

# 2020 Draft Report

## Delaware Nursing Home Resident Quality Assurance Commission ("DNHRQAC")

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*150<sup>th</sup> General Assembly, 2<sup>nd</sup> session*

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*Respectfully submitted to the  
Joint Legislative Oversight and Sunset Committee  
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# Table of Contents

<b>INTRODUCTION .....</b>	<b>5</b>
FACT SHEET .....	6
EXECUTIVE SUMMARY .....	7
<b>JLOSC PERFORMANCE REVIEW QUESTIONNAIRE .....</b>	<b>8</b>
AGENCY HISTORY .....	8
PURPOSE AND MISSION .....	9
GOALS AND OBJECTIVES .....	10
PUBLIC INFORMATION .....	10
COMPOSITION AND STAFFING.....	11
COMPLAINT AND DISCIPLINARY PROCESS .....	12
ENACTED LEGISLATION.....	13
JLOSC REVIEW HISTORY .....	13
ADMINISTRATIVE PROCEDURES ACT COMPLIANCE .....	13
FOIA COMPLIANCE .....	13
FISCAL INFORMATION .....	13
ACCOMPLISHMENTS .....	14
CHALLENGES .....	15
OPPORTUNITIES FOR IMPROVEMENT.....	15
<b>ADDITIONAL ANALYST COMMENTS .....</b>	<b>16</b>
<b>APPENDICES .....</b>	<b>17</b>
APPENDIX A - State Legislative Citizens Panel on Nursing Home Reform Final Report ..	17
APPENDIX B – Senate Bill 23 of the 140 <sup>th</sup> General Assembly .....	48
APPENDIX C – Eagle’s Law: 16 Del. C. § 1161 .....	50
APPENDIX D – Commission’s Governing Statute: 29 Del. C. § 7907 .....	57
APPENDIX E – Commission’s FY 2018-2019 Annual Report .....	60
APPENDIX F – Commission’s Introduction Brochure .....	70
APPENDIX G – Commission’s Facility Visits Brochure .....	72
APPENDIX H – Licensed Nursing Homes .....	74
APPENDIX I – Licensed Assisted Living Facilities .....	79
APPENDIX J – Current Commission Roster .....	82
APPENDIX K – Conflict of Interest Policy and Agreement .....	83
APPENDIX L – DHSS Confidentiality Agreement .....	85
APPENDIX M – House Bill 62 of the 150 <sup>th</sup> General Assembly .....	86
APPENDIX N – Population Projections from the 2018 Ombudsman Annual Report .....	89
APPENDIX O – Update Draft Bylaws .....	90

# INTRODUCTION

## **About JLOSC and the Review Process**

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) is a bipartisan body comprised of 5 members of the Senate appointed by the President Pro Tempore and 5 members of the House of Representatives appointed by the Speaker of the House. JLOSC completes periodic reviews of agencies, commissions, and boards. The review’s purpose is to first determine the public need for the entity and if need exists, to determine whether the entity is effectively performing to meet the need. JLOSC reviews aim to provide strength and support to entities that are providing a State recognized need. JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff in the form of 2 JLOSC analysts, a legislative attorney, a legislative fellow, and an administrative assistant.

## **A note about this Draft Report**

The information provided in this report is taken from the Joint Legislative Oversight and Sunset Committee Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire, but no changes were made to the substance of what the agency reported. Any points of consideration which arose in analyzing the questionnaire and compiling this report are addressed in the section titled, “Additional Comment from the Committee Analyst.” It is the intent of the analyst to make any substantive changes which may be required, as the result of findings made through the review processes, in the final version of this report.

The statutes governing and applying to the agency under review are included as appendices to this draft report. They are included only as a reference for JLOSC members and may not be included in the final report.

# FACT SHEET

March 13, 2020 JLOSC Review of DNHRQAC



Joint Legislative Oversight & Sunset Committee

## Delaware Nursing Home Resident Quality Assurance Commission (“DNHRQAC”) Overview

- ➔ Monitor Delaware’s quality assurance system for nursing home residents so that responses to complaint of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner.
- ➔ Hosts open meetings and reviews of applicable agencies and entities to address:
  - Quality of care issues.
  - Identify gaps in service.
  - Act as a public forum to share information.
- ➔ Staffed by an Executive Director and is a non-judicial agency funded by the judiciary.

## DNHRQAC Membership

- ➔ 13 members as of September 2019.
  - Representation: legislators, resident (or family member), employees of a long-term care facility, health care professional, advocate for people with disabilities, and other organizational stakeholders.
  - All 3 counties represented in membership.
- ➔ Commission members receive the following:
  - Onboarding material when appointed.
  - Annual update of all financial and administrative information.
- ➔ Commission members conduct visits of long-term care and assisted living facilities, to promote an atmosphere of information sharing and assist the Commission in fulfilling its responsibility of monitoring the effectiveness of the State’s quality assurance system.

## Challenges

- ➔ Population growth statewide.
- ➔ Public and private sector turnover.
- ➔ Funding and staffing levels.

## Opportunities for Improvement

- ➔ Elder Caucus.
- ➔ Membership challenges and new bylaws.
- ➔ New outreach opportunities.

# QUALITY ASSURANCE SYSTEM

## 1 STAFFING RATIOS

Eagle’s Law mandated staffing ratios

2 DHCQ  
Division of Health Care Quality, responsible for enforcement of state and federal laws and regulations



4 ADULT ABUSE REGISTRY

3 CRIMINAL BACKGROUND CHECK CENTER

# EXECUTIVE SUMMARY

**History and Mission:** In July 1999, Senate Bill 23 was enacted to create the Delaware Nursing Home Residents Quality Assurance Commission (“DNHRQAC” or “Commission”). The Commission was created to monitor Delaware’s quality assurance system for nursing home residents so that responses to complaints of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner. The following was established and became part of the quality assurance system outlined in the Commission’s mission:

- Staffing ratios.
- Creation of the Division of Health Care Quality (“DHCQ”) within the Department of Health and Social Services (“DHSS”), responsible for enforcement of State and federal laws and regulations.
- Criminal Background Check Center.
- Adult Abuse Registry.

Since its inception, the Commission has hosted open public meetings to address quality of care issues, identified gaps in service, acted as a forum for the public and other stakeholders to share information regarding nursing home and assisted living services, and issued an annual report of its findings. Additionally, the Commission receives updates from the appropriate state agencies and, if necessary, make the necessary recommendations to the Governor and General Assembly.

**Membership and Staff:** As of September 2019, there are 13 members of the Commission, consisting of legislators, resident of a nursing home or family member, employees of a long-term care facility, advocate for people with disabilities, and other organizational stakeholders.

The Commission is 1 of 5 non-judicial agencies funded by the Judiciary’s budget. Each are managed by their own executive director. The Administrative Office of the Courts is responsible for the 5 non-judicial agencies’ financial and human resource matters, but the agencies function independently.

## **Challenges:**

- Population Growth
- Public and Private Sector Turnover
- Funding and Staff

## **Opportunities for Improvement:**

- Elder Caucus
- Membership challenges and new bylaws
- Outreach

# JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

## **AGENCY HISTORY**

In September 1997, the State Legislative and Citizens Investigative Panel on Nursing Home Reform (“Panel”) was established to ensure that residents of Delaware nursing homes were safe and secure, receiving quality care, and were free from abuse, neglect, and financial exploitation. The Panel’s membership consisted of legislators, advocates, care recipients, health care representatives, and legal experts. In February 1998, the Panel released its final report outlining numerous recommendations to ensure that residents of Delaware nursing homes are safe and secure, receiving quality care, and free from abuse, neglect, and financial exploitation.<sup>1</sup> The Panel found a lack of effective coordination and communication of various agencies responsible for nursing home regulation and oversight. As a result, the Panel developed findings for the following areas of policy review:

- Creation of a Division of Long-Term Care.
- Office of the Long-Term Care Ombudsman.
- Appeals Process and Advisory Boards.
- Nursing Home Employee Training and Development.
- Code of Ethics and Public Disclosure.
- Office of the Attorney General.
- Nursing Home Economic Issues and Interests.
- Quality of Care.

The Panel recommended the restructuring of Delaware’s quality assurance system for nursing home residents, and the 4 legislative members of the Panel sponsored legislation to create the Delaware Nursing Home Residents Quality Assurance Commission (“DNHRQAC” or “Commission”).<sup>2</sup> The Commission was created to monitor Delaware’s quality assurance system for nursing home residents so that responses to complaints of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner. As a result of the Panel’s report, the following was established and became part of the quality assurance system for nursing home residents:

- Staffing ratios.<sup>3</sup>
- Creation of the Division of Health Care Quality (“DHCQ”) within the Department of Health and Social Services (“DHSS”), responsible for enforcement of State and federal laws and regulations.
- Criminal Background Check Center.
- Adult Abuse Registry.

Since its inception, the Commission has hosted open public meetings to address quality of care issues, identified gaps in service, acted as a forum for the public and other

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<sup>1</sup> See Appendix A for the Panel’s final report.

<sup>2</sup> See Appendix B for Senate Bill 23 of the 140<sup>th</sup> General Assembly.

<sup>3</sup> See Appendix C for Eagle’s Law, which establishes the staffing ratio.



stakeholders to share information regarding nursing home and assisted living services, and issued an annual report of its findings.

## **PURPOSE & MISSION**

The Commission'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 matters are responded to in a timely manner, to ensure the health and safety of nursing home residents.<sup>4</sup>

As part of this effort, the Commission receives updates from the appropriate state agencies and DHCQ's reports of quality of care issues, including staffing patterns, on a quarterly basis.<sup>5</sup> The Commission is also charged with examining current policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the roles of all appropriate stakeholders.

## **GOALS & OBJECTIVES**

The Commission states that its goals and objectives are as follows:

- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify gaps in the care and services available statewide.
- Monitor enforcement of Eagles Law to ensure required staffing ratios.
- Review performance and coordination of appropriate State agencies.
- Continue to develop public outreach efforts to consumers, ensuring the Commission is called upon to meet its mission.
- Monitor data and analyze trends in the quality of care and life of individuals receiving long-term care in Delaware.
- Address employee recruitment and retention issues within the long-term care market.
- Foster and promote abuse and fraud investigation training for law enforcement and other appropriate agencies.
- Protect the privacy of nursing home residents.
- Review best practices nationwide and provide the necessary recommendations to the Governor and General Assembly.

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<sup>4</sup> See Appendix D for the Commission's governing statute, 29 Del. C. § 7907.

<sup>5</sup> See Appendix E for the Commission's FY 2018 – 2019 Annual Report

## PUBLIC INFORMATION

Under its governing statute, the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and accepts testimony from representatives of appropriate state agencies and other providers, including:

- Division of Health Care Quality.
- Ombudsman Office.
- Division of Medicaid and Medical Assistance.
- Department of Justice.
- Division of Aging and Adults with Physical Disabilities.
- Guardianship Monitoring Program.
- Law enforcement agencies.
- Health care professionals.
- Nursing home providers.

The Commission maintains a website featuring its mission, meeting notices, meeting minutes, annual reports, contact information, and outside information regarding long-term care in Delaware.<sup>6</sup>

The Commission produces a brochure for stakeholders providing an overview of its purpose, a “Commonly Asked Questions” section, contact information for the Commission’s executive director, and the Commission’s website.<sup>7</sup>

The Commission conducts visits of long-term care<sup>8</sup> and assisted living facilities<sup>9</sup>, to promote an atmosphere of information sharing and assist the Commission in fulfilling its responsibility of monitoring the effectiveness of the State’s quality assurance system. Generally, 1 or 2 commissioners will conduct a visit informing the facility and DHCQ staff beforehand so duplicate visits from the Commission can be avoided. The Commission uses the information gathered to make recommendations to the Governor, Department of Health and Human Services (“DHSS”) Secretary, and General Assembly regarding any improvements to the overall quality of care and quality of life of nursing home residents. The Commission produces a brochure for facilities and residents outlining what can be expected from these visits.<sup>10</sup>

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<sup>6</sup> <https://courts.delaware.gov/dnhrgac/>.

<sup>7</sup> See Appendix F for the Commission’s Introduction brochure.

<sup>8</sup> See Appendix G for the list of licensed nursing homes statewide.

<sup>9</sup> See Appendix H for the list of licensed assisted living facilities statewide.

<sup>10</sup> See Appendix I for the Commission’s Facility Visits brochure.

## COMPOSITION & STAFFING

As of September 2019, there are 13 members of the Commission, consisting of the following.<sup>11</sup>

- One member appointed by the Speaker of the House.
- One member appointed by the President Pro Tempore of the Senate.
- Four members serving by virtue of position, or a designee appointed by the member, as follows:
  - The Attorney General.
  - The Executive Director of the Community Legal Aid Society, Inc.
  - The Executive Director of the Delaware Health Care Facilities Association.
  - The Executive Director of the Delaware Healthcare Association.
- Seven members appointed by the Governor as follows:
  - One member who is a resident or a family member of a resident of a nursing home.
  - Three members, 1 from each county, who work in a nursing home setting.
  - A health-care professional.
  - Two individuals who are each an advocate for people with disabilities or the elderly, or both.

Each county must be represented from among the Commission's members. Members appointed by the Speaker and the President Pro Tempore serve at the pleasure of their appointing authorities.

Each member serves a term of 3 years; the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

Commission members elect a chair from among its membership.

Commission members are volunteers and serve without compensation but may be reimbursed for reasonable and necessary expenses incident to their duties.

New commission members receive onboarding information including meeting calendar, by-laws, meeting minutes, annual reports, regulations, membership roster, and a list of applicable facilities statewide. The executive director and chair meet with new members to provide an overview and answer any questions. The executive director provides members with an annual update of all financial and administrative information.

Members recuse themselves from commission matters in which they have a conflict or potential conflict of interest.<sup>12</sup> Members sign a DHSS Confidentiality Agreement to protect the privacy of nursing home residents.<sup>13</sup> An individual member may not represent the Commission to the general public without a majority vote by the Commission.

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<sup>11</sup> See Appendix J for current member roster.

<sup>12</sup> See Appendix K for conflict of interest policy and agreement.

<sup>13</sup> See Appendix L for confidentiality agreement.

## **Staffing**

The executive director is the Commission's only staff, and acts as the liaison between the Commission and State and federal agencies, community organizations, and other applicable stakeholders. The executive director is responsible for the following:

- Analyzing problems in current policy to provide Commission members with information needed to make recommendations.
- Responding to requests for information and questions from residents of long-term facilities, family members, state agencies, and the general public regarding services.
- Monitoring and evaluating programs affecting the quality of care for residents in all 83 licensed long-term care and assisted living facilities.
- Developing and managing the Commission's annual budget.
- Managing the Commission's daily operations.
- Serving on committees, task forces, and other working groups on behalf of the Commission.
- Attending required hearings, workshops, and other events on behalf of the Commission.
- Visiting licensed facilities across the State in compliance with the Commission's governing statute.
- Drafting Commission meeting minutes and reports.

The Commission is 1 of 5 non-judicial agencies funded by the Judiciary's budget. Each are managed by their own executive director. The Administrative Office of the Courts is responsible for the 5 non-judicial agencies' financial and human resource matters, but the agencies function independently. The other agencies are:

- Office of the Public Guardian.
- Child Placement Review Board.
- Office of the Child Advocate.
- Child Death, Near Death and Stillbirth Commission.

## **COMPLAINT AND DISCIPLINARY PROCESS**

As of March 2020, no complaint has been filed against the Commission. But, if a complaint were to be filed, the Commission's executive director would refer the complaint to the Commission's chair and executive committee and notify the Deputy Attorney General and Administrative Office of the Courts.

## ENACTED LEGISLATION IMPACTING COMMISSION

### Senate Bill 23 of the 140<sup>th</sup> General Assembly, 2000<sup>14</sup>

Established the Commission, its membership, and its purpose.

### HB 62 of the 150<sup>th</sup> General Assembly, 2019<sup>15</sup>

Streamlined the Commission's governing statute to decrease the number of vacancies, establish quorum, remove political party requirements, and make technical corrections.

## JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW

This is JLOSC's first review of the Commission.

## ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

The Commission does not promulgate regulations under the Administrative Procedures Act.

## FREEDOM OF INFORMATION ACT COMPLIANCE

All Commission meeting notices, agendas, and minutes are posted on the State Public Meeting Calendar and the Commission website, and the executive director sends all notices to an email list of stakeholders and interested parties.

Meeting minutes are regularly transcribed and posted to the Commission's website following the Commission's approval.

## FISCAL INFORMATION

### Revenue

Fiscal Year	Source of Funds	Amount
FY19 (budgeted)	General Funds	TOTAL \$85, 500
FY18 (actual)	General Funds	TOTAL \$85,700
FY17 (actual)	General Funds	TOTAL \$84,000

<sup>14</sup> See Appendix B for Senate Bill 23 of the 140<sup>th</sup> General Assembly.

<sup>15</sup> See Appendix M for House Bill 62 of the 150<sup>th</sup> General Assembly.

## Expenditures

Fiscal Year	Source	Amount
FY19 (actual)	General Fund	TOTAL \$89,105.23
FY18 (actual)	General Fund	TOTAL \$87,502.55
FY17 (actual)	General Fund	TOTAL \$87,123.18

## FY19 Expenses

Line Item	Source	Amount
Travel	General Fund	\$2,700.00
Contractual	General Fund	\$1,466.76
Supplies	General Fund	\$300.00
Personnel and OEC	General Fund	\$84,638.47
		TOTAL \$89,105.23

## ACCOMPLISHMENTS

### Identify Systemic Change

Through its review process and quarterly updates, the Commission works with various state agencies, facilities, and other stakeholders to identify the changes needed to the quality assurance system.

### Culture Change and Person-Centered Care

The Commission provides the necessary forum to educate its stakeholders on the optimal care for the elderly population based on national best practices. Person-centered care and the change such care brings to the long-term care culture incorporates the individual's emotional needs, care preferences, and lifestyle along with the physical and medical model of care.

### World Elder Abuse Awareness Day

The Commission assists and participates in the annual World Elder Abuse Awareness Day event on June 15. Events are held in each county to highlight the resources available to victims and their families.

### Residents Rights and Residents Rights Rally

The Commission assists and participates in the annual Residents Rights Rally in October to honor those living in long-term care facilities and celebrate the diversity and value of all residents.

### Community Awareness and Education

The Commission uses its public forum to advocate for residents and educate all Delawareans on the mechanisms available to long-term care residents and their families.

## **CHALLENGES**

### **Population Growth**

As the elderly population in Delaware continues to grow, the availability of necessary resources will continue to be an issue.<sup>16</sup> The Commission's work in ensuring a functioning quality assurance system will remain vital to the safety and security of long-term care residents.

### **Public and Private Sector Turnover**

Turnover in the public and private sectors will continue to place a burden on the State's quality assurance system as any learning curves resulting in a decrease in services will be to the detriment of residents.

### **Funding and Staff**

The Commission's responsibilities and involvement often encompass events and meetings in all 3 counties. With a staff of 1, the Commission is limited in its public presence and must triage which items are priorities.

## **OPPORTUNITIES FOR IMPROVEMENT**

### **Elder Caucus**

Several legislatures nationwide have established an Elder Caucus. Delaware has a Kids Caucus and Small Business Caucus, and an Elder Caucus would be a legislative platform focused on public policy effecting the aging population. With the elderly population growing substantially in Delaware, an Elder Caucus in the General Assembly could benefit the quality of care statewide.

### **Membership challenges**

Prior to the enactment of House Bill 62 in June 2019, the Commission had issues surrounding its membership including turnover, political party requirements, and lack of quorum provisions. With the updating of the statute, the Commission can function in a more efficient manner.

### **Outreach**

The Commission looks for new ways to reach its audience. With more opportunities to engage online and partner with other entities, the Commission continues to expand its reach as the long-term care population grows statewide.

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<sup>16</sup> See Appendix N for population projections from the 2018 Long-Term Care Ombudsman Annual Report.

# ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

## **Meeting Locations**

From 2017-2019, 11 of the Commission's 17 public meetings were held at the DDDS Fox Run Office in Bear. The remaining 6 were held at multiple locations in Dover.<sup>17</sup>

## **Updated Bylaws**

In response to House Bill 62, the Commission is currently working to update its bylaws. The Deputy Attorney General assigned to the Commission is assisting the Executive Director and members in this process. Appendix O includes the most recent draft from November 2019.

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<sup>17</sup> <https://publicmeetings.delaware.gov/Search?AgencyID=101>.



Section 111-A<sup>#</sup>

**THE STATE LEGISLATIVE & CITIZENS INVESTIGATIVE PANEL**

**ON NURSING HOME REFORM**

**REPORT TO THE PEOPLE OF**

**THE STATE OF DELAWARE**

**FEBRUARY 9, 1998**

**STATE LEGISLATIVE & CITIZENS INVESTIGATIVE PANEL  
ON NURSING HOME REFORM**

**1997-1998 ROSTER**

- 1. Sen. Robert I. Marshall: Panel Chairman; Chair, Senate Labor & Industrial Relations Committee; Chair, Senate Revenue & Taxation Committee**
- 2. Sen. Patricia M. Blevins: Chair, Senate Health & Social Services Committee**
- 3. Rep. Pamela S. Maier: Chair, House Health & Human Development Committee**
- 4. Rep. Vincent A. Lofink: Vice-Chair, House Land Use & Infrastructure Committee; Member, Joint Bond Bill Committee**
- 5. Rep. Arthur Scott: Member, House Housing & Community Affairs Committee**
- 6. Thomas Herlihy, III, Esq.: Wilmington attorney, emphasis on elder law; former chair, Delaware State Bar Association Committee on Law & the Elderly**
- 7. Selma Hayman, Esq.: Certified Elder Law Attorney in Wilmington; vice-chair, D. S. B. A. Committee on Law & the Elderly; member, National Academy of Elder Law Attorneys; member, Board of Directors of Alzheimer's Association**
- 8. Carolee Burton Kunz, Esq.: Supervising Attorney, The Elder Law Program of Community Legal Aid Society, Inc.**
- 9. Pat Engelhardt: M. S., R. N.; patient advocate; Co-chair, Delaware Nurses Association-Legislative Division; Secretary, State Legislative Committee of AARP**
- 10. Katherine Anderson: patient advocate with TRIAD of Dover area; member of AARP Continuing Care Task Force**
- 11. Rose Bussard: R. N., C.; Skilled Unit Manager, Integrated Health Service of Smyrna; Vice-Chair of AARP State Legislative Committee**
- 12. John Russo (Alternate): Chair of AARP State Legislative Committee**
- 13. Elizabeth C. Miles: Certified Nursing Assistant**
- 14. Phyllis Peavy: Patient advocate**

**Panel Staff: Stephen P. Tanzer, Administrative Assistant, Delaware State Senate Majority Caucus**

### Mission Statement

From its inception, the Legislative & Citizens Investigative Panel on Nursing Home Reform has adhered steadfastly to the following mission:

“The purpose of the Legislative & Citizens Investigative Panel on Nursing Home Reform is to ensure that residents of Delaware nursing homes are safe and secure, are receiving quality care, and are free from abuse, neglect and financial exploitation.”

The Panel’s activities have been undertaken with the intent of accomplishing this mission.

## ACKNOWLEDGEMENTS

The State Legislative & Citizens Investigative Panel on Nursing Home Reform wishes to gratefully acknowledge the following:

Each and every person who contacted the Panel, testified at one of the Panel's hearings or in Executive Session, or provided written testimony to the Panel. Without their commitment and dedication to nursing home reform, the Panel's work would not have been possible.

Governor Thomas R. Carper and his staff for their assistance.

Dr. Gregg Sylvester, Secretary of the Department of Health & Social Services, and his staff for their assistance.

Attorney General M. Jane Brady and her staff for their assistance.

Richard R. Weir, Jr., Esq., for providing legal counsel to the Panel.

Senator Dorinda Connor and Senator Margaret Rose Henry for their invaluable participation and insight.

The following participants in the Panel's Roundtable Workshop of January 7, 1998: Carol Berster, Ingleside Homes; Lisa Blunt-Bradley, DHSS, Office of the Secretary; Steve Boedigheimer, Division of Public Health; Stephanie Brandt, Delaware Technical & Community College; Eleanor Cain, Director, Division of Aging and Services to Persons with Physical Disabilities; Thomas E. Carluccio, Deputy Attorney General, Medicaid Fraud Control Unit; David L. Carman, Department of Justice, Medicaid Fraud Control Unit; Senator Dori Connor; Senator Nancy Cook; John Frazer, III, Office of the Controller General; Senator Margaret Rose Henry; Bob Lawson, Delaware Health Care Facilities Association; Joseph M. Letnaunchyn, Delaware Healthcare Association; Chris Long, DHSS; Mary McDonough, DHSS, Office of the Secretary; Jean Raymond, University of Delaware, Instructor, Department of Nursing; Ellen Reap, DHSS, Director-Office of Health Facilities Licensing & Certification; Michael J. Rich, State Solicitor; William Rolleri, Alzheimer's Association of Delaware, Chair-Public Policy Committee; Liz Ryan, Office of the Governor; Phil Soule, Sr., DHSS, Medicaid Office; Dr. Gregg C. Sylvester, Secretary, DHSS; Bruce Thevenot, Genesis Health Ventures, Inc.; Tom Wagner, State Auditor; Irene Waldron; Cheryl T. Weidemeyer, Alzheimer's Association of Delaware; Janet West, New Castle County Vocational-Technical School District; Ann Woolfolk, Deputy Attorney General.

Cheryl T. Weidemeyer of the Alzheimer's Association of Delaware and Lisa Oleson for their work in helping the Panel to frame its recommendations.

Maribel Ruiz of the Office of Wilmington City Clerk for her assistance in securing the use of the Council Chamber of the City/County Building.

The following people who assisted the Panel in its development of recommendations pertaining to staff development and training:

Sue Ackley, Nurse Practitioner, Health Center, Newark Senior Center; Gloria Green, R. N., CNA Instructor, Delaware Technical & Community College; Donna Racine, Peninsula United Methodist Homes, Long-Term Care Council-Delaware Nurses Association; Jean Raymond, R. N., Instructor-University of Delaware; Cheryl T. Weidemeyer, R. N., Evergreen Adult Day Care; Janet West, R. N., Director-L.P.N. Program, Delcastle High School/Delaware Skills Center; Cathy Williamson, R. N., CNA Instructor-Howard Vocational-Technical High School.

## History and Activities of the Legislative and Citizens Investigative Panel on Nursing Home Reform

On Monday, September 29, 1997, Senator Robert I. Marshall convened a press conference and announced the formation of the State Legislative and Citizens Investigative Panel on Nursing Home Reform. The press conference took place at the Claymore Senior Center at 504 S. Clayton Street in Wilmington.

The creation of the Panel marked the beginning of the first comprehensive investigation into Delaware nursing home practices since the 1960's.

At the press conference, Senator Marshall stated that the creation of the Panel was "in response to an overwhelming number of citizen complaints we in the General Assembly have received from constituents with real concerns about the safety and well-being of their loved ones" in Delaware nursing homes.

Senator Marshall pledged that the Panel's investigation would examine every relevant issue, including licensing, state laws and regulations, funding, training, staffing, quality of care, and personal safety.

At the press conference, Senator Marshall announced that the Panel would hold three public hearings throughout the state to receive testimony from concerned citizens. Due to overwhelming public interest, an additional public hearing was subsequently added. The hearings took place at the following times and locations:

Wednesday, October 15, 1997, 7 p.m., Sussex County Council Chambers, Georgetown.

Wednesday, October 22, 1997, 7 p.m., Kent County Levy Court Chamber, Dover.

Monday, October 27, 1997, 7 p.m., Delaware Technical & Community College, Stanton Campus, Newark.

Thursday, October 30, 1997, 6 p.m., City/County Building, Wilmington.

In response to the announcement of the public hearings, over 300 people contacted the Investigative Panel. 62 witnesses testified at the public hearings. An additional 35 people submitted written testimony. Six people testified before the Panel in executive sessions.

Following the public hearings, the Panel conducted public reviews of the state agencies charged with nursing home oversight and regulation. Agencies were invited to make presentations to the Panel concerning their responsibilities for nursing home oversight and regulation. Agencies were also requested to provide recommendations for improving their ability to protect residents of nursing home beds from abuse, neglect and financial exploitation. Question-and-answer sessions followed the presentations.

All agency reviews took place at the City/County Council Chambers in Wilmington on the following dates and times:

Wednesday, November 19, 1997:	2 p.m.: Office of Health Facilities Licensing & Certification
	4 p.m.: Division of Public Health
Monday, November 24, 1997:	3 p.m.: Office of the Attorney General
Wednesday, December 3, 1997:	3 p.m.: Division of Aging
	5 p.m.: Office of the Long-Term Care Ombudsman
	7 p.m.: Division of Social Services- Medicaid Office.

The Panel then concluded the Public Hearing phase of its work by conducting a hearing on the nursing home industry on Wednesday, December 10, 1997 at the City/County Building in Wilmington. Representatives of the nursing home industry addressed the panel concerning nursing home care in Delaware and presented recommendations as to how the current regulatory system should be changed to ensure that residents of Delaware nursing homes are provided quality care and service.

Five witnesses testified at this hearing, including representatives of all 51 nursing homes in the state.

The Panel then convened a Roundtable Workshop on Wednesday, January 7, 1998 at the Buena Vista Conference Center.

Over 40 persons, including policymakers from the Governor's Office, the Department of Justice, the Department of Health & Social Services, the State Auditor's Office, representatives from the nursing home industry, and the Investigative Panel, participated in the daylong discussions.

The format of the roundtable consisted of the Panel identifying specific areas and issues for discussion followed by open dialogue on the identified issues. As a result of these discussions and the remainder of the Panel's work, the Panel developed findings and recommendations for each of the following areas of policy review:

Creation of a Division of Long-Term Care

Office of the Long-Term Care Ombudsman

Appeals Process and Advisory Boards

Nursing Home Employee Training & Development

Code of Ethics and Public Disclosure

Office of the Attorney General

Nursing Home Economic Issues & Interests

Quality of Care.

The remainder of this report will center on the Panel's findings and recommendations for each of these topics.



## Creation of a Division of Long-Term Care

### Findings:

During its public hearings and subsequent deliberations, the Panel discovered that the single greatest impediment to effective nursing home regulation and oversight in Delaware is the failure of the various agencies charged with responsibilities for such regulation and oversight to effectively coordinate and communicate with each other.

In large part, the Office of the Long-Term Care Ombudsman, the Office of Health Facilities Licensing and Certification, the Medicaid Office of the Division of Social Services, and the Medicaid Fraud Unit in the Office of the Attorney General each operate in their own cocoons and fail to work in concert with each other.

The Panel finds that, unless and until this ineffective and counterproductive system is replaced with a system of effective coordination and communication among and between the various regulatory agencies, nursing home regulation in Delaware is doomed to be fragmented and ineffective.

### Recommendations:

Accordingly, the Panel makes the following recommendation its highest priority:

1. The Panel recommends that a Division of Long-Term Care be established under the auspices of the Department of Health & Social Services, and that those personnel charged with nursing home regulation from the following agencies be housed in a common location:

The Office of the Long-Term Care Ombudsman

The Office of Health Facilities Licensing & Certification

The Medicaid Fraud Unit of the Office of the Attorney General

Members of the Civil Division of the Office of Attorney General

The Medicaid Office of the Division of Social Services.

2. The Panel also recommends that computer services and programs for the Division of Long-Term Care be coordinated so that the different agencies comprising the Division can create a centralized data base for efficient coordination.

The Panel wishes to emphasize that employees from the Office of Attorney General will continue to fall under the purview of the Attorney General, and will not be

employees of the Division. Their physical location in the Division's offices will facilitate more timely interventions into criminal and civil matters, will permit more effective training of investigators for all affected agencies, and will help to ensure more effective prosecutions of serious nursing home violations.

3. The Panel recommends that, upon creation of this Division, common space be sought in the City/County Building in the City of Wilmington. Satellite offices in Kent and Sussex Counties will continue to house employees with downstate responsibilities.

The Panel has already requested that the New Castle County Executive Office reserve or encumber space to accommodate the needs of the Division of Long-Term Care in the City/County Building. Space has become available in this building due to the move of many County offices to other locations.

## Office of the Long -Term -Care Ombudsman

### Findings:

1. The Panel finds that the Office of Long-Term Care Ombudsman and the Division of Aging have failed in their responsibilities to make sure that the Office complies with its federal and state statutory responsibilities. Despite the efforts of some dedicated employees, the Office is, by its own admission, substantially out of compliance with the federal Older Americans Act. The Panel finds that this lack of compliance extends to the Office's state mandates as well.
2. The Panel finds that lack of adequate staffing, lack of administrative leadership, and the lack of an automated information system are key factors in the current shortcomings of the Office.
3. The Panel finds that the lack of early intervention into the complaints process by the Department of Justice makes it difficult for the Office to achieve satisfactory resolutions of complaints concerning abuse or neglect.
4. The Panel finds that there is a lack of sufficient follow-up and there is usually no written follow-up on complaints to residents and families of residents.
5. The Panel finds that there is insufficient outreach on the part of the Office to encourage residents and their families to file complaints or concerns with the Office.
6. The Panel finds that the hiring requirements for ombudspersons are not sufficient to ensure that investigations are handled professionally.
7. The Panel finds that there is a serious lack of coordination between the Office and all other state agencies charged with nursing home regulation, including the Office of Health Facilities Licensing & Certification, the Division of Social Services Medicaid Office, and the Department of Justice. The Panel finds that this systemic lack of coordination and communication is one of the key failings of the current system of nursing home regulation in the State of Delaware.
8. The Panel finds that the Office lacks a standard form for nursing homes to use when reporting incidents. This leads to nursing homes submitting copious quantities of paperwork with little relevance to the actual incident.

### Recommendations:

1. The Panel recommends that the Office be reorganized in a way to bring said Office into compliance with all applicable state and Federal statutes. At the minimum, the

Panel recommends that a statewide manager be authorized by the Joint Finance Committee and hired for the Office. The manager's initial responsibilities will include restoring order and structure to the Office and implementing systems and reforms that will bring the Office back into compliance with state and federal law. The Panel further recommends that the Office report to the General Assembly by May 1, 1998 as to the steps it has taken to bring it back into compliance with all Federal and state statutes.

2. The Panel recommends that the Office of Long-Term Care Ombudsman develop an automated information system that will provide for a case management tracking system; that will permit the Office to identify complaints by type and by facility; that will provide ombudspersons with lap-top computers enabling them to write reports directly from the facility rather than requiring them to return to their office to file their reports; and that will facilitate the quarterly public filing of reports detailing, at the minimum, types of complaints and verified complaints by type and facility. The Panel also recommends that this system be compatible with systems currently in use or being developed for use by the other agencies with nursing home regulatory responsibilities in order to create a centralized data base.

3. The Panel recommends that the Joint Finance Committee approve the funding request of the Department of Health & Social Services for seven additional positions for the Office of the Long-Term Care Ombudsman. The new positions would provide for one Statewide Manager, one Downstate Supervisor, one Administrative Assistant to organize the clerical functions of the Office and to administer the Adult Abuse Registry, and four ombudspersons. The Panel also recommends that the Joint Finance Committee approve the Department's request for \$30,000 in contract fees to provide for a Fair Hearing Officer to hear appeals of those placed on the Adult Abuse Registry.

4. The Panel recommends that the job description for ombudspersons be rewritten to require either an investigative background and/or a medical or health-related background relevant to the work of the office.

5. The Panel recommends that the Office, in conjunction with the aforementioned case-tracking system, provide a written response to nursing home residents and families who file complaints and that that response provide a documentation of how the case was handled, as well as the outcome.

6. The Panel recommends that, in anticipation of the adoption of civil fines for violations that do not reach the level of criminality, the Office implement a system of referring prospective criminal cases to the Department of Justice while referring prospective civil actions to the Office of Health Facilities Licensing & Certification.

7. The Panel recommends that state-owned locked boxes be installed in accessible locations in all Delaware nursing homes to facilitate the submission of complaints, concerns and suggestions to the Office. The Panel also recommends that the phone

number and contact information for the Office be prominently displayed in every nursing home room in the state.

8. The Panel recommends that legislation be enacted which would make intentional false reporting of activity by a nursing home employee a sanctionable offense.

9. The Panel recommends that the Office develop a standard incident reporting form for nursing homes designed to get all vital and pertinent information on an incident while eliminating the submission of peripheral paperwork.

10. The Panel recommends that the Department of Health & Social Services examine the feasibility of assigning ombudspersons based on specialized expertise of the ombudsperson rather than making an ombudsperson responsible for a specific group of nursing homes, as is the current practice.

## Appeals Process and Advisory Boards

### Findings:

1. The Panel finds that the current appeals process of the nursing home industry needs to be revised to ensure that the public has confidence in the process.

Any new process must fairly consider the interests and concerns of the residents, the residents' families, the providers, and the regulators.

The current system also has conflicts of interest. For example, the Division of Public Health has the dual responsibility of operating state-run nursing homes while regulating the exact same facilities. This existing system can clearly undermine public confidence in the independence of the regulators.

2. The Panel finds that a high-level and active advisory group would serve the public's interest by bringing ideas and suggestions to the Division of Long-Term Care.

### Recommendations:

1. The Panel recommends that the Department of Health & Social Services develop and formalize a mechanism for handling appeals. The new appeals authority would have the following responsibilities:

a. To hear and adjudicate issues raised for review by persons aggrieved of an administrative action, including, but not limited to: (1) administrative findings of civil violations of, and enforcement of, regulations; (2) civil violations of, and enforcement of, resident rights; (3) civil lack of, or abuse of, care; and (4) the imposition, or lack of imposition, of penalties, such as civil fines, and the suspension or cancellation of licenses.

b. To review the refusal or granting of licenses.

c. To compel the attendance of witnesses and the production of documents by subpoena or other authority.

The following persons in the long-term care industry and its regulation would have standing to bring matters before this authority:

- \* persons in the industry such as owners, operators, or employees
- \* residents of such facilities
- \* families of the residents
- \* the regulators and enforcers
- \* the ombudsman
- \* advocates for such persons.

2. The Panel recommends that the Governor's Advisory Council on Long-Term Care Facilities and the Advisory Council on Aging and Adults With Physical Disabilities be terminated, and that a new Advisory Council on Long-Term Care be created under the new Division of Long-Term Care. The Panel further recommends that appointees to this high-level Council be citizens with a demonstrated interest and expertise in long-term care issues.

## Nursing Home Employment Training and Development

### Findings:

1. The Panel finds that Certified Nursing Assistants (CNAs) are the primary caregivers in most nursing homes, and that the nursing home industry has generally failed to adequately attract, retain, train, educate and remunerate CNAs. The Panel also finds that staffing ratios of CNAs to patients are generally inadequate to provide sufficient care to nursing home residents.
2. The Panel finds that the current standard of 75 hours of training for CNA Certification in Delaware is insufficient to ensure that CNAs are adequately prepared for the responsibilities of the job.
3. The panel finds that malnutrition is the single greatest cause of neglect complaints against nursing homes and that more training in nutrition would reduce this problem significantly.

### Recommendations:

1. The Panel recommends that the minimum standard for certification of Certified Nursing Assistants be increased from the current 75 hours to a minimum standard of 120 hours.
2. The Panel recommends that a career ladder be developed for Certified Nursing Assistants consisting of at least the following three levels:
  - a. Intern
  - b. Team Member-based upon length of time employed- would result in increased pay
  - c. Team Leader/Preceptor-requires additional education-would result in increased pay.
3. The Panel recommends that the Board of Nursing be assigned the responsibility for certification of CNAs as well as certification of advanced education leading to promotion on the career ladder. The Panel recommends that the Board of Nursing be provided with one additional position to handle this responsibility. This could be a new position or could be a position transferred from the Office of Health Facilities Licensing & Certification, which currently handles CNA Certification.



4. The Panel recommends that, as part of their basic 120 hours of training, all CNAs receive in-depth training on the techniques of feeding, feeding problems, hydration, malnutrition and its effects on healing, the importance of a calm and pleasant eating environment, the basics of nutrition, and cleanliness.

5. The Panel recommends, based upon the increased training that CNAs will receive, the current difficulties that nursing homes experience in retaining qualified CNAs, and the shamefully-low wages that many nursing homes pay for CNAs, that nursing homes accept their responsibility to pay CNAs a living wage commensurate with their responsibilities. An enlightened approach to remunerating CNAs would surely lead to greater retention and more effective recruitment of CNAs. The quality of resident health care will surely improve with the implementation of this recommendation.

6. The Panel recommends that the Department of Health & Social Services, through regulation, require that CNAs undergo two weeks of orientation when first hired at any nursing home.

7. The Panel recommends that a working group on curriculum be convened to develop the CNA curriculum and standards. This group is also charged with developing a Model for a Nursing Home Training Center for CNAs. This group will include members of the Panel, a nursing home director, a head nurse, a CNA, educators, and a representative of the Office of Health Facilities Licensing & Certification. This working group shall provide a preliminary report to the Panel by June 1, 1998.

## Code of Ethics and Public Disclosure

### Findings:

1. The Panel finds that it is essential that no state employee directly or indirectly charged with nursing home oversight engage in behavior that could be construed as being a conflict-of-interest with regard to their responsibility to regulate the nursing home industry.
2. The Panel finds that consumers of nursing home services have the right to know of financial interests that nursing homes have with other service providers, such as pharmacy services and physical therapy organizations.

### Recommendations:

1. The Panel recommends that the Department of Health & Social Services (DHSS) and the Department of Justice conduct workshops for their employees who have nursing home oversight responsibilities in order to apprise them of their obligations under the state ethics guidelines.
2. The Panel recommends that DHSS and the Department of Justice develop a new public disclosure form which would document potential incidents of non-financial conflicts-of-interest. This form should be mandated through an Executive Order of the Governor.
3. The Panel recommends that legislation be drafted to clarify that nursing home facilities have an obligation to disclose to residents their relationships with providers of other nursing home services such as pharmacy, rehabilitation services, medical suppliers and any other services. This statutory change should be incorporated into Title 16, Delaware Code, S. 1121 (9).

## Office of the Attorney General/Statutory Issues

### Findings:

1. The Panel finds that the current threshold of requiring intentionality as a prerequisite of prosecution under Delaware's Physical Abuse statute in Title 16, Sections 1131 & 1136, makes abuse prosecutions extremely difficult due to the standard of proof.
2. The Panel finds that the Office of Attorney General often does not intervene in a timely manner when abuse or neglect are suspected by the Office of Long-Term Care Ombudsman.
3. The Panel finds that a lack of mandatory criminal background checks and pre-employment drug screenings make it difficult for authorities to prevent dangerous individuals from finding employment with nursing homes in proximity to vulnerable patients.

### Recommendations:

1. The Panel recommends that the Patient/Resident Abuse Statutes be amended to eliminate an intentional act as a requirement for prosecution. The standard should reflect acts done knowingly or recklessly as defined by statute.
2. The Panel recommends that the Joint Finance Committee provide funding for two additional elder abuse investigators, one additional prosecutor, and a secretary in the Medicaid Fraud Unit to enable the Department of Justice to intervene in a timely manner on suspected cases of abuse, neglect, or financial exploitation. The Panel recommends the Attorney General formally dedicate these positions to work on the aforementioned cases, and these positions be in addition to those already working on cases involving abuse, neglect, or financial exploitation. The State of Delaware would be responsible for 25% of the costs for these positions with the remaining 75% funded through the Federal government's Medicaid Fraud program. Under current law, this ratio remains constant and is not subject to a progressively greater percentage of funding being required of the State in subsequent years.
3. The Panel recommends that the Joint Finance Committee provide funding for two additional attorneys and a paralegal for the Civil Division of the Department of Justice to provide adequate staffing to support the administration of civil penalties on nursing homes.

4. The Panel recommends that legislation be enacted to include "Failure to Provide Adequate Staffing" under Section 1136 of Title 16, which lists violations, and to include "financial exploitation" to the list of prosecutable offenses under Sections 1131 and 1136.

5. The Panel recommends that legislation be enacted raising the misdemeanor violation of "failing to report a suspected violation" on the part of a nursing home administrator or board member violation to felony status.

6. The Panel recommends that legislation be enacted increasing the fine for operating a nursing home without a license to \$10,000.

7. The Panel recommends that legislation be enacted requiring mandatory criminal background checks for any person offered employment by a nursing home. Nursing homes may hire these employees on a conditional basis pending the outcome of the background check. In addition, the Panel recommends that said legislation also require mandatory pre-employment drug screening as a condition for employment.

## Nursing Home Economic Issues & Interests

### Findings:

1. The Panel finds that certain consumer protections are lacking under existing law for both residents and family members. The Panel also finds that residents and family members have been required by some nursing homes to sign contracts that are unenforceable under Federal law.

2. The Panel finds that nursing homes must currently bear the burden of certain costs due to the lack of a timely adjustment of Medicaid reimbursement rates.

3. The Panel finds that potential and current residents of nursing homes who are eligible for Medicaid benefits have difficulty obtaining Medicaid beds because nursing homes are permitted to limit the number of Medicaid beds that are certified. The Panel further finds that the shortage of Medicaid beds restricts the ability of residents to select nursing homes based on the quality of care they provide, adds to state and Federal government expense because patients languish for an unduly long time in hospital beds. This practice is also detrimental to the health of residents who must be transferred to a new bed or to an alternate facility while undergoing medical treatment.

4. The Panel finds that the Delaware income cap for long-term care no longer serves a meaningful purpose because nursing home residents whose income exceeds the cap can readily qualify for Medicaid benefits by executing a Miller trust. The need for a Miller trust creates an unnecessary burden for residents' family, especially if they must seek guardianship in order to set up the trust.

### Recommendations:

1. The Panel recommends that the General Assembly raise the income cap to 300% of SSI, thus reducing the number of Delaware residents requiring Miller trusts. The Panel also recommends that the income cap be eliminated if the Federal government grants the necessary waiver.

2. The Panel recommends that the Joint Finance Committee allocate funds to provide for a quarterly adjustment of Medicaid reimbursement rates to enable nursing homes to be fairly remunerated for services provided to Medicaid patients.

3. The Panel recommends that a model standardized admission contract be developed by the Department of Health & Social Services to be used in all Delaware nursing homes.

4. The Panel recommends that the Joint Finance Committee fund a budget line to provide for nursing home care for legal immigrants ineligible for Medicaid.

5. The Panel recommends that legislation be enacted prohibiting the practice of requiring third parties to personally guarantee payment of nursing home bills.

6. The Panel recommends that nursing homes be assessed the charges for additional inspections by regulators caused by said homes' repeated violations.

7. The Panel recommends that nursing homes be required to provide itemized monthly billing statements of all charges to nursing home residents and/or their families.

8. The Panel recommends that, if a nursing home facility has any Medicaid-certified beds, all beds in said facility available to the general nursing home population must be Medicaid-certified.

## Quality of Care

### Findings:

1. The Panel finds that some nursing homes are not consistently providing the minimum 2.5 hours of direct patient care as provided in nursing home regulation. The Panel finds that, even if nursing homes were providing this minimal standard, the level of care would still not adequately address the needs of many nursing home residents.
2. The Panel finds that some nursing home facilities are now advertising special care units for patients with dementia and offer specialized services to patients who have experienced strokes and patients with special needs even though there are no specific rules and regulations governing these services.
3. The Panel finds that the Office of Health Facilities Licensing and Certification places far too great an emphasis on issues of "paperwork compliance" in its inspections and does not sufficiently focus its inspections on the health care being provided to the residents in the beds. The Panel also finds that this Office does not sufficiently emphasize "accident and mishandling" prevention and technical assistance to the facilities in addition to its current prioritization of enforcement and sanctions. According to records made available to the Panel, there were 1100 documented cases of injury caused by accident or mishandling in Delaware nursing homes in 1996. The Panel finds this number to be deplorable.
4. The Panel finds that the quality of medical and dental care in nursing homes is inconsistent and inadequate.
5. The Panel finds that nursing homes currently find that it costs less to be out of compliance than to be in compliance with statutes and regulations due to the absence of available financial sanctions. Under the current system, the lack of effective sanctions creates more of an incentive for nursing homes to be out of compliance with statutes and regulations governing nursing homes.
6. The Panel finds that Delawareans are not receiving adequate information to make informed choices when selecting long-term nursing care.

### Recommendations:

1. The Panel recommends that the Secretary of the Department of Health & Social Services and the Chairman of this Panel name a working group of Panel members, state regulators and other interested parties to develop a revised standard of direct care. This panel should consider all viable alternatives including increasing the current minimal standards and devising a standard based upon the specific needs of nursing home residents. Any standard ultimately developed, however, must be an enforceable standard and not

simply a goal. The Panel recommends that this working group report back to the Panel by April 15, 1998.

2. The Panel recommends that legislation be enacted creating an escalating series of fines to nursing homes for civil violations of their mandated responsibilities. This list of fines would ultimately result in stronger sanctions, such as license suspension or revocation upon reaching a critical threshold. The goal of this system is to make non-compliance more expensive than compliance.

3. The Panel recommends that the Secretary of the Department of Health & Social Services develop rules and regulations to govern the operations of Alzheimer's units and other special care nursing home units. The Panel further recommends that input from organizations representing these special needs patients be systemically included in the development of the rules and regulations.

4. The Panel recommends that the Secretary of the Department of Health & Social Services develop rules and regulations to govern the care of pediatric residents in Delaware nursing homes.

5. The Panel recommends that the Department of Health & Social Services develop and implement an aggressive prevention program to reduce accidents and mishandlings of nursing home residents.

6. The Panel recommends that the Department of Health & Social Services provide technical assistance to nursing homes to facilitate nursing home compliance with applicable laws and regulations.

7. The Panel recommends that the Office of Health Facilities Licensing & Certification make its annual and surprise inspections more "patient-focused". As part of this recommendation, the Panel calls for the Office to increase the number of patient medical records it reviews and calls for the Office to increase the number of patient and family interviews it conducts.

8. The Panel calls for the Office to conduct scheduled public meetings at the nursing homes for residents and their families after the release of their report and after the nursing home has crafted its response and/or plan of correction.

9. The Panel recommends that DHSS adopt a regulation requiring all nursing home employees to wear photo identification and name badges.

10. The Panel recommends that legislation be drafted requiring each nursing home to have an advanced practice nurse on staff in the event that a full-time physician is not on staff. A physician identified as a facility medical director does not constitute a full-time physician.



11. The Panel recommends that, due to the lack of dental services available in most nursing homes, the existing statute be changed to allow dental hygienists to provide dental services to nursing home residents under the supervision of the nursing home's medical director.

12. The Panel recommends that the Board of Dental Examiners review the current state of dental services in nursing homes and develop recommendations concerning improving the availability and quality of dental services to nursing home residents.

13. The Panel recommends that an annual consumer guide to Delaware nursing home care be developed by the Department of Health & Social Services. The Panel further recommends this guide include, at a minimum, the following for each and every nursing home: a report on the number and the nature of the deficiencies uncovered during annual and surprise inspections during the past year; and the number and nature of verified incidents as determined by the Office of Long-Term Care Ombudsman for the past three calendar years.

14. The Panel recommends that a regulation be developed requiring Nursing Home Activities Directors to be certified or eligible to be certified by the National Certification Council of Activities Professionals (NCCAP) when hired. Activities play a key role in the quality of life that residents enjoy, yet Delaware requires no demonstrated level of experience or competence for nursing home activities directors.

15. The Panel recommends that the Office of Health Facilities Licensing & Certification complete a review and revision of nursing home regulations in as timely a manner as possible. As part of its work, the Office is requested to consider all recommendations in this report that pertain to the regulations including, but not limited to, the Panel's request that unnecessary and redundant paperwork requirements be eliminated wherever possible. The Panel also requests that the revised regulations be written with clarity and precision so that nursing home administrators can have a reasonable understanding as to what is expected of them.

16. The Panel recommends that additional protections be included in the Patient's Bill of Rights (Title 16, Del. Code, S. 1121), and that a Quality of Care section be added to the rules and regulations governing nursing homes that mirrors Federal Quality of Care rules and regulations (Section 57.8). Specific recommended changes to the Patient's Bill of Rights are provided in Appendix A to this report.

17. The Panel recommends that the Joint Finance Committee fund two full-time Registered Nurse positions for the Office of Health Facilities Licensing & Certification. The two positions would be used to carry out surprise nursing home inspections.

## APPENDIX A

### 16 Del.C. § 1121. Patient's Rights

(Added provisions are in bold and deletions are in brackets and italics.)

*[(1) Every patient and resident shall be treated with consideration, respect, and full recognition of the patient's or resident's dignity and individuality.]*

*[(2) Every patient and resident shall receive care, treatment and services which are adequate, appropriate, and in compliance with relevant federal and state laws and regulations.]*

(1) Every patient and resident shall have the right to receive considerate, respectful, and appropriate care, treatment and services, in compliance with relevant federal and state law and regulations, recognizing each person's basic personal and property rights which include dignity and individuality.

~~[(3)]~~ (2) Each patient or resident and the family of such patient or resident shall, prior to or at the time of admission and during stay, receive a written statement of the services provided by the facility including those required to be offered on an "as-needed" basis, and a statement of related charges for services not covered under Medicare or Medicaid, or not covered by the facility's basic per them rate. Upon receiving such statement, the patient and the patient's representative shall sign a written receipt which must be retained by the facility in its files.

~~[(4)]~~ (3) Each patient shall receive from the attending physician or the resident physician of the facility complete and current information concerning the patient's diagnosis, treatment and prognosis in terms and language the patient can reasonably be expected to understand, unless medically inadvisable. The patient or resident shall participate in the planning of the patient's or resident's medical treatment, including attendance at care plan meetings, may refuse medication or treatment, be informed of the medical consequences of all medication and treatment alternatives and shall give prior informed consent to participation in any experimental research after a complete disclosure of the goals, possible effects on the patient and whether or not the patient can expect any benefits or alleviation of the patient's condition. In any instance of any type of experiment or administration of experimental medicine, there shall be written evidence of compliance with this subdivision, including the signature of the patient and a member of the patient's family or the patient's representative. A copy of the signed acknowledgments shall be forwarded to the family or representative, and a copy shall be retained by the facility.

~~[(5)]~~ (4) At the bedside of each patient and resident the facility shall place and maintain in good order the name, address and telephone number of the physician

) responsible for the patient's care.

[(6)] (5) Each patient and resident shall receive respect and privacy in the patient's or resident's own medical care program. Case discussion, consultation, examination and treatment shall be confidential, and shall be conducted discreetly. Persons not directly involved in the patient's care shall not be permitted to be present during such discussions, consultations, examinations or treatment. Personal and medical records shall be treated confidentially, and shall not be made public without the consent of the patient or resident, except such records as are needed for a patient's transfer to another health care institution or as required by law or third-party payment contract. No personal or medical records shall be released to any person inside or outside the facility who has no demonstrable need for such records.

[(7)] (6) [*Each patient and resident has the right to be free from mental and physical abuse and has the right to be free from chemical and physical restraints (except as authorized by a physician according to clear and indicated medical requirements).*] Every patient and resident shall be free from chemical and physical restraints, except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the patient from injury to himself/herself or others. When authorized by someone other than a physician, such restraint shall be promptly reported to the patient's or resident's physician Who may either terminate the restraint or authorize the restraint in writing for a specified and limited period of time.

[(8)] (7) Every patient and resident shall receive from the administrator or staff of the facility a courteous, timely, and reasonable response to requests, and the facility shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon written request by the patient or resident.

[(9)] (8) Every patient and resident shall be provided with information as to any relationship the facility has with other health care and related institutions [*insofar as the patient's care is concerned*] and/or service providers, including, but not limited to, pharmacy and rehabilitation services, to the extent the patient is offered care and/or services from these related entities. Such information shall be provided in writing upon admission, and thereafter when additional services are offered.

(9) Every patient and resident may contract with the providers of his/her choice, including a pharmacy, unless precluded by applicable law, as long as the providers agree to and follow the reasonable rules and regulations of the facility.

(10) Every patient and resident shall receive reasonable continuity of care [*which*

shall include, but not be limited to, what appointment times and physicians are available].

(11) Every patient and resident may associate and communicate privately and without restriction with persons and groups of the patient's or resident's own choice [on the patient's or resident's own or their initiative] at any reasonable hour; may send and shall receive mail promptly and unopened; shall have access at any reasonable hour to a telephone where the patient may speak privately; and shall have access to writing instruments, stationery and postage.

(12) Each patient and resident has the right to manage [the patient's or resident's own] his/her financial affairs. If, by written request signed by the patient or resident and a member of [the patient's] his/her family or representative, the facility manages the patient's or resident's financial affairs, it shall have available for inspection a monthly accounting, and shall furnish the patient or resident and [the patient's] his/her family or representative with a quarterly statement of the patient's or resident's account. The patient and resident shall have unrestricted access to such account at reasonable hours.

(13) If married, every patient and resident shall enjoy privacy in visits by [the patient's or resident's] his/her spouse, and, if both are in-patients of the facility, they shall be afforded the opportunity where feasible to share a room, unless medically contraindicated.

(14) Every patient and resident has the right of privacy in [the patient's or resident's] his/her room, and personnel of the facility shall respect this right by knocking on the door before entering the patient's or resident's room.

(15) Every patient and resident has the right, personally or through other persons or in combination with others, to exercise his/her rights; to present grievances; to recommend changes in facility policies or services on behalf of [the patient's or resident's own self] himself/herself or others; to present complaints or petitions to the facility's staff or administrator, to the Division of Services for Aging and Adults With Physical Disabilities or to other persons or groups without fear of reprisal, restraint, interference, coercion or discrimination.

(16) A patient or resident shall not be required to perform services for the facility.

(17) Each patient and resident shall have the right to retain and use [that patient's or resident's] his/her personal clothing and possessions where reasonable, and shall have the right to security in the storage and use of such clothing and possessions.

(18) No patient or resident shall be transferred or discharged out of a facility except for medical reasons; the patient's or resident's own welfare or the welfare

of the other patients; or for nonpayment of justified charges. If good cause for transferral is reasonably believed to exist, the patient or resident shall be given at least 30 days' advance notice of the proposed action, together with the reasons for the decision, and the patient or resident shall have the opportunity for an impartial hearing to challenge such action if [*the patient*] he/she so desires. In emergency situations such notice need not be given.

(19) Every patient and resident shall have the right to inspect all records pertaining to him/her, upon oral or written request within 24 hours of notice to the facility. Every patient and resident shall have the right to purchase photocopies of such records or any portion of them, at a cost not to exceed the community standard, upon written request and two working days advance notice to the facility.

(20) Every patient and resident shall be fully informed, in language he/she can understand, of his/her rights and all rules and regulations governing patient or resident conduct and his/her responsibilities during the stay at the facility.

(21) Every patient and resident shall have the right to choose a personal attending physician.

(22) Every patient and resident shall have the right to examine the results of the most recent survey of the facility conducted by federal and/or state surveyors and any plan of correction in effect with respect to the facility. Survey results shall be posted by the facility in a place readily accessible to patients and residents.

(23) Every patient and resident shall have the right to receive information from agencies acting as client advocates and be afforded the opportunity to contact those agencies.

(24) Every patient and resident shall be free from verbal, physical or mental abuse, cruel and unusual punishment, involuntary seclusion, withholding of monetary allowance, withholding of food, and deprivation of sleep.

(25) Every patient and resident shall be free to make choices regarding activities, schedules, health care, and other aspects of his/her life that are significant to the patient or resident, as long as such choices are consistent with the patient's or resident's interests, assessments, and plan of care and do not compromise the health or safety of the individual or other patients or residents within the facility.

(26) Every patient and resident has the right to participate in an ongoing program of activities designed to meet, in accordance with his/her assessments

and plan of care, the patient's or resident's interests and physical, mental and psychosocial well-being.

(27) Every patient and resident shall have the right to participate in social, religious and community activities that do not interfere with the rights of other patients or residents.

(28) Every patient and resident shall receive notice before the resident's room or roommate is changed, except in emergencies. The facility shall endeavor to honor the room or roommate requests of the resident whenever possible.

(29) Every patient and resident shall be encouraged to exercise his/her rights as a citizen of the State of Delaware and the United States of America.

(30) Every patient and resident shall have the right to request information regarding minimum acceptable staffing levels as it relates to his/her care.

(31) Every patient and resident shall have the right to request the names and positions of staff members providing care to the patient or resident.

(32) Every patient and resident shall have the right to request an organizational chart outlining the facility's chain of command for purposes of making requests and asserting grievances.

(33) Where a patient or resident is adjudicated incompetent, is determined to be incompetent by his/her attending physician, or is unable to communicate, his/her rights shall devolve to his/her next of kin, guardian, or representative.

CHAPTER 199  
FORMERLY  
SENATE BILL NO. 23  
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO ESTABLISH THE DELAWARE  
NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend § 7907 of Title 29 of the Delaware Code by deleting this section in its entirety and inserting in lieu thereof the following:

“§7907. Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident’s Quality Assurance Commission. The Commission shall be composed of ten members, as follows:

(1) One member appointed by the Speaker of the House;

(2) One member appointed by the President Pro-Tem of the Senate;

(3) Eight members appointed by the Governor. One of the members appointed by the Governor shall be a representative of the developmental disabilities community protection and advocacy system established by Title 20 of the United States Code. The remaining members shall include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. One of the Governor’s initial appointees shall have been a member of the Council on Long Term Care Facilities.

(b) At least five but no more than six members of the Commission shall be affiliated with one of the major political parties and at least four, but no more than five, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other major political party. Membership on the Commission shall be geographically distributed so that there shall be members of the Commission from each of the three counties and the City of Wilmington.

(c) The members appointed by the Speaker and the President Pro-Tem shall serve at the pleasure of their appointing authorities. Initial appointments of the members appointed by the Governor shall be as follows: 2 members for a one year term; 3 members for a two year term; and 3 members for a three year term. Each succeeding term shall be for three years. The Chairperson of the Commission shall be designated by the Governor.

(d) The Division of Long-Term Care Resident Protection shall furnish staff for the Commission and the Attorney General’s office shall provide legal advice.

(e) The purpose of this Commission 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.

(f) The Commission shall meet at a minimum, on a quarterly basis.



(g) The duties of the Commission shall include:

(1) Examination of policies and procedures and evaluation of the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the Attorney General's Office and law enforcement agencies as well as health care professionals and nursing home providers.

(2) The monitoring of data and analysis of trends in the quality of care and quality of life of individuals receiving long term care in Delaware;

(3) The review and making of recommendations to the Governor, Secretary, and the General Assembly concerning the quality assurance system as well as improvements to the overall quality of life and quality of care of nursing home residents.

(4) The protection of the privacy of nursing home residents including following the guidelines for confidentiality of records to be established by the Division of Long-Term Care Resident Protection.

(h) The Commission shall prepare and publish an annual report to the Governor, the Secretary and the General Assembly. This annual report shall include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents."

Approved July 20,1999

# TITLE 16

## Health and Safety

### Regulatory Provisions Concerning Public Health

#### CHAPTER 11. Long-Term Care Facilities and Services.

##### Subchapter VII. Minimum Staffing Levels for Residential Health Facilities

###### § 1161 Definitions.

(a) “Advanced practice nurse” shall mean an individual whose education and certification meet the criteria outlined in Chapter 19 of Title 24, and who is certified in at least 1 of the following specialty areas:

- (1) Adult nurse practitioner;
- (2) Gerontological clinical nurse specialist;
- (3) Gerontological nurse practitioner;
- (4) Psychiatric/mental health clinical nurse specialist; or
- (5) Family nurse practitioner.

(b) “Department” shall mean the Department of Health and Social Services.

(c) “Direct care” shall mean an activity performed by a nursing services direct caregiver that is specific to a resident. Direct care activities are as follows:

- (1) “Hands-on” treatment or care, including, but not limited to, assistance with activities of daily living (e.g., bathing, dressing, eating, range of motion, toileting, transferring and ambulation); medical treatments; and medication administration;
- (2) Physical and psychosocial assessments;
- (3) Documentation, if conducted for treatment or care purposes;
- (4) Care planning; and
- (5) Communication with a family member or a health-care professional or entity, regarding a specific resident.

(d) “Division” shall mean the Division of Health Care Quality.

(e) “Nursing services direct caregivers” shall mean certified nursing assistants, licensed practical nurses, registered nurses, advanced practice nurses and nursing supervisors when and only when providing direct care of residential health facility residents. The director of nursing (“DON”), assistant director of nursing (“ADON”), and/or registered nurse assessment coordinator (“RNAC”) may be designated as a nursing services direct caregiver and counted in the direct care hours and minimum staffing ratios when exigent circumstances require that they discontinue their administrative and managerial duties in order to provide

direct care. Within 24 hours of the exigent circumstance(s) that require that the DON, ADON and/or RNAC provide direct care, the facility shall notify the Division in writing of this emergency situation and provide documentation of the amount of direct care time that was provided by the DON, ADON and/or RNAC.

(f) "Nursing supervisor" shall mean an advanced practice nurse or registered nurse who is assigned to supervise and evaluate nursing services direct caregivers no less than 25 percent of the nursing supervisor's time per shift. Up to 75 percent of the nursing supervisor's time per shift may be spent providing direct care. Registered nurses (RN) holding the following positions may provide the supervision required of a nursing supervisor, and the supervision may be counted towards the minimum 25 percent supervision required per shift:

- (1) Director of nursing ("DON").
- (2) Assistant director of nursing ("ADON").
- (3) Registered nurse assessment coordinator ("RNAC").
- (4) Director of in-service education (RN).
- (5) Quality improvement coordinator nurse (if an RN).
- (6) Nursing home administrator (if an RN).

An individual serving as a nursing supervisor must be an employee of the facility, thus excluding temporary employment agency personnel from serving in this capacity unless exigent circumstances exist. The term "exigent circumstances" means a short-term emergency or other unavoidable situation, and all reasonable alternatives to the use of a temporary employee as a nursing supervisor have been exhausted. Within 24 hours of the exigent circumstances that require the use of temporary employment agency staffing to fill a nursing supervisor position in a residential health facility, the facility shall notify the Division in writing of the exigent circumstances and the expected duration. For any shift that exceeds the minimum RN/LPN shift ratio mandated by § 1162 of this title, the amount of RN time that exceeds the minimum ratio may be counted towards the minimum 25 percent supervision required for that shift; provided, however, that said RN time was dedicated to supervisory functions. For those facilities that are not required by state or federal regulations to have a registered nurse on duty on each shift, a licensed practical nurse with 3 years long-term care experience may serve as a nursing supervisor, provided that no registered nurse is on duty. There shall be a nursing supervisor on duty and on-site at all times. By June 1, 2002, the Nursing Home Residents Quality Assurance Commission shall issue to the Governor and to the General Assembly a report evaluating the requirement that nursing supervisors spend a minimum of 25 percent of their time on supervisory functions. The purpose of the report is to determine if the required minimum amount of supervision time is appropriate and necessary, and whether it should be adjusted.

(g) "Residential health facility" shall mean any facility that provides long-term health-related care and nursing services to individuals who do not require the degree of care and treatment that a hospital is designed to provide. These are those facilities, licensed pursuant to this chapter, that:

- (1) Provide skilled nursing services to persons who require medical or nursing care; or
- (2) Provide nursing services above the level of room and board to those who, because of a mental or physical condition, routinely require these services.

Also included are units, licensed pursuant to this chapter, of facilities that provide active treatment and health and rehabilitation services to persons with mental retardation or related conditions, in which care is delivered to residents in accordance with medical plans of care. This definition does not include group homes for the mentally ill, mentally retarded or persons with AIDS, rest family care homes, neighborhood homes, rest/residential health facilities, assisted living facilities and intermediate care facilities that, as of March 1, 1999, were solely private pay, provided they remain exclusively intermediate care facilities.

**§ 1162 Nursing staffing.**

(a) Every residential health facility must at all times provide a staffing level adequate to meet the care needs of each resident, including those residents who have special needs due to dementia or a medical condition, illness or injury. Every residential health facility shall post, for each shift, the names and titles of the nursing services direct caregivers assigned to each floor, unit or wing and the nursing supervisor on duty. This information shall be conspicuously displayed in common areas of the facility, in no fewer number than the number of nursing stations. Every residential health facility employee shall wear a nametag prominently displaying his or her full name and title. Personnel hired through temporary agencies shall be required to wear photo identification listing their names and titles.

(b) By March 1, 2001, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.0 hours of direct care per resident per day, provided that funds have been appropriated for 3.0 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff, rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	<b>RN/LPN</b>	<b>CNA (or RN/LPN or NAIT serving as a CNA)</b>
Day	1:20	1:9
Evening	1:25	1:10
Night	1:40	1:22

(c) On or before December 1, 2001, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this chapter, including, but not limited to, the availability of qualified personnel in the job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.28 hours of direct care with the corresponding increased required shift ratios is appropriate and necessary. By January 1, 2002, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.28 hours of direct care per resident per day, subject to Commission recommendation and provided that funds have been appropriated for 3.28 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff must be distributed in order to meet the following minimum shift ratios:

	<b>RN/LPN</b>	<b>CNA (or RN/LPN or NAIT serving as a CNA)</b>
Day	1:15	1:8
Evening	1:23	1:10
Night	1:40	1:20

To the extent a nursing facility meets the minimum nurse staff levels of 3.28 hours of direct care and compliance with the above referenced shift ratios provided in this subsection requires more than 3.28 hours of direct care, the Division may permit a nursing facility to alter the shift ratios above; provided, however, the alternative shift ratios as determined by the Division shall not, on any shift or at any time, fall below the following alternative minimum shift ratios:

	<b>RN/LPN</b>	<b>CNA (or other direct care-givers)</b>

	<b>RN/LPN</b>	<b>CNA (or other direct care-givers)</b>
Day	1:20	1:9
Evening	1:25	1:10
Night	1:40	1:22

If a nursing facility cannot meet the above referenced shift ratios due to building configuration or any other special circumstances, they may apply for a special waiver through the Division, subject to final approval by the Delaware Nursing Home Residents Quality Assurance Commission. All nursing facilities shall conspicuously display the minimum shift ratios governing the nursing facility, along with posting requirements pursuant to subsection (a) of this section. Notwithstanding subsection (g) of this section, the time period for review and compliance with any alternative minimum shift ratios or ratios pursuant to a special waiver under this subsection shall be 1 day.

(d) Within 6 months of an appropriation by the General Assembly funding the staffing requirements of subsection (e) of this section, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this chapter, including, but not limited to, the availability of qualified personnel in job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.67 hours of direct care with the corresponding increased required shift ratios is appropriate and necessary.

(e) By May 1, 2003, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.67 hours of direct care per resident per day, subject to Commission recommendation and provided that funds have been appropriated for 3.67 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff, rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	<b>RN/LPN</b>	<b>CNA (or RN/LPN or NAIT serving as a CNA)</b>
Day	1:15	1:7
Evening	1:20	1:10
Night	1:30	1:15

(f) An individual in a facility-sponsored training program who has completed all but the final 37.5 hours of requisite classroom and clinical training to become a CNA may be counted in the direct care hours and minimum staffing shift ratios under the CNA staffing requirements given in subsections (b), (c) and (e) of this section. The individual shall be referred to as a nursing assistant in training (NAIT). The Division shall conduct a study of the certified nursing assistant training programs in Delaware, both those sponsored by facilities and those sponsored by educational institutions. It shall report its findings to the Nursing Home Quality Residents Assurance Commission (Commission). The factors to be studied include, but are not limited to, the percentage of each training program's graduates who passed the certified nursing assistant certification test and the number of attempts it took each graduate to become certified, along with the total number of hours, divided by classroom and clinical time, spent in the overall certified nursing assistant training program. The study shall encompass a period of 6 months commencing with the promulgation of the certified nursing assistant regulations. The report shall be issued no later than 2 months after the

completion of the study period. Based on the results of its study, the Division shall recommend to the Commission whether a nursing assistant, while in training and prior to certification, should be counted as a CNA in the minimum staffing ratios, and, if so, at what point in the training program.

(g) The time period for review and determining compliance with the staffing ratios required under this chapter shall be 1 week. To the extent a residential health facility subject to the required ratios of this chapter desires an alternative shift schedule, they shall notify the Division of such alternative shift schedule prior to implementation; the proposed shift schedule and corresponding staff ratios must meet the minimum hour requirements and must not exceed the patient to staff ratios provided under this chapter for the night shift. Any alternative shift schedule must be clearly posted along with the postings required pursuant to subsection (a) of this section.

(h) Notwithstanding the minimum staffing requirements established in this subchapter, to the extent additional staffing is necessary to meet the needs of residents, nursing facilities must provide sufficient nursing staffing. If the Division finds unsatisfactory outcomes in a facility, the Department may impose protocols for staffing adequacy, including but not limited to staffing levels above the minimum required under this subchapter. Outcomes examined shall include those outcomes as enumerated by the United States Health Care Financing Administration Quality Indicators. Evidence of a failure to meet the nursing staffing needs of residents shall be grounds for enforcement action under this chapter.

(i) All residential health facilities shall have, in addition to the requirements in subsections (b) through (h) of this section, a full-time director of nursing who is an advanced practice nurse or a registered nurse with 1 year's work experience as a registered nurse. After July 1, 2001, any newly hired director of nursing shall be an advanced practice nurse or a registered nurse with a B.S. degree in nursing and 2 years' experience in long-term care or a registered nurse with 3 years of long-term care experience. After July 1, 2001, all newly hired directors of nursing must complete, within 3 months of hire (or as soon as a course is available), a long-term care director of nursing workshop in accordance with regulations promulgated by the Department in consultation with the Commission.

(j) All residential health facilities licensed for 100 beds or more shall have, at a minimum, the following supervisory and administrative nursing staff, in addition to the personnel listed in subsections (b) through (i) of this section: a full-time assistant director of nursing who is an advanced practice nurse or a registered nurse and a full-time equivalent director of in-service education who is an advanced practice nurse or a registered nurse.

(k) All residential health facilities licensed for fewer than 100 beds shall employ, at a minimum, in addition to the personnel listed in subsections (b) through (i) of this section, a part-time assistant director of nursing who is an advanced practice nurse or a registered nurse and a part-time director of in-service education who is an advanced practice nurse or a registered nurse, in accordance with the following formula:

Number of beds / 100 x 40 = \_\_\_\_\_ hours per week minimum required for an assistant director of nursing and a director of in-service education.

A subacute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

(l) For residential health facilities with 15 beds or fewer, the director of nursing, assistant director of nursing, and/or nursing supervisor, while on duty, may also serve as nursing services direct caregivers as described in subsections (b) through (e) of this section.

(m) The educational requirements described above shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department.

(a) All residential health facilities licensed for 30 beds or more shall have a full-time activities director. Any activities director hired after July 1, 2001, shall be a certified therapeutic recreation specialist, a certified occupational therapy assistant, a certified music therapist, a certified art therapist, a certified drama therapist, a certified dance/movement therapist, a certified activities director, or a registered occupational therapist.

(b) All residential health facilities licensed for fewer than 30 beds shall have, at a minimum, a part-time activities director as described in subsection (a) of this section, in accordance with the following formula:

Number of beds ÷ 30 x 40 = \_\_\_\_\_ hours per week minimum required for an activities director.

A subacute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, §§ 14, 15.;

### **§ 1164 Nutrition and dietetics staffing.**

Every residential health facility must at all times provide nutrition and dietetics staffing adequate to meet the care needs of each resident. The staffing level must, at a minimum, include a full-time food service manager. Any food service manager hired after July 1, 2001, must be a registered dietitian or a certified dietitian/nutritionist, a registered dietetic technician, a certified dietary manager, or must have a Bachelor of Science or associate degree in food service management or related field. The educational requirements shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department. A sub-acute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function. Any full-time food service manager with a minimum of 3 years' experience as a full-time food service manager as of July 1, 2001, shall be exempt from the requirements of this subsection.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, § 16.;

### **§ 1165 Social services staffing.**

All residential health facilities shall employ a full-time social worker, except that facilities licensed for fewer than 100 beds may designate other personnel to assume the duties associated with that position in accordance with the rules and regulation promulgated and adopted pursuant to this subchapter.

72 Del. Laws, c. 490, § 2.;

### **§ 1166 Medicaid reimbursement.**

(a) The Medicaid reimbursement program shall be adjusted to reflect costs associated with the increased staffing levels described herein. Reimbursement rates for nursing wages will be adjusted to the seventy-fifth percentile under the current wage determination methodology for primary care under the state Medicaid program.

(b) The Department shall ensure that 100% of Medicaid funds paid for primary care are expended by the residential health facility for primary care purposes. If, during any annual cost reporting period, a facility expends less than 100% of the primary care reimbursement it receives from Medicaid for primary care, the sum under-spent must be repaid to the Medicaid program. The repayment will be made through a cost settlement process when the provider files its annual cost report. The Department will revise its regulations and Medicaid cost report forms to require a cost settlement for the primary care reimbursement classification.

(c) Medicaid reimbursement of providers shall be consistent with the provisions of this chapter regardless of the payment methodology employed by Medicaid or its contractors, including managed care.

72 Del. Laws, c. 490, § 2.;

### **§ 1167 Outcomes monitoring.**

In addition to compliance monitoring, the Division shall use data collected by residential health facilities to monitor quality of care and patient outcomes pursuant to § 1162(h) of this title. The Division shall analyze this data in order to help target licensing surveys and inspections. The Department shall promulgate and adopt regulations that define the outcomes monitoring process.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, § 17.;

### **§ 1168 Waiver.**

A residential health facility may seek from the Delaware Nursing Home Residents Quality Assurance Commission a time-limited waiver of the minimum staffing requirements required under § 1162(c) and (e) of this title. Such waiver will only be granted upon a showing of exigent circumstances, including but not limited to documented evidence of the facility's best efforts to meet the minimum staffing requirements under § 1162(c) and (e) of this title. Any such waiver will be time-limited and will include a plan and a timeline for compliance with this chapter. The Commission may seek input from the Department of Labor in terms of issues of labor availability in connection with any waiver request under this section.

72 Del. Laws, c. 490, § 2.;

### **§ 1169 Regulations.**

The Department shall promulgate and adopt rules and regulations to fully and effectively implement the provisions of this subchapter. The regulations will become effective 60 days after adopted by the Department.

72 Del. Laws, c. 490, § 2.;



# TITLE 29

## State Government

### Departments of Government

#### CHAPTER 79. Department of Health and Social Services

##### Subchapter I. Establishment and Organization of Department

##### **§ 7907 Delaware Nursing Home Residents Quality Assurance Commission.**

(a) There is established a Delaware Nursing Home Resident's Quality Assurance Commission. The Commission consists of the following members:

- (1) One member appointed by the Speaker of the House.
- (2) One member appointed by the President Pro Tempore of the Senate.
- (3) Four members serving by virtue of position, or a designee appointed by the member, as follows:
  - a. The Attorney General.
  - b. The Executive Director of the Community Legal Aid Society, Inc.
  - c. The Executive Director of the Delaware Health Care Facilities Association.
  - d. The Executive Director of the Delaware Healthcare Association.
- (4) Seven members appointed by the Governor as follows:
  - a. One member who is a resident or a family member of a resident of a nursing home.
  - b. Three members, 1 from each county, who work in a nursing home setting.
  - c. A health-care professional.
  - d. Two individuals who are each an advocate for people with disabilities or the elderly, or both.

(b) Membership on the Commission must be geographically distributed so that there are members of the Commission from each of the 3 counties.

(c) (1) The members appointed by the Speaker and the President Pro Tempore serve at the pleasure of their appointing authorities.

(2) The term of a Commission member is 3 years, however, the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

(d) (1) The members of the Commission shall elect a Chair.

(2) A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

(3) The Commission may adopt rules and bylaws necessary for its operation.

(e) The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission.

(f) The Department of Justice shall provide legal advice to the Commission.

(g) The purpose of this Commission 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 to ensure the health and safety of nursing home residents.

(h) The Commission shall meet at a minimum, on a quarterly basis.

(i) The Commission's duties include all of the following:

(1) Examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the Department of Justice and law-enforcement agencies, and health-care professionals and nursing home providers.

(2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.

(3) Reviewing and making recommendations to the Governor, Secretary, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.

(4) Protecting the privacy of nursing home residents, including complying with the guidelines for confidentiality of records established by the Division of Health Care Quality.

(j) The Commission shall prepare and publish an annual report to the Governor, Secretary, and the General Assembly. This annual report must include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents.

(k) Members of the Commission serve without compensation. However, members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Commission.

29 Del. C. 1953, § 7907; [57 Del. Laws, c. 301, § 1](#); [57 Del. Laws, c. 591, § 62](#); [60 Del. Laws, c. 207, § 1](#); [66 Del. Laws, c. 315, § 1](#); [70 Del. Laws, c. 186, § 1](#); [72 Del. Laws, c. 199, § 1](#); [74 Del. Laws, c. 132, §§ 1, 2](#); [75 Del. Laws, c. 89, § 195](#); [77 Del. Laws, c. 201, § 17](#); [81 Del. Laws, c. 209, § 12](#); [82 Del. Laws, c. 29, § 1](#);

# **DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION**

## **ANNUAL REPORT FY 2018**

**(July 1, 2017 - June 30, 2018)**

DRAFT

Additional copies of the report are available from the Commission at: 2540 Wrangle Hill Rd  
Suite 223 Bear, DE 19701 or by visiting: <http://courts.delaware.gov/AOC/?dnhrqac.htm>.  
The Commission's phone number is (302) 836-2133.

# DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

## Members of the Commission as of July 15, 2017

Elisabeth A. Furber - Chair

Lieutenant Governor Bethany Hall-Long

The Honorable Kimberly Williams

Karen E. Gallagher

Sue Shevlin, NHA

Amy Milligan, MS

Yrene E. Waldron, LNHA

# DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

## ANNUAL REPORT 2018

### TABLE OF CONTENTS

I. Commission Background Information	4
II. Agency Reviews	6
III. Joint Sunset Committee	26
IV. Legislation and Regulation Review	27
V. Staffing	28
VI. Facility Visits	29
VII. Facing Forward: Commission Goals	30

## I. BACKGROUND INFORMATION

### The Commission

The Delaware Nursing Home Residents Quality Assurance Commission (the Commission) was established in 1999 - 29 Del. C. § 7907. The Commission's principal charge is to monitor Delaware's quality assurance system for nursing home residents in both privately run and state operated facilities with the goal that agencies responsible for the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

As part of its monitoring effort, the Commission reviews state agencies responsible for investigating complaints of abuse, neglect, mistreatment and financial exploitation, as well as other agencies that have input on the quality of care in Delaware's nursing homes. The Commission reviews reports of serious citations of quality of care issues and staffing patterns prepared and presented on quarterly basis by the Division of Long term Care Residents Protection as directed by the Joint Sunset Committee in 2006.

The Commission is also charged by the General Assembly and the Governor with examining policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the respective roles of Delaware Health and Social

Services, the Attorney General's Office and law enforcement agencies as well as health care professionals and nursing home providers.

Finally, the Commission is required to prepare and submit an annual report to the Governor, the Secretary of the Delaware Department of Health and Social Services (DHSS), and members of the General Assembly. This is the Commission's 2018 annual report.

### **Appointment of Commission Members**

- The Commission is composed of a total of 12 members, eight of whom are appointed by the Governor.
- One of the members appointed by the Governor is to be a representative of the developmental disabilities community protection and advocacy system established by the United States Code.
- The remaining members are to include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel, and advocates for the elderly.
- Of the remaining four members, two members are appointed by the Speaker of the House, and two members are appointed by the President Pro-Tempore of the Senate. These four members serve at the pleasure of their appointing authorities.

### **Frequency of Meetings**

While the Commission is only required by statute to meet at least quarterly, the Commission meets on a bi-monthly basis.



## **II. AGENCY REVIEWS**

### **Introduction**

Pursuant to 29 Del.C. § 7907(g) (1), the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and takes testimony (a snapshot in time) from representatives of state agencies and other providers. These include the Division of Health Care Quality, the Ombudsman's Office, Division of Medicaid and Medical Assistance, the Department of Justice, Division of Aging and Adults with Physical Disabilities, Guardianship Monitoring Program, law enforcement agencies, other state agencies, health care professionals and nursing home providers.

To that end, the Commission invited representatives from state agencies and other presenters to appear and testify before the Commission. The following is a summary of these agency reviews:

## **III. JOINT SUNSET COMMITTEE**

The Commission oversees the Joint Sunset Committee's 2006 recommendations made for the Division of Long Term Care Residents' Protection and reviewed as follows:

- The Division of Health Care Quality established a Quality Assurance Review Team (QAR Team) that reviews deficiency reports quarterly. The QAR Team provides a written quarterly report to the Commission regarding any upgrades to “G” level or above and downgrades to “G” level or below by the QAR Team, setting forth the number of such downgrades and upgrades at each facility and the reason for each. Quarterly reports are submitted to the Commission on the 15<sup>th</sup> of every September, December, March and June.
- The Division of Health Care Quality submits a written quarterly report to the Delaware Nursing Home Residents Quality Assurance Commission identifying a nursing home’s noncompliance with staffing ratios by shift under Eagle’s Law (16 Del. C. §1162).

#### **IV. LEGISLATION AND REGULATION REVIEW**

The Commission received notice of regulations and legislation effecting long-term care residents in the State of Delaware during 148<sup>th</sup> General Assembly, including:

#### **V. COMMISSION STAFFING**

The Delaware Nursing Home Residents Quality Assurance Commission members hired a full-time Executive Director as of January 31, 2007. The Administrative Office of the Courts manages the salary and budget of this position. The Executive Director represents the Commission and works closely with State Agencies and other stakeholders to aid in the quality of care for residents in licensed

Delaware State and Private Nursing Homes and Assisted Living Facilities.

## **VI. NURSING HOME AND ASSISTED LIVING FACILITY VISITS**

Commission Staff and members of Delaware Nursing Home Residents Quality Assurance Commission visited xxnursing homes and xx assisted living facilities during July 1, 2017 and June 30, 2018. The purpose of the visits was to promote an atmosphere of information sharing so that the Commissioners would be able to fulfill their responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Staff and Commissioners interacted with facility administrators, staff, residents and families. In addition, the staff received phone calls from family members and the community regarding:

1. How to locate long-term care and/or assisted living facility services;
2. Who to contact regarding Money Follows the Person or Nursing Home Transition services;
3. Which State agency would investigate a nursing home or assisted living facility complaint;

#### 4. How to locate Ombudsman or Guardianship assistance.

As a result of being contacted by residents, family members and the community, staff provides contact information and alerts appropriate agencies so they can follow-up with the individuals directly.

Staff works actively with stakeholders to develop educational programs to improve the quality of life/care for individual's living in a nursing home or assisted living setting. Some of the current projects include: basic intravenous training with Bayhealth, Nursing Home Administration course with UD, and lymphedema therapy with Specialty Rehabilitation.

Staff is involved with training efforts in Delaware regarding elder abuse, neglect and financial exploitation of the elderly and vulnerable adult population.

### **VII. FACING FORWARD: COMMISSION GOALS**

The Commission has set the following goals for its work in the coming months:

- Continue to review agency performance and coordination.
- Form a sub-committee to review DNHRQAC legislation and update language to reflect current practices.

- Focus on assisted living by reviewing what other states are doing to ensure quality of care and provide recommendations to the Governor and Members of the General Assembly.
- Encourage collaborative initiatives that will reduce high turnover of nursing home staff and help recruit qualified nurses to long term care.
- Foster and promote abuse/fraud investigation training for law enforcement and other agencies statewide.
- Monitor enforcement of Eagle's Law so as to ensure minimum staffing level compliance.
- Enhance outreach to consumers of long-term care to increase Commission profile so as to ensure the Commission is called upon to review problems and deficiencies in long term care.
- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify "Gaps" in services available for aiding in the care for the elderly and disabled.
- Review educational programs such as Certified Nursing Assistants (CNA) and make educational recommendations to enhance the programs.
- Focus on employee recruitment and retention challenges to aid in the quality of care for residents.

###

**How do I get information about a particular long term care or assisted living facility?**

The federal government has a Web site called "Nursing Home Compare" that gives information about every nursing home in Delaware that is Medicare - or Medicaid-certified. The Web site has information about the nursing home, the staff, and the residents. The Web site also has summary results from the last annual inspection by the state survey agency, the Division of Long Term Care Residents Protection. The Web site is:  
<http://www.medicare.gov/nhcompare/home.asp>.

Results from both annual and complaint inspections and the long term care facility's plans of correction are also available from the Division of Health Care Quality by calling the Licensing and Certification Section at (302) 577-6661.

**Who do I call to report possible abuse or neglect of a resident?**

To report possible abuse, neglect, mistreatment, or financial exploitation of a resident, or if you have other complaints or concerns about a long term care facility, call the Division of Health Care Quality at (877) 453-0012 (24-hour, toll-free number).

**Current Members of the Delaware Nursing Home Residents Quality Assurance Commission**

- Lisa Furber, Chairman**
- Hooshang Shanehsaz, RPh**
- Karen E. Gallagher**
- Lorraine Phillips, Ph.D., RN**
- Amy Milligan**
- Lt Gov Bethany Hall-Long**
- Cheryl Heiks**
- Christina Kontis, Esquire**
- Representative Kim Williams**
- Michela A. Coffaro, Psy.D**
- Kyle Hodges**
- Catherine L. Hightower, RN**
- Norma Jones**

**Delaware Nursing Home Residents Quality Assurance Commission**

**Introduction**

**DNHRQAC Contact:**

**Margaret E. Bailey**  
2540 Wrangle Hill Rd  
Suite 223  
Bear, DE 19701  
Phone: (302)836-2133  
Fax: (302)836-2644

[margaret.e.bailey@delaware.gov](mailto:margaret.e.bailey@delaware.gov)

<http://courts.delaware.gov/AOC/?dnhrqac.htm>

The Delaware Nursing Home Residents Quality Assurance Commission was established by legislation passed and signed by the Governor in 1999. The primary purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities, to ensure that complaints of abuse, neglect, mistreatment, and financial exploitation are responded to in an effective and timely manner. The Commission also reviews policy issues related to the quality of life and quality of care of residents of other long term care and assisted living facilities.

### **Commonly Asked Questions**

#### **Who are the Commissioners?**

The Commissioners include two individuals appointed by members of the General Assembly. Seven members are appointed by the Governor and represent consumers of nursing home services or family, nursing home providers, health care professionals, and advocates for the elderly and disabled. In addition, four members serve by virtue of position or designee: Attorney General, Community Legal Aid Society, Delaware Health Care Facilities Association and Delaware Health Care Association.

#### **What are the Commission's duties?**

The primary duties include:

- (1) Examining policies and procedures and evaluation of the effectiveness of the quality assurance system for nursing

home residents, including the respective roles of the Department of Health and Social Services, the Attorney General's Office, law enforcement agencies, health care professionals, and nursing home providers.

- (2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.
- (3) Reviewing and making recommendations to the Governor, the Secretary of the Department of Health and Social Services, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.
- (4) Protecting the privacy of nursing home residents, including following guidelines for the confidentiality of records.
- (5) Specific responsibilities as designated by the General Assembly, such as making recommendations as to the required minimum nursing staffing levels in nursing homes and reviewing requests by the facilities to waive the requirements on a time-limited basis.

#### **Where and how often does the Commission meet?**

The Commission is required to meet at least once every three months. The Commission usually meets every other month. For a schedule of the meetings and the locations, contact DNHRQAC listed on the front of this brochure.

#### **Are Commission meetings open to the public?**

Yes, the meetings are open to the public. There is also time set aside in each meeting for public comment.

#### **Do Commission members visit long term care and assisted living facilities? What is the purpose?**

Yes, Commissioners often visit facilities. They also attend meetings held at the facilities by DLTCRP that give the results of the annual licensing/certification surveys. If invited by a resident or family council, they will also attend the resident and family council meetings. Commissioners will only enter a resident's room if invited by the resident or his/her authorized representative. Commissioners visiting a facility will usually be identified by a photo ID badge.

The visits help the Commission carry out its duties and make its required recommendations to the Governor, DHSS Secretary, and General Assembly, about improvements to the overall quality of care and quality of life of residents.

#### **Who can contact the Commission and how?**

Anyone can contact the Commission, by letter, phone, or fax. The Commission's address, phone number, and fax number are on the front of this brochure.

The length of the visits can vary. For example, if the Commissioner goes to the survey report meeting or has been invited to attend a resident or family council meeting, they may spend a few hours at the facility.

Commissioners will only enter a resident's room if invited by the resident or his/her authorized representative.

At the end of the visit, the Commissioner may ask to meet with the administrator or other person in charge to share information gathered during the visit. This might include examples of good care or opportunities for improvement. If a Commissioner sees something that might be an issue affecting the health/safety of residents, this will also be reported to the administrator or other person in charge.

**What happens to the information that a Commissioner gathers during a visit to a long term care or assisted living facility?**

The results of a visit may be reported at a Commission meeting. No facilities, staff, families or residents are identified during the report.

If residents or family members wish to share information that they do not want reported to the administrator, they will be given the phone number of the Division of Health Care Quality (DHCQ) toll-free complaint line (1-877-453-0012), so that they may report their concern to the appropriate authority.

If a Commissioner or Executive Director has reasonable cause to believe that there is abuse, neglect, mistreatment, or financial exploitation of a resident, it will be reported to DHCQ.

**Current Members of the Delaware  
Nursing Home Residents Quality  
Assurance Commission**

**Lisa Furber, Chairman**

**Lorraine Phillips, Ph.D, RN**

**Karen E. Gallagher**

**Hooshang Shanehsaz, RPh**

**Lt Gov Bethany Hall-Long**

**Representative Kim Williams**

**Cheryl Heiks**

**Amy Milligan**

**Michela Coffaro, Psy.D**

**Christina Kontis, Esquire**

**Kyle Hodges**

**Catherine L. Hightower, RN**

**Norma Jones**

**Delaware Nursing Home  
Residents Quality  
Assurance Commission  
Visiting Long Term Care  
& Assisted Living  
Facilities**

**Facility Visits**

**DNHRQAC Contact:**

**Margaret Bailey  
2540 Wrangle Hill Rd  
Suite 223  
Bear, DE 19701  
Phone: (302) 836-2133  
Fax : (302)836-2644  
Margaret.E.Bailey@delaware.gov**

<http://courts.delaware.gov/AOC/?dnhrqac.htm>

The Delaware Nursing Home Residents  
Quality Assurance Commission was



established by legislation passed and signed by the Governor in 1999. The primary purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities, to ensure that complaints of abuse, neglect, mistreatment, and financial exploitation are responded to in an effective and timely manner. The Commission also reviews policy issues related to the quality of life and quality of care of residents of other long term care and assisted living facilities.

The main duties of the Commission include:

- (1) Examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department of Health and Social Services, the Attorney General's Office, law enforcement agencies, health care professionals, and nursing home providers.
- (2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.
- (3) Reviewing and making recommendations to the Governor, the Secretary of the Department of Health and Social Services, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.
- (4) Protecting the privacy of nursing home residents, including following the guidelines for the confidentiality of records established by the Division of Long Term Care Residents Protection,

in Delaware Health and Social Services (DHSS).

- (5) Specific responsibilities as designated by the General Assembly, such as making recommendations as to the required minimum nursing staffing levels in nursing homes and reviewing requests by the facilities to waive the requirements on a time-limited basis.

### **Commonly Asked Questions:**

#### **Who are the Commissioners?**

The Commissioners include two appointed by the Speaker of the House and two appointed by the President Pro-Tem of the Senate. Eight are appointed by the Governor and represent consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel, and advocates for the elderly, and the developmental disabilities community protection and advocacy system established by the US Code.

#### **What is the purpose of the Commission's visits to long term care and assisted living facilities?**

The purpose of the visits is to promote an atmosphere of information sharing so that Commissioners may fulfill their responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Commissioners are interested in open communications with facility administrators, staff, residents and families and in promoting a cooperative atmosphere. Information will be gathered to help the Commission make its required

recommendations to the Governor, DHSS Secretary and General Assembly, concerning improvements to the overall quality of care and quality of life of nursing home residents.

#### **What determines which facilities are visited and which Commissioner(s) will visit?**

Before a visit, a Commissioner will check with the DHCQ staff to determine which facilities have been visited recently (the Division maintains a log of visits), so that duplicate visits of the same nature may be avoided. Commissioners may also attend meetings held at the facilities by DHCQ that give the results of the annual licensing/certification surveys. Commissioners may be invited to resident and/or family council meetings. Commissioners will avoid visiting facilities with which they have a conflict of interest.

#### **What can be expected during a Commissioner's visit to a long term care or assisted living facility?**

Generally, visits will be made by one or two Commissioners at a time. If Commissioners are visiting a facility after normal visiting hours, they will call prior to visiting, so facility staff will be available to open the door. Commissioners will usually be identified by a photo ID badge. Commissioners will sign the visitors' log and give the administrator or other person in charge a copy of this brochure and a Commission business card. Commissioners will gladly explain the purpose of the visit to anyone who asks.

# **Appendix H**

# **Licensed Nursing**

# **Homes**

**(listed in alphabetical order)**

- Atlantic Shores Rehabilitation & Health Center  
231 South Washington St.  
Millsboro, DE 19966-1236  
302-934-7300  
State Licensed Beds: 181  
Medicare & Medicaid Certified
- Brackenville Center  
100 Saint Claire Dr.  
Hockessin, DE 19707-8906  
302-234-5420  
State Licensed Beds: 104  
Medicare & Medicaid Certified
- Brandywine Nursing and Rehabilitation Center  
505 Greenbank Rd.  
Wilmington, DE 19808-3164  
302-998-0101  
State Licensed Beds: 169  
Medicare & Medicaid Certified
- Cadia Rehabilitation Broadmeadow  
500 South Broad Street  
Middletown, DE 19709-1443  
302-449-3400  
State Licensed Beds: 120  
Medicare & Medicaid Certified
- Cadia Rehabilitation Capitol  
1225 Walker Road  
Dover, DE 19904-6541  
302-734-1199  
State Licensed Beds: 120  
Medicare & Medicaid Certified
- Cadia Rehabilitation Pike Creek  
3540 Three Little Bakers Blvd.  
Wilmington, DE 19808-1754  
302-455-0808  
State Licensed Beds: 130  
Medicare & Medicaid Certified
- Cadia Rehabilitation Renaissance  
26002 John J. Williams Highway  
Millsboro, DE 19966-4948  
302-947-4200  
State Licensed Beds: 130  
Medicare & Medicaid Certified
- Cadia Rehabilitation Silverside  
3322 Silverside Road  
Wilmington, DE 19810-3307  
302-478-8889  
State Licensed Beds: 128  
Medicare & Medicaid Certified
- Churchman Village  
4949 Ogletown-Stanton Rd.  
Newark, DE 19713-2908  
302-998-6900  
State Licensed Beds: 101  
Medicare & Medicaid Certified
- Country Rest Home  
12046 Sunset Lane  
Greenwood, DE 19950-9408  
302-349-4114  
State Licensed Beds: 56  
State-Licensed Only
- Courtland Manor Inc.  
889 S. Little Creek Rd.  
Dover, DE 19901-4721  
302-674-0566  
State Licensed Beds: 70  
Medicare & Medicaid Certified
- Delaware Hospital for the Chronically Ill  
100 Sunnyside Road  
Smyrna, DE 19977-1752  
302-223-1000  
State Licensed Beds: 205  
Medicare & Medicaid Certified
- Delaware Veterans Home  
100 Delaware Veterans Blvd.  
Milford, DE 19963-5395  
302-424-6000  
State Licensed Beds: 150  
Medicare & Medicaid Certified
- Delmar Nursing and Rehabilitation Center  
101 E. Delaware Ave.  
Delmar, DE 19940-1110  
302-846-3077  
State Licensed Beds: 109  
Medicare & Medicaid Certified

- Exceptional Care for Children  
11 Independence Way  
Newark, DE 19713-1159  
302-894-1001  
State Licensed Beds: 42  
Medicaid Certified
- Five Star Foulk Manor North LLC,  
Nursing Home  
1212 Foulk Road  
Wilmington, DE 19803-2741  
302-478-4296  
State Licensed Beds: 46  
Medicaid Certified
- Forwood Manor Nursing Home  
1912 Marsh Road  
Wilmington, DE 19810-3954  
302-529-1600  
State Licensed Beds: 72  
Medicare & Medicaid Certified
- Foulk Manor South Nursing Home  
407 Foulk Road  
Wilmington, DE 19803-3809  
302-655-6249  
State Licensed Beds: 46  
State-Licensed Only
- Gilpin Hall Nursing Home  
1101 Gilpin Ave.  
Wilmington, DE 19806-3214  
302-654-4486  
State Licensed Beds: 96  
Medicare & Medicaid Certified
- Governor Bacon Health Center  
2546 Colter Road  
P.O. Box 559  
Delaware City, DE 19706-0559  
302-836-2550  
State Licensed Beds: 78  
Medicaid Certified
- Harbor Health Care  
301 Oceanview Blvd.  
Lewes, DE 19958-1269  
302-645-4664  
State Licensed Beds: 179  
Medicare & Medicaid Certified
- Harrison Senior Living of Georgetown  
110 W. North Street  
Georgetown, DE 19947-2137  
302-856-4574  
State Licensed Beds: 139  
Medicare & Medicaid Certified
- Hillside Center  
810 S. Broom St.  
Wilmington, DE 19805-4245  
302-652-1181  
State Licensed Beds: 106  
Medicare & Medicaid Certified
- Jeanne Jugan Residence Nursing Home  
185 Salem Church Rd.  
Newark, DE 19713-2942  
302-368-5886  
State Licensed Beds: 40  
Medicaid Certified
- Kentmere Rehabilitation and Healthcare  
Center  
1900 Lovering Ave.  
Wilmington, DE 19806-2123  
302-652-3311  
State Licensed Beds: 104  
Medicare & Medicaid Certified
- Kutz Rehabilitation and Nursing  
704 River Road  
Wilmington, DE 19809-2746  
302-764-7000  
State Licensed Beds: 90  
Medicare & Medicaid Certified
- Lofland Park Center  
715 E. King Street  
Seaford, DE 19973-3505  
302-628-3000  
State Licensed Beds: 110  
Medicare & Medicaid Certified
- ManorCare Health Services - Pike  
Creek  
5651 Limestone Rd.  
Wilmington, DE 19808-1217  
302-239-8583  
State Licensed Beds: 177  
Medicare & Medicaid Certified

- ManorCare Health Services -  
Wilmington  
700 Foulk Road  
Wilmington, DE 19803-3708  
302-764-0181  
State Licensed Beds: 138  
Medicare & Medicaid Certified
- Milford Center  
700 Marvel Road  
Milford, DE 19963-1740  
302-422-3303  
State Licensed Beds: 136  
Medicare & Medicaid Certified
- Millcroft Nursing Home  
255 Possum Park Rd.  
Newark, DE 19711-3877  
302-366-0160  
State Licensed Beds: 110  
Medicare & Medicaid Certified
- New Castle Health and Rehabilitation  
Center  
32 Buena Vista Dr.  
New Castle, DE 19720-4660  
302-328-2580  
State Licensed Beds: 120  
Medicare & Medicaid Certified
- Newark Manor Nursing Home  
254 W. Main St.  
Newark, DE 19711-3235  
302-731-5576  
State Licensed Beds: 67  
Medicaid Certified
- Parkview Nursing & Rehab Center  
2801 W. 6th St.  
Wilmington, DE 19805-1828  
302-655-6135  
State Licensed Beds: 150  
Medicare & Medicaid Certified
- Pinnacle Rehabilitation & Health Center  
3034 S. Dupont Boulevard  
Smyrna, DE 19977-1898  
302-653-5085  
State Licensed Beds: 151  
Medicare & Medicaid Certified
- Regal Heights Healthcare & Rehab  
Center, LLC  
6525 Lancaster Pike  
Hockessin, DE 19707-9582  
302-998-0181  
State Licensed Beds: 172  
Medicare & Medicaid Certified
- Regency Healthcare and Rehab Center  
801 N. Broom Street  
Wilmington, DE 19806-4624  
302-654-8400  
State Licensed Beds: 100  
Medicare & Medicaid Certified
- Seaford Center Nursing Home  
1100 Norman Eskridge Hwy  
Seaford, DE 19973-1724  
302-629-3575  
State Licensed Beds: 124  
Medicare & Medicaid Certified
- Shipley Manor Health Care Nursing  
Home  
2723 Shipley Road  
Wilmington, DE 19810-3251  
302-477-8800  
State Licensed Beds: 82  
Medicare & Medicaid Certified
- Silver Lake Center Nursing Home  
1080 Silver Lake Blvd  
Dover, DE 19904-2410  
302-734-5990  
State Licensed Beds: 120  
Medicare & Medicaid Certified
- Stockley Center ICF/ID  
26351 Patriots Way  
Georgetown, DE 19947-2575  
302-933-3000  
State Licensed Beds: 54  
Medicaid Certified
- Stonegates  
4031 Kennett Pike  
Greenville, DE 19807-2047  
302-658-6200  
State Licensed Beds: 49  
Medicare Certified

- The Center at Eden Hill  
300 Banning Street  
Dover, DE 19904-3486  
302-677-7100  
State Licensed Beds: 80
- The Mary Campbell Center  
4641 Weldin Rd.  
Wilmington, DE 19803-4829  
302-762-6025  
State Licensed Beds: 70  
Medicaid Certified
- The Moorings at Lewes Nursing Home  
17028 Cadbury Circle  
Lewes, DE 19958-7028  
302-645-6400  
State Licensed Beds: 40  
Medicare & Medicaid Certified
- Westminster Village Health Center  
Nursing Home  
1175 McKee Road  
Dover, DE 19904-2268  
302-744-3600  
State Licensed Beds: 73  
Medicare & Medicaid Certified
- Weston Senior Living Center at  
Highfield  
4800 Lancaster Pike  
Wilmington, DE 19807-2559  
302-994-4434  
State Licensed Beds: 19  
Medicare & Medicaid Certified
- WillowBrooke Court at Cokesbury  
Viillage  
726 Loveville Road,  
Hockessin, DE 19707-1536  
302-235-6000  
State Licensed Beds: 45  
Medicare Certified
- WillowBrooke Court at Country House  
4830 Kennett Pike  
Wilmington, DE 19807-1899  
302-654-5101  
State Licensed Beds: 60  
Medicare Certified
- WillowBrooke Court Skilled Center at  
Manor House  
1001 Middleford Road  
Seaford, DE 19973-3638  
302-629-4593  
State Licensed Beds: 60  
Medicare & Medicaid Certified

# **Appendix I**

# **Licensed Assisted Living Facilities**

**(listed in alphabetical order)**

- Arden Courts of Wilmington  
700 1/2 Foulk Rd.  
Wilmington, DE 19803-3708  
302-762-7800  
State Licensed Beds: 56
- Brandywine SeniorLiving Fenwick Island  
21111 Arrington Drive  
Selbyville, DE 19975  
302-436-0808  
State Licensed Beds: 125
- Brandywine SeniorLiving SeasidePointe  
36101 Seaside Blvd.  
Rehoboth Beach, DE 19971-1189  
302-226-8750  
State Licensed Beds: 150
- Brookdale Dover  
150 Saulsbury Road  
Dover, DE 19904-2776  
302-674-4407  
State Licensed Beds: 96
- Brookdale Hockessin  
6677 Lancaster Pike  
Hockessin, DE 19707-9503  
302-239-3200  
State Licensed Beds: 66
- Dover Place  
1203 Walker Road  
Dover, DE 19904-6541  
302-735-8800  
State Licensed Beds: 80
- Five Star Foulk Manor North LLC  
1212 Foulk Road  
Wilmington, DE 19803-2741  
302-478-4296  
State Licensed Beds: 44
- Forwood Manor Assisted Living  
1912 Marsh Road  
Wilmington, DE 19810-3954  
302-529-1601  
State Licensed Beds: 40
- Foulk Manor South Assisted Living  
407 Foulk Road  
Wilmington, DE 19803-3809  
302-655-6249  
State Licensed Beds: 62
- Harbor Chase of Wilmington  
2004 Shipley Road  
Wilmington, DE 19803  
302-273-8630  
State Licensed Beds: 120
- Ingleside Assisted Living, LLC  
1605 North Broom Street  
Wilmington, DE 19806-3009  
302-984-0950  
State Licensed Beds: 60
- Ivy Gables LTD, LLC.  
2210 Swiss Lane  
Wilmington, DE 19810-4241  
302-475-9400  
State Licensed Beds: 24
- Lodge Lane Assisted Living  
1221 Lodge Lane  
Wilmington, DE 19809  
302-757-8100  
State Licensed Beds: 60
- Luther Towers I  
1201 North Harrison Street  
Wilmington, DE 19806-3534  
302-654-4491  
State Licensed Beds: 41
- Luther Towers II  
1420 North Franklin Street  
Wilmington, DE 19806-3187  
302-654-4491  
State Licensed Beds: 34
- Milford Place  
500 S. DuPont Highway  
Milford, DE 19963-1758  
302-422-8700  
State Licensed Beds: 80
- Millcroft Assisted Living  
255 Possum Park Rd.  
Newark, DE 19711-3877  
302-366-0160  
State Licensed Beds: 36



- OakBridge Terrace Assisted Living at Manor House  
1001 Middleford Road  
Seaford, DE 19973-3638  
302-629-4593  
State Licensed Beds: 75
- OakBridge Terrace at Cokesbury Village  
726 Loveville Road  
Hockessin, DE 19707-1519  
302-234-4444  
State Licensed Beds: 49
- OakBridge Terrace at Country House  
4830 Kennett Pike  
Wilmington, DE 19807-1899  
302-654-5101  
State Licensed Beds: 40
- Paramount Senior Living at Newark  
200 E. Village Road  
Newark, DE 19711-3845  
302-366-8100  
State Licensed Beds: 132
- Peach Tree Health Group, LLC  
26900 Lewes-Georgetown Highway  
Harbeson, DE 19951-2855  
302-684-4002  
State Licensed Beds: 20
- Rockland Place  
1519 Rockland Road  
Wilmington, DE 19803-3611  
302-777-3099  
State Licensed Beds: 104
- Serenity Gardens Assisted Living  
207 Ruth Drive  
Middletown, DE 19709-9470  
302-464-1481  
State Licensed Beds: 14
- Shipley Manor Assisted Living  
2723 Shipley Road  
Wilmington, DE 19810-3251  
302-479-0111  
State Licensed Beds: 17
- Somerford House  
501 South Harmony Road  
Newark, DE 19713-3338  
302-266-9255  
State Licensed Beds: 72
- Somerford Place  
4175 Ogleton-Stanton Road  
Newark, DE 19713-4168  
302-283-0540  
State Licensed Beds: 52
- State Street Assisted Living  
21 North State Street  
Dover, DE 19901  
302-674-2144  
State Licensed Beds: 98
- Sunrise Assisted Living of Wilmington  
2215 Shipley Road  
Wilmington, DE 19803-2305  
302-475-9163  
State Licensed Beds: 90
- The Lorelton  
2200 West 4th St.  
Wilmington, DE 19805-3362  
302-573-3580  
State Licensed Beds: 100
- The Moorings at Lewes Assisted Living  
17028 Cadbury Circle  
Lewes, DE 19958-7028  
302-644-6374  
State Licensed Beds: 45
- The Summit Assisted Living  
5850 Limestone Road  
Hockessin, DE 19707  
302-235-8734  
State Licensed Beds: 120
- Westminster Village Assisted Living  
1167 McKee Road  
Dover, DE 19904-2268  
302-744-3558  
State Licensed Beds: 99

# Section IV

# D

## DNHRQAC Member Roster

(as of 09/26/19)

Elisabeth Furber (Chair)

Appointed by CLASI  
Patient Advocate for CLASI, MSW  
Member since: Sept 2008

Lorraine Phillips, Ph.D, RN

Appointed by Governor's Office  
UD Nursing School Faculty  
Member since: July 2019

Karen Gallagher

Appointed by Governor's Office  
Advocate  
Member since: June 2000

Cheryl Heiks

Appointed by DHCFA  
Executive Director of DHCFA  
Member since: July 2019

Lt Governor Bethany Hall – Long

Appointed by Senate Protempore  
Doctorate & Professor of Nursing  
Member since: September 2009

Christina Kontis, Esquire

Represents Attorney General's Office  
Acting Director MFCU  
Member since: July 2019

Representative Kim Williams

Appointed by Speaker of House  
Legislator  
Member since: July 2012

Dr, Michela Coffaro, Psy.D

Appointed by Governor's Office (Sussex)  
Psychologist  
Member since: July 2017

Kyle Hodges

Appointed by Governor's Office  
Advocate  
Member since: July 2019

Hooshang Shanehsaz, RPH

Appointed by Governor's Office (Kent)  
State Pharmacy Director (Cardinal Health)  
Member since: July 2019

Amy Milligan

Represents the Delaware Health Care Association  
Executive Director @ St Francis Life Center, MSW  
Member since: October 2013

Catherine L. Hightower

Appointed by Governor's Office (NCC)  
State Operated Facility nurse  
Member since: Sept 2019

Norma Jones

Appointed by Governor's Office  
Nursing Home Resident  
Member since: Sept 2019

## DE Code Title 29 Chapter 58 §5805 Prohibitions relating to Conflicts of Interest

Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC) members monitor Delaware's quality assurance system for nursing home residents in 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 to ensure the health and safety of nursing home residents.

Commission members address sensitive and confidential information regarding residents, facilities, stakeholders, agencies and providers in Delaware.

Commission members serve at the pleasure of their appointing authorities: Senate Pro Tempore, Speaker of House, Governor's Office and virtue of position.

Commission members shall recuse themselves from voting or otherwise making commission decisions regarding matters in which they have a conflict or potential conflict of interest as outlined below.

DE Code Title 29 §5805 Prohibitions relating to Conflicts of Interest that includes:

(a) Restrictions on exercise of official authority. —

(1) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which the state employee, state officer or honorary state official has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter.

(2) A person has an interest which tends to impair the person's independence of judgment in the performance of the person's duties with respect to any matter when:

- a. Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
- b. The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(3) In any case where a person has a statutory responsibility with respect to action or nonaction on any matter where the person has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided, that promptly after becoming aware of such conflict of interest, the person files a written statement with the Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(b) Restrictions on representing another's interest before the State. —

(1) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(2) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(3) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise of such person's official duties.

(d) Post-employment restrictions. — No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of 2 years after termination of employment or appointed status with the State, if the person gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of official duties as a state employee, officer or official. Nor shall any former state employee, state officer or honorary state official disclose confidential information gained by reason of public position nor shall the person otherwise use such information for personal gain or benefit.

(e) Unauthorized disclosure of confidential information. — No person shall disclose any information required to be maintained confidential under this Conflict of Interest including:

By signing this policy, I acknowledge that I have read the Conflict of Interest Policy outlined above.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

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*Delaware Nursing Home Residents  
Quality Assurance Commission*

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Confidentiality Agreement

As a member of the Delaware Nursing Home Residents Quality Assurance Commission, and consistent with Title 29 § 7909 of the Delaware Code, I agree to protect the privacy of residents of long-term care facilities, and I agree to follow guidelines for the confidentiality of records to be established by the Division of Health Care Quality. I also agree to keep confidential anything that the Commission discusses in Executive Session.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



SPONSOR: Rep. K. Williams & Sen. Walsh  
Reps. Brady, Osienski; Sens. Delcollo, Ennis

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 62  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 7907, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7907. Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident's Quality Assurance Commission. The Commission ~~shall be composed as follows:~~ consists of the following members:

(1) One member appointed by the Speaker of the ~~House;~~ House.

(2) One member appointed by the President ~~Pro Tem~~ Pro Tem of the ~~Senate;~~ Senate.

(3) ~~Eight members appointed by the Governor. One of the members appointed by the Governor shall be a representative of the "protection and advocacy agency" as defined in § 1102 of Title 16. The remaining members shall include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. One of the Governor's initial appointees shall have been a member of the Council on Long Term Care Facilities;~~

(4) ~~One member of the Long Term Care Association appointed by the Speaker of the House;~~

(5) ~~One member of the Hospital Association appointed by the President Pro Tempore of the Senate. Four members serving by virtue of position, or a designee appointed by the member, as follows:~~

a. The Attorney General.

b. The Executive Director of the Community Legal Aid Society, Inc.

c. The Executive Director of the Delaware Health Care Facilities Association.

d. The Executive Director of the Delaware Healthcare Association.

(4) Seven members appointed by the Governor as follows:

a. One member who is a resident or a family member of a resident of a nursing home.

b. Three members, 1 from each county, who work in a nursing home setting.

c. A health care professional.

e. Two individuals who are each an advocate for people with disabilities or the elderly, or both.

~~(b) At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of 1 major political party over the other major political party. Membership on the Commission shall must be geographically distributed so that there shall be are members of the Commission from each of the 3 ~~counties and the City of Wilmington.~~ counties.~~

~~(c)(1) The members appointed by the Speaker and the President ~~Pro Tem~~ shall Pro Tem serve at the pleasure of their appointing authorities. ~~Initial appointments of the members appointed by the Governor shall be as follows: 2 members for a 1-year term; 3 members for a 2-year term; and 3 members for a 3-year term. Each succeeding term shall be for 3 years. The Chairperson of the Commission shall be designated by the Governor.~~~~

~~(2) The term of a Commission member is 3 years, however, the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.~~

~~(d) [Repealed.] (1) The members of the Commission shall elect a Chair.~~

~~(2) A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.~~

~~(3) The Commission may adopt rules and bylaws necessary for its operation.~~

~~(e) The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission.~~

~~(f) The Department of Justice shall provide legal advice to the Commission.~~

~~(e) (g) The purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and ~~state-operated~~ State-operated facilities so that complaints of abuse, neglect, mistreatment, financial ~~exploitation~~ exploitation, and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.~~

~~(f) (h) The Commission shall meet at a minimum, on a quarterly basis.~~

~~(g) (i) The Commission's duties of the ~~Commission~~ shall ~~include~~: include all of the following:~~

~~(1) ~~Examination of~~ Examining policies and procedures and ~~evaluation of~~ evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the~~

~~Attorney General's Office~~ Department of Justice and law-enforcement agencies as well as agencies, and health-care professionals and nursing home providers.

(2) ~~The monitoring of~~ Monitoring data and ~~analysis of~~ analyzing trends in the quality of care and quality of life of individuals receiving long term care in ~~Delaware;~~ Delaware.

(3) ~~The review~~ Reviewing and making of recommendations to the Governor, ~~Secretary~~ Secretary, and the General Assembly concerning the quality assurance system as well as and improvements to the overall quality of life and quality of care of nursing home residents.

(4) ~~The protection of~~ Protecting the privacy of nursing home ~~residents~~ residents, including ~~following~~ complying with the guidelines for confidentiality of records ~~to be~~ established by the Division of Health Care Quality.

~~(h)~~ (j) The Commission shall prepare and publish an annual report to the Governor, ~~the Secretary~~ Secretary, and the General Assembly. This annual report shall must include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents.

~~(i)~~ (k) Members of the Commission shall serve without ~~compensation;~~ however, they compensation. However, members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the ~~Council~~ Commission.



# Section 11 - #c

## LONG TERM CARE OVERVIEW

The Delaware Population Consortium, which produces population projections for the state, projects an increase in the 65-and-older population consistent with the Census Bureau projections.

The need for long-term care services is likely to grow as well. As the demand for long-term care services continues to rise, the demand on institutions and community-based healthcare providers to offer more care will also increase. Although admissions have risen significantly in the past ten years, so have discharges. As a result, the nursing home population from year to year has been relatively stable.

### Population Projections for Persons Aged 60 and Older State of Delaware

	2015	2020	2025	2030	2035	2040	2045	2050
<b>Age Breakdowns</b>								
Age 60-64	57,492	65,236	67,065	64,371	60,661	59,528	64,865	67,502
Age 65-69	50,681	55,887	62,885	64,961	62,361	58,850	57,923	63,215
Age 70-74	37,811	47,464	51,825	58,494	60,510	58,089	54,942	54,293
Age 75-79	26,917	33,664	41,931	45,918	51,841	53,681	51,598	48,987
Age 80-84	18,872	22,285	27,711	34,747	37,999	42,894	44,520	42,896
Age 85 +	19,378	23,467	27,578	33,873	42,493	49,426	56,270	60,755
<b>Age Totals</b>								
Total Age 60+	211,151	248,003	278,995	302,364	315,865	322,468	330,118	337,648
Total Age 65+	153,659	182,767	211,930	237,993	255,204	262,940	265,253	270,146
Total Age 75+	65,167	79,416	97,220	114,538	132,333	146,001	152,388	152,638
Total Age 85+	19,378	23,467	27,578	33,873	42,493	49,426	56,270	60,755
<b>Percent Change</b>								
Age 60+	0.0%	17.5%	32.1%	43.2%	49.6%	52.7%	56.3%	59.9%
Age 65+	0.0%	18.9%	37.9%	54.9%	66.1%	71.1%	72.6%	75.8%
Age 75+	0.0%	21.9%	49.2%	75.8%	103.1%	124.0%	133.8%	134.2%
Age 85+	0.0%	21.1%	42.3%	74.8%	119.3%	155.1%	190.4%	213.5%

Prepared by: Delaware Division of Services for Aging and Adults with Physical Disabilities  
Source: Delaware Population Consortium Annual Population Projections, October 26, 2017, Version 2017.0

LTCOP (Long Term Care Ombudsman Report)  
2018 Annual Report

**BY-LAWS FOR THE DELAWARE NURSING HOME  
RESIDENTS QUALITY ASSURANCE COMMISSION  
(DNHRQAC)**

***Article I Authority and Purpose***

The Delaware Nursing Home Residents Quality Assurance Commission is established by 29 Del. C. § 7907. All action taken by this Commission and all organizational structure shall conform to 29 Del. C. § 7907 and relevant provisions of 16 Del. C. §§ 1162 and 1167.

The purpose of the Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities with the goal that agencies responsible with the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

***Article II Membership and Staffing***

The Commission shall be composed of ~~12~~ 13 members. One member shall be appointed by the Speaker of the House, and one member shall be appointed by the President Pro Tempore of the Senate. These members shall serve at the pleasure of their appointing authorities.

~~Effective July 2003, legislation was passed by both chambers and signed into law by the Governor to amend Title 29, Delaware Code that added two members to the Delaware Nursing Home Residents Quality Assurance Commission. One member is to represent the Long Term Care Association and will be appointed by the Speaker of the House. One member is to represent the Hospital Association and will be appointed by the President Pro Tempore of the Senate. These two members serve at the pleasure of their appointing authorities.~~

Four members serving by virtue of position, or a designee appointed by the member, as follows:

- a. The Attorney General,
- b. The Executive Director of the Community Legal Aid Society, Inc,
- c. The Executive Director of the Delaware Health Care Facilities Association,
- d. The Executive Director of the Delaware Healthcare Association,

~~The other eight Seven members shall be appointed by the Governor as follows: and shall include~~  
~~a~~

~~representative of the developmental disabilities community protection and advocacy system established by the United States Code, and shall also include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. Initial appointments of these members shall be as follows: 2 members for a 1-year term; 3 members for a 2-year term; and 3 members for a 3-year term. Each succeeding term shall be for 3 years.~~

- a. One member who is a resident or family member of a resident of a nursing home,
- b. Three members, one from each county, who work in nursing home setting,

- c. Health care professional,
- d. Two advocates for elderly or disabled,

~~Upon expiration of a Commission member's term, he or she may continue to serve as an active, voting member until such time as a replacement is appointed.~~

~~The Chairperson of the Commission shall be designated by the Governor. Members of the Commission shall elect a Chair.~~

The term of a Commission member is three years, however, the Governor may appoint one or more member for a term of less than three years to ensure that terms are staggered.

~~At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other. Membership shall be distributed so that there are Commission members from all three Delaware counties and the City of Wilmington.~~

A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

The Commission may adopt rules and bylaws necessary for its operation.

The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission. The Department of Justice shall provide legal advise to the Commission.

~~At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the  
Page 2 of 4  
major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other. Membership shall be distributed so that there are Commission members from all three Delaware counties and the City of Wilmington.~~

~~Commission members shall serve without compensation, except that they may be reimbursed by the Commission, Administrative Offices of the Courts, for reasonable and necessary expenses incident to their duties as members of this Commission to the extent funds are available and in accordance with State law.~~

~~The staff, as funded through the Annual State budgetary process, shall be utilized by the Commission and the Attorney General's office shall provide legal advice.~~

### *Article III Duties*

The purpose of the Commission is to monitor Delaware's quality assurance system for nursing home residents in 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 to ensure the health and safety of nursing home residents.

The duties of the Commission include:

- a. Examining, evaluating and making recommendations to improve the policies, procedures and coordination of agencies that have oversight of Long Term Care Services in Delaware and evaluating their effectiveness. The agencies include: Division of Long Term Residents Protection (DLTRP), Health Care Quality (DHCQ), The Ombudsman's Office (DSAAPD), Public Health, Division of Medicaid and Medical Assistance (DMMA) and the Attorney General's Office (AG) and other agencies deemed appropriate;
- b. Monitoring Reviewing data presented to the DNHRQAC by agencies responsible for the oversight of the delivery of LTC Services in Delaware;.
- c. Analyzing trends in order to Assessing the value and efficacy of current procedures intended to improve the quality of care and life of individuals receiving long-term care in Delaware;
- d. Making data-based recommendations to the Governor, Secretary and the General Assembly concerning the quality assurance system as well as improvements to the overall quality of life and quality of care of nursing home residents; after analyzing trends and outcomes;
- e. ~~Protecting the privacy of nursing home residents including following the guidelines for confidentiality of records to be established by the Division of Long Term Care Residents Protection;~~ Delaware Health and Social Services;
- e. Preparing and publishing an annual report to ~~include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and life of nursing home residents, and submitting such report to the Governor, the Secretary~~ and members of the General Assembly.

#### ***Article IV Meetings***

The Commission shall determine its own meeting schedule but meetings shall occur at least quarterly. These meetings shall be open to the public, held in an accessible place, and with reasonable requested accommodations. The Commission shall endeavor to schedule the meetings at regular, predictable intervals. The staff shall distribute the meeting date, agenda and location to Commission members and the public at least 7 days before the meeting date.

~~The staff~~ Staff shall distribute draft minutes of meetings to Commission members no later than 14 days after the

meeting date, and the Commission shall approve or correct the minutes at the next Commission meeting. Approved minutes shall be available to the public.

Commission members may participate and vote during meetings via teleconferencing provided a quorum of members are physically present. ~~A simple majority of Commission members shall constitute a quorum. A majority of the members present and voting shall be required for action.~~

Commission members may designate proxies to attend meetings on their behalf. , but sSuch proxies shall not have voting rights and shall not be considered part of a quorum.

Any member of the public may submit written comments to the Commission at any time and requests for confidentiality will be honored. Members of the public may also request to be included on the Commission meeting agenda by contacting the DNHRQAC staff at least 14 days in advance of the relevant meeting date. In addition, each agenda shall include time for brief public comment.

The Commission may hold Executive Sessions, closed to the public, in accordance with the Freedom of Information Act, 29 Del. C. §10001 *et seq.*

#### ***Article V Confidentiality***

Commission members shall sign a Confidentiality Agreement to protect the privacy of nursing home residents established by Delaware Health and Social Services ~~and shall follow the guidelines for confidentiality of records to be established by the staff.~~

#### ***Article VI Prohibited Activities***

No individual Commission member will represent the Commission to the general public without a majority vote of a quorum at a Commission meeting prior to representation. Members shall recuse themselves from voting or otherwise making Commission decisions regarding matters in which they have a conflict or potential conflict of interest.

#### ***Article VII Parliamentary Authority***

Unless otherwise provided in these by-laws, all Commission meetings and activities shall be governed by *Robert's Rules of Order*.

#### ***Article VIII Amendments***

Proposed by-law amendments shall be circulated to all Commission members at least 14 days prior to the meeting at which they will be voted upon. Amendments may be adopted at any official Commission meeting and must be in compliance with any State legislation affecting this Commission.

Approved by the Commission at its ~~January 9, 2004~~ (insert here) mMeeting

\*Amended July 2003

\*Amended June 2007

\*Amended September 2007

\* Amended September 2019

Rev. September, 2007