

**From:** [Brainard, Mark \(LegHall\)](#) on behalf of [Sunset \(Mailbox Resources\)](#)  
**To:** [Steven LePage](#); [McAtee, Amanda A \(LegHall\)](#); [DorseyWalker, Sherry \(LegHall\)](#); [Gay, Kyle E \(LegHall\)](#); [Hansen, Stephanie \(LegHall\)](#); [Pettyjohn, Brian \(LegHall\)](#); [Richardson, Bryant L \(LegHall\)](#); [McBride, Sarah \(LegHall\)](#); [Griffith, Krista \(LegHall\)](#); [Johnson, Kendra \(LegHall\)](#); [Spiegelman, Jeff \(LegHall\)](#); [Yearick, Lyndon D \(LegHall\)](#)  
**Cc:** [Sunset \(Mailbox Resources\)](#)  
**Subject:** RE: JLOSC Meeting on 2/8/22 concerning DNHRQAC  
**Date:** Monday, February 14, 2022 4:19:01 PM

---

Good afternoon,

Thank you for your email. We are sorry for your loss and appreciate the time you took to write to us. Your comments will be added to the record of public comment on the Committee's website.

We would like to provide some information about this review in the hope it answers some of the questions you may have.

The purpose of an oversight and sunset review is to determine genuine public need and evaluate how an entity is performing to meet that need. A performance evaluation is part of the review process and the Committee uses that information to help the entity operate as best as it possibly can.

Prior to the onset of the Covid-19 pandemic, JLOSC selected the Delaware Nursing Home Residents Quality Assurance Commission ("DNHRQAC") for oversight and sunset review. Last year, DNHRQAC presented to the Committee, Committee members were able to ask questions, and the public was given the opportunity to offer comments. Copies of public comments received are available [online](#), as is the recording of the presentation meeting where verbal public comment was taken. Below, we have included links to these meetings for your convenience.

Following the presentation meeting, JLOSC adopted recommendations at the April 1, 2021 meeting. Once these recommendations were adopted, the implementation phase began. The February 8, 2022 meeting was an implementation update on the adopted recommendations. Prior to the meeting, DNHRQAC made specific requests of the Committee, so it was important to have that discussion. To clarify, the Committee has not recommended that DNHRQAC be moved to the Department of Health and Social Services. Below, we have included links to the recording of the recommendation meeting as well as the finalized list of recommendations.

- 02/16/2021 – DNHRQAC presentation meeting: [Meeting Notice](#) [Meeting Recording via YouTube](#) [DNHRQAC PowerPoint Presentation](#)
  - The DNHRQAC presentation meeting was originally scheduled for March 17, 2020, but was postponed due to the COVID-19 pandemic.
- 04/01/2021 – DNHRQAC recommendation meeting: [Meeting Notice](#) [Meeting Recording via YouTube](#) [Adopted Recommendations](#)

- All documents for this review can be found under the Committee's [2020 review tab](#).


Thank you again for your time. We hope that this information is helpful.


Best,  
-Mark & Amanda



**Mark Brainard Jr. & Amanda McAtee**

Joint Legislative Oversight & Sunset Committee Analysts

 [Division of Research | Legislative Hall](#)

 302-744-4114

 [Sunset@delaware.gov](mailto:Sunset@delaware.gov)

 <https://twitter.com/dedivresearch>

This is a monitored email box; your reply will be received.

---

**From:** Steven LePage

**Sent:** Friday, February 11, 2022 1:43 PM

**To:** Brainard, Mark (LegHall); McAtee, Amanda A (LegHall); DorseyWalker, Sherry (LegHall); Gay, Kyle E (LegHall); Hansen, Stephanie (LegHall); Pettyjohn, Brian (LegHall); Richardson, Bryant L (LegHall); McBride, Sarah (LegHall); Griffith, Krista (LegHall); Johnson, Kendra (LegHall); Spiegelman, Jeff (LegHall); Yearick, Lyndon D (LegHall)

**Subject:** JLOSC Meeting on 2/8/22 concerning DNHRQAC

Committee Members,

Another family member made me aware, and I recently watched the Sunset Committee Meeting concerning Ms. Bailey and the DNHRQAC.

I do not believe this meeting was very productive. What I saw was a lot of legislators talking about tone with an agency that is an office of one, an "independent authority" that is a voice for the advocacy of the elderly in the Nursing Home industry.

I for one do not believe this agency should be moved to be placed under political pressure to

weaken the advocacy of that office.

**Placing this agency under DHSS would be like the “fox watching the hen house”.**

I would like to know what kind of tone the legislature is sending when they hinder the advocacy of our elders, our parents, by burying it under an agency with political strings. The idea of an Elder Care Caucus is needed as much as there is one for a children.

Perhaps some of you are uninformed as to the issues that go on in nursing homes on a daily basis. Outdated technology and equipment. Lack of metrics (i.e. falls in the facility, outdated call bell systems, lack of nursing personnel, time to respond to a resident from call bell request, whether to go to the bathroom, need a drink of what or they are choking to death.). Most of all, the lack of transparency from the Nursing Home industry itself.

I personally know that when my father was alive (he passed in November 2020 at the Delaware Veterans Home), he would press the call bell button to go to the bathroom. Someone would show up maybe 15 minutes later, and they would say they had to go get someone else. Then another 15...20 minutes would pass. By that time he had defecated in his diaper.

I want you to think about when it's your time. Your time to be in a facility like this. Many don't think about this.....because it will always happen to the other person. But you are one stroke away from that reality. My father was 85. Imagine at 85, trying to hold your bowel movement for half hour or more. Or my Dads roommate in urine soaked clothing for several days before he passed away. Where is the dignity and respect that the Delaware Legislature should have for all of it's citizenry?

With today's technology, Nursing Homes need to become "Smart Nursing Homes". Technological advances to help improve patient care, and reduce staff burdens.

It is only an office like this that can help advocate for these types of changes. The only thing this office needs is a recommendation for an additional one or two FTE's to help with the workload, and provide for continuity of that office, if Ms. Bailey decides to retire or move on. That would be the prudent thing to do to keep an office with independence and valuable advocacy for its citizenry to operate without skipping a beat.

This is why this office and an Elder Care Caucus is needed and why it must maintain its independence. It is time for Delaware to start working for the people of Delaware, including the elderly population. When it's your turn, you might thank an office like this for the improvements in nursing home facilities in the future.

Another thing to consider is the tremendous amount of work and pressure Ms. Bailey is under. I would endeavor to think how you would fare without your legislative aides, and becoming an office of one yourselves. Look at the whole picture...and what message you are sending to Delaware citizens.

I for one am utilizing publicly available information to shed some light on the nursing home issues.

Because of my technical background, I have been able to provide information from public sources concerning the Nursing Home Industry as reported to the Center for Medicare Services (CMS). Delaware does not provide this information to the public in any transparent manner.

Eagles Law <https://inthefirststate.com/CMSPBj/> Select the appropriate facility and Quarter/Year Covid <https://inthefirststate.com/CMSData/> Type a nursing home name in search box top right, then select "ALL" for entries in dropdown on left.

As a military veteran, I have also been able to grab legislative information and provide any and all legislation for the Delaware Military Veteran Community. I can easily modify this to portray health care or more specific, nursing home legislation.

Military/Veterans Legislation : <https://veterans.inthefirststate.com/>

We need to show how the Delaware Legislature is supporting its citizenry.

Respectfully,

Steven LePage

Persian Gulf War Veteran – Desert Shield/Desert Storm

USAF, Retired

State of Delaware, Department of Technology and Information, Retired

**From:** Brainard, Mark (LegHall) on behalf of Sunset (Mailbox Resources)  
**To:** Candace  
**Cc:** Sunset (Mailbox Resources)  
**Subject:** RE: JLOSC Meeting on 2/8/22  
**Date:** Thursday, February 10, 2022 10:56:15 AM

---

Good morning,

Thank you for your email. As outlined in public meetings and on the Committee's website, the purpose of a JLOSC review is to determine genuine public need and to evaluate how the entity is performing to meet that need. A performance evaluation is part of the review process. **By JLOSC [statute](#), the burden of proving genuine public need and that the entity is meeting that need is on the entity under review.** We cannot speak for the schedules of Committee members outside of our meetings, particularly as it relates to the requests received from agencies across state government, but JLOSC staff attends Commission meetings as part of the research and implementation process.

JLOSC staff distributes public comments to JLOSC members. Additionally, all public comments are included in the review process, and become part of the official record and reporting. JLOSC has specific [rules](#) on public comment so that it can conduct its business. Every public body that meets often develops rules to conduct business in the most efficient manner. Additionally, Delaware's Freedom of Information Act "[FOIA](#)" grants the public the right to observe open meetings but not participate. JLOSC has created a process for public participation that goes beyond what is required and applies it equally across every entity under review. Lastly, any legislation sponsored by JLOSC will follow the same legislative [process](#) as any other bill introduced, including opportunities for public comment.

Last year JLOSC held a presentation and recommendation meeting for the review of DNHRQAC. We have included links below for these meetings for your review. **JLOSC adopted recommendations at their April 1, 2021 meeting, concluding the research and performance evaluation phase of the review.** Once recommendations were adopted, this review entered the implementation phase. The meeting that was held this week was an implementation update on the adopted recommendations because DNHRQAC made specific requests of the Committee.

- 02/16/2021 – DNHRQAC presentation meeting: [Meeting Notice](#) [Meeting Recording via YouTube](#)
  - The DNHRQAC presentation meeting was rescheduled from March 17, 2020 due to the COVID-19 pandemic.
- 04/01/2021 – DNHRQAC recommendation meeting: [Meeting Notice](#) [Meeting Recording via YouTube](#)
- All documents for this review can be found under the Committee's [2020 review tab](#).


Thanks for reaching out, we hope that you find this information helpful.


Best,  
-Mark & Amanda



**Mark Brainard Jr. & Amanda McAtee**

Joint Legislative Oversight & Sunset Committee Analysts

 [Division of Research | Legislative Hall](#)

 302-744-4114

 [Sunset@delaware.gov](mailto:Sunset@delaware.gov)

 <https://twitter.com/dedivresearch>

This is a monitored email box; your reply will be received.

---

**From:** Candace

**Sent:** Wednesday, February 9, 2022 11:50 PM

**To:** Sunset (Mailbox Resources)

**Subject:** Re: JLOSC Meeting on 2/8/22

Thank you for the prompt response. I should have been more specific that I didn't receive more than a generic response in 2021.

I know I can email public comment but I did not hear an overview of the public comment nor see how I can comment when it is a YouTube video link. For transparency of public comment on the matter why not do a webex meeting like other state meetings? Also, when is the last time a member of this committee has attended a quarterly call with the nursing home quality commission? I don't believe I've seen any of the members in the last 5 quarters I've joined. If you asked families who have worked with Margaret I am sure they would agree to keep the commission where it is located. Last night I spoke to family members of other residents and they agreed.

I look forward to the response to my questions.

Thanks,  
Candace

Sent from my iPhone

On Feb 9, 2022, at 5:46 PM, Sunset (Mailbox Resources) <[Sunset@delaware.gov](mailto:Sunset@delaware.gov)> wrote:

Thank you for your comments. They will be forwarded to JLOSC members and included on the Committee's website.

Your previous comments were also forwarded and posted to the Committee's website per our February 23, 2021, 8:29am, email response.

Public comment is accepted at presentation meetings and is announced on JLOSC agendas. Public comment was taken for this entity during its February 16, 2021 presentation [meeting](#). Written public comments are accepted anytime via this email box or by using the Committee's public comment [form](#). Additionally, all JLOSC meeting announcements and agendas are available on the [General Assembly's website](#) and the [Public Meeting Calendar](#).

We are sorry for your loss and disappointment expressed in your email. JLOSC has established rules and processes for how reviews are conducted. Detailed information is available [online](#) and we are happy to answer any questions you may have.

Best,  
Amanda & Mark



**Mark Brainard Jr. & Amanda McAtee**

Joint Legislative Oversight & Sunset Committee Analysts

[Division of Research](#) | [Legislative Hall](#)

[\(302\) 744-4114](#)

[Sunset@delaware.gov](mailto:Sunset@delaware.gov)

<https://twitter.com/dedivresearch>

[To join our mailing list, reply with "Join Mailing List" in the subject line.](#)

This is a monitored email box; your reply will be received.

---

**From:** Candace Esham

**Sent:** Tuesday, February 8, 2022 4:46 PM

**To:** Sunset (Mailbox Resources)

**Subject:** JLOSC Meeting on 2/8/22

Good afternoon,

I am writing the JLOSC committee to express my public comment in regards to two recommendations for the DNHRQAC. I also provided comment via email on Monday, February 22, 2021 and never received a response. I am not sure what other public comment you have received on this but maybe you could consider providing live public comment to a meeting.

1. I disagree with the recommendation to move the commission from the judicial branch to under DHSS. As several members of the committee mentioned, a key part of

the commission is oversight.

DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents. One of the key agenda items of the commission is an update from the DHCQ on investigations. For the last 3 quarters Corinna has not provided an update on the number of open investigations and the backlog as requested. In order to provide true oversight it is important to have separation of power. This is why we have 3 branches of government. Moving this commission to DHSS could potentially provide a conflict of interest or ineffective oversight. I used to work in the nuclear power industry and the oversight department did not reside in the operations department for this very reason.

2. It is surprising to me that while the JLOSC can not recommend an Elder caucus be established that any member of this committee has not proposed this as a need for our citizens. Simply stating it is not the committee's role and passing the burden back to Margaret or Lisa is not acceptable.

Finally, I am disappointed with how the majority of the committee spoke to Margaret during the meeting and focused their feedback on her tone of voice. As a member of the public I did not see where Margaret was defensive and I can personally attest based on her and the work she does, as well as other commission members such as Lisa, is in the best interest of elder residents in Delaware. I do not see how providing data to this committee and having the process drag on for a year is in the best interest of residents. Only Senator Richardson expressed concern over why the staffing has not grown and I agree with him. When Margaret needed to take time off last year Lisa responded to me and there was no disruption in communication.

My Memom died of neglect on February 16, 2022. I filed a complaint on February 5, 2021 and my family has still not seen the report. Another resident was determined to be neglected during the investigation and the corrective action plan has been rejected 3 times. For the last 3 quarters of the commission meetings we have asked for a DHQC update on backlog of investigations and progress and have received zero update. I encourage the members of this committee to join the next commission quarterly meeting to hear the discussion.

Please consider allowing live public comment to your meeting so the public can share their thoughts collectively on this commission. I would be happy to explain the hell my family has gone through due to my Memom's death and **the disappointment with the protection of other residents in the interim.** I am thankful every day that I have had the support of DNHRQAC. I can be reached via email or phone at

[REDACTED]

Respectfully yours,  
Candace Esham



**From:** Candace Esham  
**To:** Sunset (Mailbox Resources)  
**Subject:** JLOSC Meeting on 2/8/22  
**Date:** Tuesday, February 8, 2022 4:46:24 PM

---

Good afternoon,

I am writing the JLOSC committee to express my public comment in regards to two recommendations for the DNHRQAC. I also provided comment via email on Monday, February 22, 2021 and never received a response. I am not sure what other public comment you have received on this but maybe you could consider providing live public comment to a meeting.

1. I disagree with the recommendation to move the commission from the judicial branch to under DHSS. As several members of the committee mentioned, a key part of the commission is oversight. DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents. One of the key agenda items of the commission is an update from the DHCQ on investigations. For the last 3 quarters Corinna has not provided an update on the number of open investigations and the backlog as requested. In order to provide true oversight it is important to have separation of power. This is why we have 3 branches of government. Moving this commission to DHSS could potentially provide a conflict of interest or ineffective oversight. I used to work in the nuclear power industry and the oversight department did not reside in the operations department for this very reason.

2. It is surprising to me that while the JLOSC can not recommend an Elder caucus be established that any member of this committee has not proposed this as a need for our citizens. Simply stating it is not the committee's role and passing the burden back to Margaret or Lisa is not acceptable.

Finally, I am disappointed with how the majority of the committee spoke to Margaret during the meeting and focused their feedback on her tone of voice. As a member of the public I did not see where Margaret was defensive and I can personally attest based on her and the work she does, as well as other commission members such as Lisa, is in the best interest of elder residents in Delaware. I do not see how providing data to this committee and having the process drag on for a year is in the best interest of residents. Only Senator Richardson expressed concern over why the staffing has not grown and I agree with him. When Margaret needed to take time off last year Lisa responded to me and there was no disruption in communication.

My Memom died of neglect on February 16, 2022. I filed a complaint on February 5, 2021 and my family has still not seen the report. Another resident was determined to be neglected during the investigation and the corrective action plan has been rejected 3 times. For the last 3 quarters of the commission meetings we have asked for a DHQC update on backlog of investigations and progress and have received zero update. I encourage the members of this committee to join the next commission quarterly meeting to hear the discussion.

Please consider allowing live public comment to your meeting so the public can share their thoughts collectively on this commission. I would be happy to explain the hell my family has gone through due to my Memom's death and the disappointment with the protection of

other residents in the interim. I am thankful every day that I have had the support of DNHRQAC. I can be reached via email or phone at [REDACTED].

Respectfully yours,  
Candace Esham

**From:** [McAtee, Amanda A \(LegHall\)](#) on behalf of [Sunset \(Mailbox Resources\)](#)  
**To:** [Candace Esham](#); [Bailey, Margaret E \(Courts\)](#)  
**Subject:** RE: Support for DNHRQAC  
**Date:** Tuesday, February 23, 2021 8:29:03 AM

---

Thank you for your comments. They will be forwarded to JLOSC members and included on the Committee's website.

All JLOSC meeting announcements and agendas are available on the [General Assembly's website](#) and the [Public Meeting Calendar](#).


Best,  
Mark & Amanda



**Mark Brainard Jr. & Amanda McAtee**


Joint Legislative Oversight & Sunset Committee Analysts

 [Division of Research](#) | [Legislative Hall](#)

 (302) 744-4114

 [Sunset@delaware.gov](mailto:Sunset@delaware.gov)

 <https://twitter.com/dedivresearch>

 To join our mailing list, reply with "Join Mailing List" in the subject line.

This is a monitored email box, your reply will be received.

---

**From:** Candace Esham  
**Sent:** Monday, February 22, 2021 5:44 PM  
**To:** Sunset (Mailbox Resources); Bailey, Margaret E (Courts)  
**Subject:** Support for DNHRQAC

Good evening,

I am writing to provide support for continuing funding and even expansion of DNHRQAC. Since March 13, 2020, families have not been able to be involved in the direct care of their loved ones who are in facilities. We have relied on the staff of the facilities to be the complete caregivers and communicate if our loved ones are ill. My grandmother was a resident of The Dover Place for almost 7 years and just passed away on 2/16. She was admitted to Kent General on 2/4 with sepsis and MRSA for a foot infection that I learned started in September 2020. My mother and I were not allowed to accompany her to doctor's appointments and the doctor offices did not have the capability to have us participate virtually. I have a complaint filed with the board of health regarding the lack of care that ultimately led to my grandmother's death. A committee that reviews policies and laws to implement changes/improvements for Delaware nursing home residents is extremely important.

DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home

residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

While it is unfortunate my grandmother suffered, my hope is that her case and story will help guide better policies and laws to protect other nursing home residents. Our population in Delaware is aging and our residents deserve to have the best care. The team led by Margaret Bailey is crucial to their safety.

Please feel free to contact me via email or phone at [REDACTED] if you need further information. Attached is a photo of my amazing grandmother who was a nurse at the hospital for the chronically ill in Smyrna until she retired at 68.

Thanks,  
Candace Esham

STATE OF DELAWARE  
**OFFICE OF THE LIEUTENANT GOVERNOR**  
TATNALL BUILDING, THIRD FLOOR  
150 MARTIN LUTHER KING, JR., BOULEVARD SOUTH  
DOVER, DELAWARE 19901

**BETHANY A. HALL-LONG**  
LIEUTENANT GOVERNOR

(302) 744-4333  
LTGOV.DELAWARE.GOV

February 16, 2021

Chairman Gay and Co-Chair Dorsey Walker, and Members of the Joint Sunset Committee:

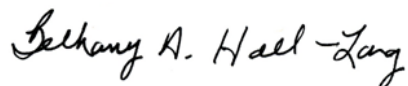
As the Lt. Governor, I am pleased to write this letter of support for the Delaware Nursing Home Residents Quality Assurance Commission. Since its creation in 2006, I have been very proud of the important work of the commission to monitor the quality and assurance system in long-term care and assisted living facilities throughout Delaware.

All residents in long term care and assisted living facilities in our state have the right to be safe, receive quality care, and live free from abuse, neglect or exploitation. They also deserve the right to be treated with dignity and respect as residents often cannot speak for themselves. The work of this commission helps ensure we are doing that each and every day.

As Lieutenant Governor, my office interacts with the commission's Executive Director to assist Delawareans locating appropriate services or address issues within a licensed facility. The Commission works to address gaps in service, staff turnover, trends, educational opportunities and other critical functions.

I am in complete support of the Delaware Nursing Home Residents Quality Assurance Commission. I believe the work of this commission truly does protect and improve the life of our residents.

Sincerely,



Bethany Hall-Long, PhD, RNC, FAAN  
Lieutenant Governor  
Professor of Nursing, Joint Faculty, Urban Affairs  
University of Delaware

CC: Sen. Gay, Chair  
Rep. Dorsey Walker, Co-Chair  
Sen. Hansen  
Sen. Pettyjohn  
Sen. Pinkney  
Sen. Richardson  
Rep. Griffith  
Rep. Johnson  
Rep. Spiegelman  
Rep. Yearick

February 16, 2021

To Whom it May Concern:

I had the pleasure of serving as a board member for the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC) from 2009-2012. Working with Margaret Bailey has always been a joy and I've been able to see her tireless work as a board member and as a legislator. Her and her staff take this work extremely seriously, advocating for our loved ones when often they can't advocate for themselves.

We have all heard the horror stories of what can and has happened in Nursing Homes across the nation and here in Delaware. Margaret and her organization are the checks and balances on that potential abuse. We know that roughly 1 in 10 American 60+ has suffered some sort of elder abuse and that number could be even higher since such many elder abuse incidents go unreported. The need for DNHRQAC is real and will only continue to grow as our population in Delaware is expected to continuing aging.

I urge you to support the work of DNHRQAC and see all the good they do during your Sunset review. I trust that upon extensive review you will see the same high quality advocacy for our seniors and loved ones that I have witnessed over my years of involvement.

Sincerely,

A handwritten signature in cursive script that reads "Valerie Longhurst".

Rep. Valerie Longhurst  
Majority Leader  
Delaware House of Representatives

Mary Ann Summers



Amendment

February 15, 2021

Members of Sunset Review, Joint Legislation, Oversight Committee

Margaret Bailey, DNHRQAC

Good Afternoon,

Nursing home residents aren't getting half of our State resources or half of our attention, yet they account for roughly half the deaths.

COVID-19 has provided the perfect storm for nursing homes and long term resident care, as most of the residents are old, ill, frail, and often immunocompromised. They live in close quarters with roommates and congregate in dining and activity areas. They're cared for by staff living in the community, many with young children, who then come into the facility and circulate among them every day. Combine this with the unfortunate but inevitable slip in infection control, or a single infectious staff member, this can be like a spark to kindling, and now you have the spread. There are hundreds of thousands of confirmed cases in nursing homes, and as many resulting deaths.

The COVID-19 pandemic has affected the mental health of residents in fundamental ways; directly through infection, and indirectly, but more importantly through social isolation and other psychological stresses.

For the past 10 months, long-term care residents have been confined to their rooms without congregate dining, activities, and in-person family visits. They lack exercise, direct sunlight and fresh air, and a normal level of social interaction. At times, residents have had limited access to medical, mental health, and other therapeutic services. Because the majority of residents are not tech-savvy or even tech-capable, they have been fully and passively reliant on the time and availability of staff to facilitate video chats with family and other loved ones.

The psychological stress of social isolation can be particularly jarring for these individuals, they spend most of their time alone in their rooms, without in-person contact with family and or loved

ones. They are surrounded by staff members now unfamiliar due to PPE regulations of masks, gowns, and face shields.

Delaware families need to know that there are resources, that there is somewhere they can turn to in crisis, because in reality we are all in crisis. We are isolated from those we love, we are living a “new normal”, because how we function in life for the very basics has changed. So we agonize and worry that our family member living in long term care, our loved one, with whom we’ve had little to no contact is getting proper care. Now more than ever we need DNHRQAC resources, concerned knowledgeable specialists to walk us through the stress, the anxiety, and guide us with available options and next steps.

I was fortunate to have been put in contact with Margaret Bailey, who made herself available 24/7, helped me find the answers, and interceded on our behalf for better care. She eased the stress, the guilt and emotion. That was a couple of years ago, before COVID-19, I can’t comprehend the unimaginable today on the shoulders of husbands, wives, sons and daughters who have no one to guide them, due to lack of resources.

Respectfully,

Mary Ann Summers



Delaware Nursing Home Residents Quality Assurance Commission – JLOSC March 17, 2020

Joint Legislative Oversight and Sunset Review Committee;

I would like to provide written testimony regarding the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

I am an advocate for Delawareans living with a disability and the elderly. I currently serve on the board of an Independent Living Center that promotes and empowers individuals with disabilities through multiple programs and supports. I previously served on The Delaware Commission for Women and presently serve on the Delaware Family Law Commission. I've spoken during Public Budget Hearings about services and supports. In 2016, I was advised my presentation was valuable in moving Acute Outpatient Care Licensing Agencies (such as home health care, hospice, etc.) from Public Health to what was then called the Division of Long Term Care Residents Protection (now called Division of Health Care Quality). I cannot stress enough how extremely important it is that Delaware provide adequate oversight for our aging population and those living with a disability, regardless of environment: be it home, hospital, nursing home, etc.

On a professional level, I've been in contact many times with DNHRQAC Executive Director, Margaret Bailey, to assist individuals and families. At times, I've reached out about an individual living in the community and needing more services or supports. Other times, I've been in touch about residents living in a licensed long-term care or assisted living facility. I can say that the issues were taken seriously and resolved in a timely manner.

On a personal level, I was my mom's caregiver for over 9 years; the last 4 years she was bedbound. During that time, services and supports were often needed, whether my mom was in the hospital, our home, respite or a nursing home. I knew that I could contact DNHRQAC and would receive help navigating within each environment. If you would like to know of my personal experiences with two nursing homes during my mother's last years, I am available to discuss them with you. In short, I had to remove my mom from two nursing homes under horrendous conditions. I also had horrendous experiences with home health care organizations.

I followed discussions in the late 90's about nursing home reform spearheaded by former Senator Robert Marshall. There was panel which held public meetings so people could discuss nursing home practices in Delaware. At the public meeting I attended at Legislative Hall, I was amazed to see so many people in attendance; the room could not hold them. I believe what the panel heard through their meetings was more than enough for them to realize there needed to be change and oversight. The panel made many recommendations about staff training, funding, quality of care and personal safety. My understanding is that the Delaware Nursing Home Residents Quality Assurance Commission and several pieces of legislation passed in the 140<sup>th</sup> General Assembly resulted because of what was learned from the public meetings.

I think it was most appropriate to situate the Commission within the Judicial Branch. As a result, DHSS and other agencies, organizations or providers are not able to persuade recommendations; it helps to keep them honest. However, I do believe the mission of the Commission would benefit if the JLOSC would consider adding support staff for the Executive Director.

I've had an opportunity to attend some of the DNHRQAC bi-monthly meetings where organizations and State agencies provide testimony. This meeting gives the public a chance to share their experience within long-term care as well as address gaps in service.

I've also received educational opportunities shared by the commission's staff. The information has been beneficial for clients I serve at a Middletown non-profit organization.

Oversight for the elderly and individuals living with a disability is important. We need to make certain people are safe and receive great care, regardless of where they live in Delaware. The agencies that provide services need to be accountable, have money they need to support said services, and address situations or concerns within a reasonable time frame.

The population in Delaware is aging fast! Will there be enough Delaware healthcare workers to care for the elderly and those living with a disability?

I believe JLOSC needs to look deeper into board/commission membership appointment process. My understanding is that this Commission and many other Commissions and Boards had, and continue to have, several membership vacancies for a very long time. Vacancies make it difficult for getting things done. Even though individuals are interested in serving, there is quite a delay and often membership positions were and are 'held over'.

I completely support the Delaware Nursing Home Residents Quality Assurance Commission and feel this Commission is essential for the protection and advocacy of Delaware's aging population. If we do not have this Commission, I feel the elderly and disabled, who must utilize services of nursing homes and services by agencies in the community, will be at a disadvantage and their health will be at stake.

Please contact me if I can be of further assistance or if you want to discuss my personal experience with both nursing homes and community agencies.

Regards,



Raetta McCall  
Middletown, DE





**STATE OF DELAWARE**  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
Margaret M. O'Neill Bldg., Suite 1  
Dover, Delaware 19901  
302-739-3621

The Honorable John Carney  
Governor

John A. McNeal  
Director

**MEMORANDUM**

DATE: March 17, 2020

TO: Members of the Delaware Joint Legislative Oversight and Sunset Committee

FROM: Mr. J. Todd Webb, Chairperson *JTW/ann*  
State Council for Persons with Disabilities

RE: Delaware Nursing Home Residents Quality Assurance Commission

Rep. Bentz, Sen. Lockman and members of the Delaware Joint Legislative Oversight and Sunset Committee (JLOSC), my name is Todd Webb and I am the Chairperson for the State Council for Persons with Disabilities (SCPD). It's a pleasure to be here today to strongly support the work of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

The mission of the SCPD is to unite, in one Council, disability advocates and State agency policy makers to ensure that individuals with disabilities are empowered to become fully integrated within the community. Council's membership includes state agencies, persons with disabilities, family members, advocacy organizations and providers. In addition, SCPD is charged in 29 Del.C. Section 8210 with the responsibility of proposing and promoting laws, regulations, programs and policies to improve the well-being of persons with disabilities.

DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in privately and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents. The Commission meets its stated mission, in part, by conducting the following activities:

- Collaborates with managed care organizations, hospice providers, hospitals, providers, colleges, AARP of Delaware, Alzheimer's Association, Delaware Valley Chapter and others to address and promote enhanced quality of life issues.
- Participates in caregiver conferences, educational workshops, budget hearings, facility visits, boards/commissions, and State agency meetings to promote the long-term care

(LTC) & assisted living (AL) quality assurance system.

- Reviews and analyzes reports and information to help ensure quality standards such as the Division of Health Care Quality's staffing ratio compliance (Eagles Law), Quality Assurance Review Team's (QART) inspection deficiencies reports; civil monetary penalties (Federal & State imposed); Adult Abuse Registry; certified nursing assistant schools written and clinical pass rates; and the Criminal Background Check Center.
- Identifies gaps in services for people with disabilities and the elderly.
- Provides on-going advocacy and awareness efforts regarding residents rights, Federal and State regulations, healthcare workforce, supported decision making, and advanced care directives. Staff assists residents, families, agencies and providers that are looking for services or facing challenges to ensure personal centered care: care plan meetings, and annual post survey meetings.
- Shares educational and funding opportunities to other State agencies and organizations.
- Prepares annual joint resolutions for World Elder Abuse Awareness Day (June 15<sup>th</sup>).

Recently, the Commission and/or staff developed a Nursing Home Administrator Regulations Course with the University of Delaware for 50 DHSS employees (March 2019) and legal service organizations (July 2019). Staff is a subcommittee member that developed a Basic IV Therapy Training from 2019 – present with Bayhealth for licensed RN's & LPN's working in nursing homes & community settings.

SCPD is fortunate to have a representative appointed to the NHRQAC which provides a forum to receive a wide scope of valuable information and assists Council in determining the needs of persons with disabilities residing in institutional settings. In addition, it provides needed information so Council can determine opportunities and system solutions regarding choice for those who may benefit from living in the community.

Incredibly, the Commission provides all of this valuable information and conducts all of its activities with only one staff person, SCPD truly appreciates and endorses the work of the Commission.

Thank you for the opportunity to provide comments and lend support for the NHRQAC.



1521 Concord Pike, Wilmington, DE 19803

(800)-214-6548

[info@neighborcare-hcfs.com](mailto:info@neighborcare-hcfs.com)

---

March 5, 2020

To Whom it may concern,

This letter is to attest to my strongly held sense of gratitude and for the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC). The importance of this organizational body to the maintenance of healthcare integrity in the State of Delaware cannot be overstated. This particular body possesses the unique ability to view the entire system from every angle in order to distinguish and prioritize what is truly important to the maintenance of safe, effective, efficient, and prudent healthcare delivery to patients and residents while also determining what is feasible for healthcare systems and what improvements are necessary.

Another very important role of the DNHRQAC is also the ability to act as an intermediary between the various parts of the healthcare system in Delaware that may occasionally get stuck in their proverbial "silos", either unable to identify mutual benefits, or unable to effectively interact for the benefit of general public and those most vulnerable Delaware citizens. While individual facilities are able to analyze only their own data and outcomes, the DNHRQAC is uniquely poised to analyze the entire health system for the benefit of our Long-Term Care Residents. They also are able to compare those outcomes to established regulations, policies, and procedures in order to make recommendations for critical improvements.

Finally, the DNHRQAC provides great educational and networking opportunities to present solutions for newly identified or persistent issues or opportunities within the healthcare system. The value of their leadership in this area cannot be overemphasized. I fully support the Commission and certainly hope that the commission will continue to function in this capacity.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Akinola", is written over a solid black horizontal line.

Deborah Akinola, Director



STATE OF DELAWARE  
OFFICE OF THE PUBLIC GUARDIAN

Kent County Courthouse  
38 The Green  
Dover, DE 19901

(302) 674-7460  
Fax: (302) 674-7461

March 3, 2020

Joint Legislative Oversight and Sunset Committee  
General Assembly  
Legislative Hall

Dear Committee Members,

I am reaching out to you today on behalf of the Delaware Nursing Home Quality Assurance Commission (DNHRQAC), scheduled to appear before the Committee on March 17, 2020.

I have worked with Margaret Bailey for years and have seen her work tirelessly through the Commission to bring attention to issues needing solutions, in order to improve the lives of people in Long Term Care facilities. One example of this is her advocacy for Oral Health and Dental care services for Medicaid adults. Margaret has also worked with the Office of the Public Guardian to bring attention to guardianship issues and the lack of decision makers in the long term care State Facilities and arranged to tour these facilities with the Masters of the Court of Chancery in order to better connect the Court to those most likely to need a decision maker.

Margaret is always on top of the latest news and items of importance to people in care and the people who provide care, and she is constantly reaching out

to agencies to share this knowledge and help us stay updated. She shares her concerns for those in Long-Term care, and makes suggestions as to how to resolve those issues.

The need for this type of oversight and advocacy is growing each day as the population ages and there are an increasing number of elderly needing long-term care. The mission of the DNHRQAC, to monitor the care delivery and conditions of care for nursing home residents in both public and private facilities in Delaware, and to ensure the health and safety of the residents, becomes more important each day as care providers and resources stretch to meet the needs. Now is the time to support and strengthen the role of the DNHRQAC to ensure we keep advocacy and oversight of care strong for some of our most vulnerable citizens.

Respectfully,

A handwritten signature in cursive script, appearing to read "Alexandra S. McFassel".

Alexandra S. McFassel, Esq. NCG  
Public Guardian

Mary Ann Summers



March 1<sup>st</sup>, 2020

Members of Sunset Review, Joint Legislation, Oversight Committee

Good Day,

I was referred to Margaret Bailey by Kimberly Williams my District State Representative in December of 2016 after months of frustrating, failed attempts seeking high quality, skilled nursing care for my mother in law, a resident at Churchman's Village, Newark, DE.

As a consumer, family member, I was told I was doing everything right, multiple visits per week, initiating frequent onsite communication with administration and staff members, yet things continued to decline, in fact, they got dramatically worse.

It was at the time when my mother in law's wedding rings disappeared, medical care had become, inadequate at best and on the decline. Mistakes with medications were being made and communication from administrators and staff had stalled. It was at this time that I first contacted and met Margaret Bailey. After initially reaching out, her response was immediate and she was comforting, empathetic and assured me of her support. Margaret made herself available 24/7 as she, answered every question, every text, every voicemail, helping with research, giving us the assurance we needed that our expectations were realistic and not out of line. She directed me to the Ombudsman as another resource. Margaret set up meetings with Churchman's Village and our family, attended multiple Care Plan meetings helping to navigate an amicable Care Plan. Each time the facility dropped the ball, or there was a breakdown in communication, Margaret took the reign, and helped guide us back on plan. Her support never wavered.

Margaret stood by my side, supported our family, and helped us speak for my mother in law, until her life ended 16 months ago.



Last year, I attended the Delaware Nursing Home Residents Quality Assurance Commission in North Wilmington where many members were not in attendance. I was equally surprised when I learned that there were several vacancies. I remember thinking at the time that with all the families who have loved ones in Nursing homes, why wouldn't you reach out to some of these families to fill those vacancies. Who better than those mired deep in the situation, I for one would have relished the opportunity to participate and provide feedback.

I was happy to hear that legislation was recently passed removing the political party balance requirement. Political affiliation has no purpose in a skilled nursing facility who is expected to provide a wide range of health and personal care services to our aging population without consideration to political affiliation.

In conclusion, Delaware families want to know that there are resources they can turn to or draw from when considering the placement of a loved one or when faced with the devastating uncertainty of possible abuse, mistreatment or neglect of a loved one residing in a facility within the Nursing Home population. For me and for my family Margaret Bailey as a representative of DNHRQAC became that resource and provided me and my family the means and guidance through what seemed like endless conflicts as we had to make life altering decisions for my mother in law. Is it possible to put a value on what it means to a family to find someone they can trust, to step in and mediate on their behalf? It's at this time a caring family needs to know that there are concerned knowledgeable specialists, professionals like Margaret Bailey who will step in and assist in getting answers, intercede for better care and above all ensure the facility is performing with the utmost quality of care.

Respectfully,

Mary Ann Summers

On Behalf of the Pauline J. Summers Family

**KIMBERLY A. WILLIAMS**  
STATE REPRESENTATIVE  
19<sup>th</sup> District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

COMMITTEES  
Education, Vice-Chair  
Labor, Vice-Chair  
Capital Improvement  
Capital Infrastructure  
Housing & Community Affairs  
Manufactured Housing  
Revenue & Finance

**TO:** Members of the Joint Legislative Oversight and Sunset Committee  
**FROM:** Kim Williams, State Representative, 19<sup>th</sup> District  
**SUBJECT:** Delaware Nursing Home Residents Quality Assurance Commission  
**DATE:** February 24<sup>th</sup>, 2020

---

In the late 1990's, a legislative and citizen panel joined to discuss nursing home reform and provide Delawarean's an opportunity to provide input. The panel marked the beginning of nursing home practice review since 1960's. Former Senator Robert Marshall was instrumental in this effort.

The panel reviewed state laws and regulations, staffing, training, funding, quality of care and personal safety. Upon completion, the panel provided recommendations. As a result, the Delaware Nursing Home Residents Quality Assurance Commission was created and several bills were passed by the 140<sup>th</sup> General Assembly.

DNHRQAC is located within the Judicial Branch and therefore able to provide unbiased or impartial recommendations regarding quality of care or quality of life for long-term care residents.

The Commission monitors State agencies that provide services and/or regulatory compliance such as Delaware's Health and Social Services and Delaware Department of Justice so that complaints of abuse, neglect, mistreatment, financial exploitation, and other complaints are responded to in a timely manner to ensure the health and safety of nursing home residents. DNHRQAC also interacts frequently with LTC service providers and licensed facilities.

Commission members evaluate trends through agency testimony, reports and facility visits. Members meet every other month in public forum to address gaps in service, trends, concerns, review processes and regulations, etc. This includes reviewing policies and procedures for State agencies, health care professionals, law enforcement and health care providers regarding LTC quality assurance system. The Commission provides recommendations as situations arise.

Staff works with post-secondary education schools, hospitals, providers and others to develop educational opportunities for the advancement of care. Recent examples: Basic IV Therapy Training with Bayhealth; and Nursing Home Administration Regulations Course with University of Delaware for health care and legal professionals.

Delawarean's living in licensed long-term care facilities have physical or cognitive impairments and need help from others: medication management, dressing, eating, bathing, etc. Individual's might need

help for a short period of time or the care maybe until end of life. Although the direction is to have more folks live in the community; at times, it is not safe anymore for them to live in the community or they may need more services than what is available in the community.

I imagine you receive calls from constituents looking for suitable long-term care services or feedback afterwards. I, too, receive calls regarding LTC services & supports and connect with the Commission's executive director to assist.

Oversight for this vulnerable population is critical. We need to make sure folks are protected and receive optimal care. We need to make sure agencies are adhering to reasonable timelines, have funding support and are accountable. Delawarean's need choice and receive personal centered care.

As Governor Carney mentioned at his 2020 State of the State Address, "Over the next five years, more than 40% of pension-eligible State employees will be able to retire." With this said, the population in Delaware is aging rapidly. The Commission is concerned about workforce and whether there will be enough professionals to adequately care for this population in the very near future. This is something I suggest this Committee explore further.

The Commission is staffed by one individual; Executive Director, Margaret Bailey. There are currently 13 volunteer commission members. Joint Sunset and Legislative Oversight Committee might want to consider funding opportunities that would provide executive director with staff support.

Ms. Bailey oversees the functional and administrative operations of the Commission; interacts closely with many State agencies, residents, facility staff and families; provides outreach; coordinates bi-monthly open public meetings; serves on other committees; and develops memberships with several entities: Governor's Office, Speaker of the House, President Pro Tempore, Delaware Health Care Association, Department of Justice, etc. In addition, Ms. Bailey attends a wide-variety of conferences, workshops, forums, etc. to promote community outreach.

If you recall. I sponsored legislation with Senator Jack Walsh last year, HB 62 w/HA 1 that modified membership requirements; specifically removed political party balance. Until HB 62 w/HA1 was signed by the Governor, there had been several Governor-appointed membership vacancies (7). As of September 2019, membership vacancies have been eliminated.

I fully support the Delaware Nursing Home Residents Quality Assurance Commission and believe this non-judicial agency of the Courts is essential to the protection and advocacy of Delaware's aging population.

Thank you,



Representative Kim Williams

Good Day Committee Members

I understand that the Joint Legislative Oversight and Sunset Committee will be reviewing of the Nursing Residents Quality Assurance Commission on February 16th, 2021. Please accept this as an addendum to the letter I wrote on behalf of the Nursing Home Residents Quality Assurance Commission on February 14, 2020.

Last year I wrote to the Committee supporting the continuation of the Commission for three reasons. This year I have one further reason. Forty to 60 percent of the deaths in Delaware and across the US occurred in Nursing Homes. In the letter last year I offered that nursing homes are a business. According to the National Consumer Voice for Long Term Care, in 2016 nursing home owners successfully lobbied to have infection control standards and fines for infection control violations reduced, consequently they were not prepared for the COVID 19 pandemic.

Facilities are traditionally under staff and staff turn over is often over 100% annually. Underpaid aides often work several jobs. Multiple exposures and poor infection control practices created a fertile environment for COVID to flourish and kill.

Currently nursing homes and assisted living facilities are lobbying state and federal legislators to pass the SAFE Act. Under this Act families are prevented from bringing civil suits against facilities for five years. At least 27 states have passed the Act. For many this Act legalizes negligent care without fear of repercussion. Removing liability for negligent care would place thousands of current and future residents of long-term care facilities at risk of harm and death.

Perhaps COVID has shined a light on the need for more advocacy and more protection for nursing home and assisted living residents not less.

NRQAC consists of volunteer advocates who are informed about the system and who know where it is broken. For example Assisted Living Regulations, Memory Care Units and the use of chemical restraints. Please see email if 2/14/20.

Residents and their families do not have a lobby and often do not even know about the deals that have been made that compromise care. Residents need more advocates not fewer. I would suggest increasing the scope, responsibility and power of the NHRQAC. It is said that institutional neglect and abuse have been allowed to continue because of ageism, stigma, lack of awareness, lack of training, and an uncaring culture that sees nursing home residents as outside the community. Where does sunset committee stand?

Thank you for reading this letter  
Carol Lovett



Dear Members of the Joint Legislative Oversight & Sunset Committee:

This letter is written on behalf of over 187,000 AARP members here in Delaware in support of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

AARP is a nonpartisan, social mission organization with an age 50+ membership. We fight for issues that matter most to families like healthcare, family caregiving, and independent living. AARP seeks new solutions so people can live and age as they choose—which includes access to quality nursing home care.

Delaware's support of DNHRQAC runs deep. Throughout the Commission's history, we have worked together on nursing home issues and fought for improvements in care. AARP's Brian Posey served as Commission Chair and was a long-standing member.

We believe the work of the DNHRQAC continues to be necessary, and that the Commission is performing its work with integrity. It provides an important layer of oversight and accountability for skilled nursing facilities, by monitoring quality data and reporting to the Governor, Secretary of the Department of Health and Social Services, and the General Assembly. This oversight, when coupled with the protections provided through the state LTC Ombudsman, patient protections in the Delaware Code, and other measures afforded under the Resident's Bill of Rights, ensures that patients and their families receive the highest quality care possible.

As the state's population ages, the work of the Commission will become even *more* important. AARP projects the 65+ population will increase 66% between 2010 and 2030, adding more than 50,000 people to that cohort. By 2060 that number will grow by another 40,000. Skilled nursing facilities will continue to be an important option, and DNHRQAC will help ensure that these facilities provide safe, high-quality care into the future.

Delaware has made strides to improve the care offered in nursing facilities. AARP tracks this improvement in its [Long Term Services and Supports Scorecard](#). From 2014 to 2017, Delaware made improvements in reducing the percentage of new nursing home stays lasting 100 days or more and in the percentage of high-risk nursing home residents with pressure sores. However, several measures showed a need for improvement. The 2017 Scorecard ranked Delaware 32<sup>nd</sup> in the percentage of nursing home residents with low care needs and 41<sup>st</sup> in the percentage of nursing home residents with moderate to severe dementia with one or more potentially burdensome transitions at end of life.

The DNHRQAC plays an important role in helping the state continue to push for meaningful reform and to ensure that all residents receive quality care. AARP supports the need for the Commission to continue its valuable work.

Respectfully,

A handwritten signature in black ink, appearing to read "Sheila Grant".

Sheila Grant  
Associate State Director of Advocacy  
AARP Delaware

### DNHRQAC Sunset Review

I spent every day except Fridays for six years at a small facility caring for my wife from about noon until I put her to bed at night. This facility happened to be a start-up owned by a nurse who was struggling to get the business operational. As I was there constantly and helping out, the owner actually approached me about becoming her partner and as such I was privy to numerous conversations and meetings with other facility directors from whom she was seeking advice and guidance. The advice the owner was getting was along the lines of how to misrepresent the facility without being obvious, how to work around regulations, and how to respond to “deficiencies” without actually doing anything. I learned quickly that whether it’s a nursing home or an assisted living facility that these are profit generating businesses. This is an industry that strongly cultivates and protects a **false** image of caring and concern while preying on an unprotected public to maximize profits. I decided not to become a partner.

I wrote a letter to the Division of Long Term Care Residents Protection (now Division of Health Care Quality) that caused a two week investigation of my wife’s facility and generated 16 pages of deficiencies (including documented mistreatment of residents). The only consequence to the facility was the requirement to submit a corrective action plan for each deficiency which has had no follow up more than two years later. This is one of the reasons facilities have no respect for the State’s regulations and oversight.

I attend dementia support group meetings regularly and hear the horror stories of others who have loved ones in facilities. The question of what’s a good nursing home or assisted living facility arises constantly and my response is always that if you use facilities in Delaware, be prepared to spend many hours there advocating for your loved one as the state doesn’t have the means to hold facilities accountable. This industry desperately needs stronger regulations and much greater oversight. If anything, The state should be looking at strengthening the divisions that are trying to hold these businesses accountable so that residents can utilize these facilities with the confidence that their loved one will get the compassionate care and services they are being promised and deserve.

Richard Kramer

NHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

Key Objectives:

- Examine the policies and procedures and evaluate the effectiveness of the quality assurance system for nursing home residents.
- Monitor data and analyze trends in the quality of care and life of individuals receiving long-term care in Delaware.
- Review and make recommendations to the Governor, Secretary of the Department of Health and Social Services and General Assembly concerning the quality assurance system and improvements to the overall quality of life and care of nursing home residents.
- Protect the privacy of nursing home residents.

I am writing because I understand that the Nursing Home Residents Quality Assurance Commission will undergo a Sunset review in 2020.

With your permission I would appreciate being heard while I share my experiences. I am a consumer who used both nursing home and assisted living facilities. Beginning in 2003, I was a frequent guest at the NHRQAC meetings. I volunteered with Division of Health Care Quality, I participated in CMS initiative to reduce the use of psychiatric medications in nursing homes. I was part of the culture change coalition, and I was involved with legislation requiring that professional care providers be trained to understand dementia. I facilitated trainings in understanding dementia for DSAMH and I have had the honor to serve as the facilitator for several dementia caregivers support groups for 15 years. The conclusions I reach below are based on the collective experience of many.

I am writing because I believe that to serve the public interest the NHRQAC should be continued, expanded and empowered to actualize its key objectives listed above.

I humbly offer the following three reasons:

1. The current leadership of the Division of Health Care Quality
2. The relationship between the Division of Health Care Quality and the Centers for Medicare and Medicaid Services (CMS)
3. Nursing homes and Assisted living facilities are businesses.

1. When I began attending the NHRQAC meetings in 2003 I knew nothing about the nursing home culture or any of the commission members. Senators Marshall's aide had suggested I attend the meetings. I observed that although most of the commission members seemed to be advocates for residents, one person stood out because she objected to quality care measures offered if it looked like they might cost the nursing

home/ assisted living industry money. I grew to learn that this person was an “advocate” for those industries. Frequently she would try to redirect the groups attention from concerns about nursing homes to concerns about family care homes in the community. Currently this industry advocate is the new director of Division of Health Care Quality. After 20 years of putting the industry before the resident I am concerned about her ability to make the U turn needed to advocate for residents.

2. NHRQAC is charged with examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents. The oversight of nursing homes and assisted living facilities is a very big job. I am sure that most people who choose this job do so with an open heart and a desire to help. Unfortunately the DHCQ staff cannot be present when abuse happens. Some caregivers have reported that their complaints of resident abuse or neglect are unsubstantiated because evidence is not available. It seems that things in the physical plant can be observed but lacking physical injury other forms of abuse and neglect seem difficult to substantiate.

For example the use of antipsychotic medication to control behavior in nursing homes and assisted living facilities is one form of abuse and neglect. CMS has established guidances for their use in nursing homes but no such oversight exists in assisted living facilities. Caregivers have shared that AL staff use threats of eviction if family members fail to comport with their requests to medicate a resident...”I will put him on your door step”. Assisted living facilities use these medications to modify behavior where staff training and activities might be more effective.

CMS relies on local surveyors and when surveyors are unable to accurately report to CMS this "both limits CMS’s ability to identify patterns of abuse and take appropriate oversight action and compromises consumers ability to make informed decisions about nursing facilities because the nursing home compare website lacks this data”.

It is my understanding that despite several vacancies on the commission, [the Executive Director](#) has been available when someone needs guidance navigating through LTC. The Commission has assisted residents, families, advocates, agencies and providers; it promotes community outreach; hosts open public meetings and interacts with many to promote optimal quality of care for nursing home residents.

3. Nursing Homes and AL are business.

AL facilities are springing up all over Delaware. In addition to their use of antipsychotic meds to control resident behavior care givers have shared other concerns. One caregiver has reported his experience of collusion among AL administrators to work around oversight. Apparently when prospective residents enquire about medicaid beds in the AL they are told there are such beds depending on availability and what is not said is there



generally no availability.

Often people experiencing dementia live in AL facilities because their medical problems do not require nursing care. People experiencing cognitive decline are found sprinkled throughout the AL population. With the exception of regulations governing memory units in AL; the regs seem to be directed mainly toward medical issues and the staff generally consists nurses and aides. Nurses complete bio, psycho, social assessments. There is no team. Activity therapists, social workers, etc are not required. Activities are vital to people experiencing cognitive decline. Social workers serve families and are resident advocates. AL regs overlook these resident centered needs. There are no person centered care plans instead service plans and contracts govern the costs and what care each resident is purchasing. As a consumer I would respectfully submit that the AL regs and practices need to be reviewed and updated to reflect a non medical, person centered culture. I would further suggest that if this task were undertaken that it not be done exclusively by those currently working in the system but that they be assisted by the commission that is charged to:

“monitor Delaware's quality assurance system.” and “Examine the policies and procedures and evaluate the effectiveness of the quality assurance system for nursing home residents.”

Thank you for allowing me to comment. Eagles Law was revolutionary and a gift to residents. However today satisfying the number of nursing hours per shift in NH and AL is not enough. Other professionals are needed at the table. Staff needs to be able to move beyond the medical model to resident centered care. It seems that more oversight is needed not less. NHRQAC is a diverse coalition that is not encumbered by the medical model and welcomes public involvement. It's executive director has full and complete understanding of the NH and AL industry; how it works as well as the needs of the community being served. She understands that the medical model focuses on a person's limitations while culture change focuses on each person's strengths. With a full compliment of commission members perhaps the NHRQAC is positioned to move forward to actualize its mission and objectives?

Thank you for taking the time to read this letter.

Appreciatively,  
Carol Lovett

February 13, 2020

Delaware General Assembly  
411 Legislative Avenue  
Dover, DE 19901

To: Joint Legislative and Sunset Oversight Committee

I am writing in support of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

I was appointed July 31, 2019 by Governor Carney to serve on DNHRQAC. Please note, I have been involved with the Commission for a while and submitted a Board/Commission application December 2018. The Commission's Executive Director followed up with the Governor's Office several times regarding my application.

DNHRQAC monitors the quality assurance system in long-term care and assisted living facilities throughout Delaware. The Commission meets by-monthly to discuss a wide-variety of topics relating to the quality of care and life for individuals living in licensed facilities: workforce, annual and complaint investigations, services, etc. The Executive Director frequently visits facilities and promotes awareness. As an advocate, I believe we must continue to be watch guards for the nursing home industry and provide a voice for individuals who are most vulnerable.

My perspective is based on years of clinical and research experience in the nursing home setting. I have worked as a nurse and nurse practitioner in nursing homes and have conducted primary and secondary research with nursing home residents. My studies on depression identified atypical symptoms of depression staff may observe and extended the available psychometric data on a depression screening instrument included in Version 3 of the nursing home Minimum Data Set. In addition, my study of storytelling intervention, TimeSlips, is published in *Nursing Research: Effects of a Creative Expression Intervention on Emotions, Communication, and Quality of Life in Persons with Dementia*. It's important to treat individuals most appropriately through effective non-pharmacological interventions for neuropsychiatric symptoms.

In a recent Minimum Data Set analysis examining predictors of antipsychotic use in Missouri nursing home residents, my collaborators and I identified registered nurse staffing among the strongest predictors. Although Delaware's hours per resident day are higher overall than in Missouri nursing homes, I've observed through reports provided by the Division of Health Care

Quality, and my own independent analysis of data available on the Nursing Home Compare website, that harm, neglect and quality of care citations continue to occur in Delaware facilities. We must continue to find ways to work with the nursing home industry to educate and prepare staff for individuals being served. We also must make sure punitive damages are accessed appropriately; residents rights are upheld; and complaints are investigated timely.

I am in full support of the DNHRQAC and look forward to working with others to improve the quality of care and quality of life for long- term care residents.

Please let me know if I can be of further assistance,

Sincerely:

A handwritten signature in cursive script that reads "Lorraine J. Phillips".

Lorraine J. Phillips, PhD, RN

## Remarks on Behalf of the Delaware NH Residents Quality Assurance Commission

Good afternoon. My name is Barbara Webb. I recently retired from the Department of Health and Social Services after nearly 40 years of service. I began my career in the Department as a Medicaid Social Worker and then went on to become the Administrator of Adult Protective Services, Executive Assistant to Cabinet Secretary Carmen Nazario, Deputy Director of LTC Residents Protection, as the Division of Health Care Quality was initially known, and then as the Division's Training/Education Administrator.

Two major forces have always come to bear on the services that residents in LTC receive, or do not receive. The first is the political will of the state and federal government to adequately regulate according to the law. The second is the LTC industry whose business model is understandably to maximize profits, but sometimes at the expense of meeting standards of care.

Firstly, I will address the government influence on resident services. The Division is part of the Department of Health & Social Services. The Department is responsible for and operates two LTC facilities: The Delaware Hospital for the Chronically Ill and the Stockley Center. The Health Care Quality Director is appointed by the Department Cabinet Secretary who is appointed by the Governor. The inherent conflict of interest is that the Department operates long term care facilities and, at the same time, regulates them. And, the Division must enforce regulations in a consistent manner whether the facilities are in the public or private sector. Dilemmas have arisen on enforcement due to this conflict of interest.

Secondly, the private sector lobby, the Delaware Healthcare Facilities Association, is the chief lobbying entity that works on behalf of the LTC private industry in our state. In 2019, Governor Carney approved the retired Executive Director of that lobbying organization to be the director of the Division that she lobbied against for nearly 20 years. State government has the authority to appoint regulatory officials, even if such persons had been lobbyists on behalf of the regulated industry.

As an employee of the Division of Health Care Quality during 2019-2020, I was aware that the lobbyist appointed as director of the Division of Health Care Quality expressed the intention to weaken the protections put in place for LTC residents. Although the Commission could not do anything about that lobbyist's appointment as director, the Commission needs to continue to serve as a voice for residents whose home is in these very long term care facilities. And so I ask you:

Who will examine the laws, regulations, policies and procedures for the residents if the Commission is sunsetted?

Who will monitor data & analyze trends in the quality of care & life of the residents if the Commission is sunsetted?

Who will make recommendations to the Governor, General Assembly & Cabinet Secretary for the residents if the Commission is sunsetted?

As a taxpayer, as a voter and as someone who has had extensive experience related to long term care issues and problems, I am here to say that the Commission needs to continue its work on behalf of LTC residents who are at the mercy of corporate profit and governmental cronyism. Don't silence the residents' voices by sunseting The Delaware Nursing Home Residents Quality Assurance Commission.

Thank you.  
Barbara R. Webb

John Thomas Murray



November 18, 2019

Dear Sir or Madame,

I write this to document my full support of the Delaware Nursing Home Residents Quality Assurance Commission and the Executive Director, Margaret Bailey. Ms. Bailey and the Commission have advocated for residents and quality care since its inception. For more than 12 (twelve) years the (then Division of Long-Term Care Residents Protection) has been required to attend meetings and participate in the Commission's mission. Additionally, they were tasked with submitting quarterly reports on the efforts of the Division. These include the Division's analysis of minimum staffing in all nursing homes (Eagle's Law) and reports on all harm level citations nursing homes issued by the Division.

In addition, the Commission participates in post survey visits where the results of the Divisions surveys (inspections) are presented and discussed with residents and advocates. The Commission submits comments on proposed regulations and lobbies, on behalf of residents, on proposed legislation.

It has come to my attention that Yrene Waldron, the current Director of the Division of Health Care Quality (formerly the Division of Long-Term Residents Protection) is advocating the disbanding of the Commission. This is unfathomable to me. The Director of the Division that is statutorily bound to protect residents is supporting the dissolution of a resident advocacy commission.

This should come as no real surprise. The current Director of the Division of HealthCare Quality, Ms. Waldron has spent the last 20+ years as the Executive Director of the Delaware Health Care Facilities Association (DHCFA). This is the trade/lobbying group of the nursing home industry that advocates on behalf of the industry. This history causes me to question whether Ms. Waldron's loyalty is to the residents of nursing homes she is charged with protecting, or with the industry whose causes she championed for over 20 years.

I write this as a recently retired, twenty-year employee of the Division of Health Care Quality. During this time, I worked tirelessly to protect our nursing home residents. Additionally, I served the last fourteen years as the Deputy Director of the Division. To see a resident advocacy commission being undermined by the current Division Director causes me grave concern for the welfare of our vulnerable population.

Thank you for your attention to this serious matter.

Sincerely,

  
John Thomas Murray