation to see if something can be done to increase staffing in those buildings. Ms. Getchell said the Division will look further into this.

4th Qtr 2024 Exigent Circumstances

Mr. Smith, DHCQ Licensing Administrator, shared the 4th Qtr 2024 Exigent Circumstance Report. During this quarter, there were 5 facilities (12 times total) that submitted an Exigent Circumstance form to DHCQ. The reasons provided included:

Replacement staff unavailable
Last minute call out
Agency staff not noted

4th Qtr 2024 Top Citations

During 4th Qtr 2024, the top 5 citations:

SNF

F582 - Medicare/Medicaid Liability Notice
F656 – Develop/Implement Comprehensive Care Plan
F657 – Care Plan Timing and Revision
F880 – Infection Prevention and Control
F641 – Accuracy of Assessments

ALF

14.0 – Residents Rights
13.0 – Service Agreements
12.0 – Services
11.0 – Resident Assessment
8.0 – Medication Management

2024 Civil Monetary Penalty (CMP) Report

Rob Smith, DHCQ Licensing Administrator, shared information from Calendar Year (CY) 2024 relating to Federal and State imposed CMPs.

Federal - \$242,900
State - \$72,500

It was mentioned that other remedies also occurred in CY 2024 for 7 facilities. This included:

Ban on admissions/suspended admissions/modified admissions
Monitors
Temporary management in 2 facilities

Ms. Getchell mentioned the facilities are responsible for costs associated with monitors and temporary management services.

2024 Adult Abuse Registry (AAR)

Karen Crowley, DHCQ Investigative Supervisor, provided information relating to CY 24 AAR activity:

52 individuals placed on the registry (1 more than last year)
Over 3,700 cases have been investigated
Common reasons: Financial Exploitation, Emotional Abuse or Neglect

As of 1/27/2025, 11 individuals were being proposed for the AAR.

A new Deputy Attorney General, Matthew Hicks, Esquire, has been assigned to assist with these cases. There are guidelines used when an individual is placed on the AAR.

Notices of Non-Coverage

Ms. Olga Beskrone, Esquire provided information relating to notices of non-coverage. Ms. Beskrone works for Delaware Community Legal Aid Society, Inc (CLASI). Information was emailed to DNHRQAC during the meeting. Ms. Bailey will forward the information to the full commission.

Ms. Beskrone mentioned that Medicare coverage for SNF rehabilitation services is being prematurely denied by insurance companies. She encourages SNF administrators and care providers to advocate for their residents to ensure continued coverage and fulfill their mission.

The legal standard for Medicare coverage relating to physical, speech or occupational therapy in SNF setting includes:

Physician ordered

Requires skills of technical or professional personnel & services furnished by them

Requires services daily (which means 5 days per week minimum)

Individual had a 3-day in-patient hospital stay prior

Condition must be considered and “the availability/feasibility of using more economic alternative facilities and services” – it doesn’t mean economical for the insurance company.

Ms. Beskrone added that Medicare requires doctors to order care daily, 5 days a week, for them to provide coverage. As a result, she encourages SNFs to challenge denials, by Advantage Plans that would end doctor ordered therapeutic care.

Additionally, Ms. Beskrone suggests residents or their representative to familiarize themselves with the SNF 30-day discharge notice requirement and right to appeal.

Ms. Beskrone has worked on a dozen of these cases and said funding is needed to assist with non-coverage notices.

DNHRQAC Subcommittee Updates

DNHRQAC Staffing Ratio Waiver Subcommittee:

This subcommittee provided education to the Delaware long-term care industry during the DHCQ call of December 3, 2024 @ 11:00 am. Ms. Furber presented minor updates relating to the waiver application to 32 participants. Waiver applications will be live effective 1/1/2025. The waiver application will be posted on the following webpages: DHSS/DHCQ, Delaware Health Care Facilities Association (DHCFA), LeadingAge and DNHRQAC.

DNHRQAC Legislative/Advocacy:

This subcommittee met last on 12/12/2024. A wish list of legislative and advocacy items was discussed. The meeting also included discussion of long-term care bills and the Delaware Criminal Justice Information System (DELJIS). The next legislative and advocacy subcommittee meeting will be held on 1/10/2025. Members plan to narrow down the list of CY 2025 priorities and determine path forward.

DNHRQAC Hiring Committee:

The Hiring Committee recommended commission members meet in Executive Session regarding employment.

6. Executive Session

A motion was made and seconded to leave the Public Meeting and enter Executive Session. As a result, commission members and staff exited the public meeting (Cisco WebEx) @ 10:15 am until 10:24 am (Zoom link was provided to commission members only) to discuss employment related items. Once the Executive Session concluded, commission members rejoined the public meeting to vote on employment items discussed during Executive Session.

After leaving Executive Session and resuming with the Public Meeting, a motion was brought forward to extend an offer to one of the f/t Administrative Specialist candidates. The motion was seconded. Roll call vote: 7 members “yes” and 4 members “abstained”. The vote carried.

Ms. Bailey will contact Administrative Office of the Courts to inform the human resource manager to extend an offer relating to the administrative specialist position.

7. Public Comment

Mr. Kevin Andrews provided public comment relating to the Eagle’s Law Staffing Ratio Waiver. He shared his concern about whether there would be a quorum to decide outcome of applications, should a future waiver application be submitted. Mr. Andrews further added, that in response to commission members who expressed concern about voting, he suggested that members who did not want to participate in the vote on applications be replaced.

8. Next DNHRQAC Meeting – February 18, 2025 @ 9:30 am. This meeting will be conducted via virtual platform and in-person anchor location. Meeting invite and details will be forwarded to commission members & available on the Delaware Public Meeting Calendar.

9. Adjournment

This meeting was adjourned at 11:59 am.

Attachments: DNHRQAC Meeting of 1/21/2025 – meeting agenda
DNHRQAC Meeting of December 17, 2024 – minutes draft
4th Qtr 2024 QART Report
4th Qtr 2024 Staffing Report
4th Qtr 2024 Exigent Circumstances
CY 2024 Federal and State CMPs
CY 2024 Adult Abuse Registry
Notice of Non-Coverage

