



Advisory Board on Nursing Home Oversight and Accountability **Meeting Notes – DRAFT**

STRENGTHENING OVERSIGHT OF VIRGINIA’S NURSING HOMES – EXECUTIVE ORDER FIFTY-TWO (2025)

October 23, 2025

Patrick Henry Building, 10:00 AM – 12:15 PM

Members Present: Karen Kimsey (Chair), Virginia Department of Health (VDH) Commissioner Dr. Karen Shelton, Jonathan Cook, James Dau, Laura Finch, Candace Gilliam, Joanna Heiskill, Chief Jackson Baynard, Sam Kukich, Paige McCleary, Cheryl Roberts, James Sherlock, and Todd Barnes

Members Present Virtually: Sherrin Alsop, Amanda Gannon, Emily Hardy, Carla Hesseltine, Gail Thompson (Designee for Joani Latimer), Annette Kelley, (Designee for Corie Tillman Wolf) Board of Long-Term Care Administrators; and Peter Anderson.

Members Absent: None

Health and Human Resources (HHR) Staff:

Leah Mills, Health and Human Resources (HHR); Mindy Diaz, HHR; Jona Roka, HHR; Sara Stowe, DARS; Courtney Richter, DMAS; July Traylor, DMAS; Tammi Whitlock, DMAS; Arne Owens, Department of Health Professions (DHP); Geoff Garner, VDH; Christopher Lindsay, VDH; Joseph Hilbert, VDH

Welcome and Introductions

The Honorable Janet Kelly, Secretary of Health and Human Resources

Ms. Karen Kimsey, Chair

Dr. Karen Shelton, Commissioner, Virginia Department of Health

Secretary Janet Kelly welcomed Advisory Board members and thanked them for their participation. She shared the purpose of the meeting, which was an overview of the four “Ps”: progress, processes, personnel updates, and people. Secretary Kelly then shared the work on Virginia’s Rural Health Transformation application. The Secretary’s Office had convened 12 listening sessions across rural Virginia to solicit perspectives and input from key stakeholders. Virginia is eligible for \$500 million and the deadline for applications is November 5. Secretary Kelly thanked everyone for their participation and asked the members to continue to focus on finding solutions that meet everyone’s shared interest in ensuring Virginia’s nursing homes are the best in the Commonwealth. Secretary Kelly reminded the Board members that this is a consensus-based board.

Secretary Kelly then introduced the Chair of the Advisory Board, Ms. Karen Kimsey. Ms. Kimsey welcomed the members, provided background, the charge of the Board, and provided an overview of the agenda. As part of the agenda overview, she shared information about the three proposed workstreams that were created to enhance conversations. Ms. Kimsey explained this would allow the Board additional time to discuss and develop these issues.

Ms. Kimsey then introduced Dr. Karen Shelton to provide a brief welcome to advisory board members. She noted that the VDH Office of Licensure is continuing to work collaboratively with the Department of Medical Assistance Services (DMAS) and that Mr. Christopher Lindsay will provide an overview on the progress made during this meeting. Dr. Shelton asked that the members continue to think outside of the box and work collaboratively with other agencies. Dr. Shelton expressed appreciation to the speakers and stated that she was looking forward to the workstream recommendations.

Ms. Kimsey asked members to introduce themselves and shared meeting logistics information. She then asked if any members had any changes to the draft meeting minutes from the September 15th meeting minutes. No corrections or additions were identified, and the September 15 meeting minutes were adopted by consensus.

Licensing, Oversight & Regulation of Nursing Homes

Joseph Hilbert, Deputy Commissioner for Governmental and Regulatory Affairs, Virginia Department of Health

Ms. Kimsey introduced Deputy Commissioner Hilbert and thanked him for presenting on the licensing and oversight of Virginia's nursing homes. Mr. Hilbert noted that currently, VDH provides oversight over 289 licensed nursing facilities. The OLC conducts state and federal inspections and investigates complaints.

Mr. Hilbert then discussed the state licensure inspection process. He said that all inspections are unannounced and are conducted on a biennial basis. The goal is to verify compliance with state laws and regulations. If deficiencies are found, a plan of correction is due to OLC within 10 calendar days after receipt of the inspection report.

The Federal Certification process, through the Centers for Medicare and Medicaid Services (CMS), requires submission of documentation including ownership documentation, current state licensure, Quality Assurance and Performance Improvement Program (QAPI), Life Safety Code survey, Emergency Preparedness survey, and Certification by the CMS location (region) through a review of survey results, as well as a review of facility's compliance with civil rights requirements. All federal surveys are unannounced, and the target is to conduct federal surveys every 12-15 months.

Mr. Hilbert shared the Scope and Severity Matrix used to score deficiencies. The matrix ranks the severity of the deficiency based on harm to residents with the scope measures based on isolated, pattern, or widespread. Federal certification survey reports are due to the facility 10 business days after the survey exit and Life Safety Code Inspections closely follow or may coincide with recertification surveys. Plans of Correction are due to OLC 10 calendar days after receipt of the survey report. Facilities "allegation of compliance" date should be within 45 days of the survey exit. If revisits are required, the goal is to initiate within 60 days following the survey exit. A third revisit is only allowed with the approval of CMS.

Mr. Hilbert shared that 1,332 complaints have been received in 2025 thus far. Complaint investigations take precedence over certification surveys and are also unannounced. Using CMS' guidelines to assess severity and priority level, compliant investigations are triaged based on serious injury, harm or neglect. The time requirements for initiating investigations are:

- Immediate Jeopardy (IJ)- 3 business days
- Non- IJ High- 18 business days (an maintain average of 15 business days or less)
- Non-IJ Medium: 45 calendar days
- Non-IJ Low: whenever VDH is next onsite

VDH investigates complaints for possible violations under federal authority first unless the state requirement is more stringent. OLC assesses evidence and determines if allegation is substantiated. If the

facility violates the federal requirements, the facility is required to develop and forward a plan of correction to OLC. The investigation report is due to the facility by the 10th business day after the exit and the plan of correction is due 10 calendar days following the investigation report. A revisit takes place within 60 days of the initial compliant survey, and the complainant will receive a summary record of the investigation.

OLC posts all certified nursing facility federal survey reports on their website, which includes COVID-19 Focused Infection Control surveys, hospital distinct part Skilled Nursing Facilities (SNFs), SNF/Nursing Facility (NF), and NFs and includes the Plan of Correction (POC). OLC also posts state inspection reports and POCs for 8 nursing homes that are not certified by CMS.

Mr. Hilbert informed the Board that administrative penalties vary based on violations of state law versus violation of federal law. Violations of state law penalties could include a plan of correction (POC), restriction of new admissions or license suspension or revocation. Legislation was passed during the 2025 General Assembly (Chapters 166 and 180 of the 2025 Acts of Assembly) which allows VDH to implement the following sanctions: mandated training at the facilities expense, civil monetary penalties of \$500/day, up to \$10,000 for a series of violations, and placing a license on probation for violation of state law. Violations of federal law penalties could include: POC, directed POC, directed in-service, state monitoring, temporary management, civil monetary penalties, discretionary denial of payment for new admissions, denial of payment for all individuals, and/or termination of the facility's license.

The OLC is developing procedures to utilize their existing statutory authority to suspend/restrict new admissions or to suspend/ revoke licenses. At present, any sanctioning action by VDH must comply with Virginia's Administrative Process Act requirements. This can result in a significant time lapse between an incident/event and any resulting sanction. VDH has no summary authority, even for egregious situations. VDH has initiated a regulatory action to implement intermediate sanctions as authorized by 2025 legislation.

The Board of Health approved an emergency regulatory action to establish a new licensure fee structure for nursing homes, as authorized by 2025 legislation – this is currently in the regulatory process.

Questions/Comments by Advisory Board Members:

- Mr. James Dau asked about the aggregation of complaints and compliance over time. He also asked whether there was any impact if there was a continued pattern from a facility (i.e., a facility corrects complaints, but the violations persist).
 - Mr. Hilbert stated if the facility was not in compliance, then a revisit would be conducted to assess compliance within federal timeframes. Nursing homes have six months to come into compliance. A nursing home is not paid by Medicaid during a complaint process if it fails to become substantially compliant with federal requirements within three months after the survey identified deficiencies. This can also be a full termination of participation if the facility doesn't achieve substantial compliance within six months.
- James Dau asked a follow-up to initial question: Is there consideration for a recurring pattern?
 - Mr. Hilbert responded that CMS has a special focus facility program, and one slot is available in Virginia that subjects the facility to enhanced or numerous inspections. There is always the ability to restrict admissions.
 - Joanna Heiskill shared that many facilities know when their inspections are going to be conducted and will plan and prepare ahead of time. Is there any investigation into this happening?
 - Mr. Hilbert stated that VDH's inspections are anonymous/unannounced inspections. VDH takes precautions to ensure that facilities are unaware of inspections.
 - Joanna Heiskill asked if there are consequences for sharing knowledge of an upcoming inspection?

- Mr. Hilbert noted that inspectors may be in the community and information may be disclosed—that cannot happen, and he stated he was unsure of repercussions

Office of Licensure and Certification Update on Implementation of Executive Order 52

Christopher Lindsay, Chief Operating Officer, Virginia Department of Health

Mr. Christopher Lindsay provided a transformation update on the OLC at VDH. He started off with a recruitment update stating that there are currently 15 vacancies with 9 active postings and since July of 2025, OLC has had 1310+ applicants. The critical need roles include Medical Facilities Inspectors (MFI), MFI Supervisors, OLC Director, and the OLC Division Director.

Mr. Lindsay recognized the Human Resources recruitment team, which is fully dedicated to OLC recruitment. Newly recruited OLC staff will receive upfront leave and a sign-on bonus. Recent updates include the hiring of a long-term care (LTC) MFI Supervisor and acute care (AC) MFI. The OLC Director and Acute Care Division Director have both accepted offers and have tentative start dates of November 10, 2025.

Throughout the MFI recruitment, 48 applicants have been interviewed, 16 candidates recommended for selection and 14 offers have been accepted. One MFI started in September 2025, three MFIs started in October, and 10 MFIs started in November.

Mr. Lindsay also clarified some information that had been previously shared regarding VDH funding that was returned to CMS. VDH did not actually “return” any funds to CMS as was recently reported. Federal funds are not advanced; federal fund transfer to VDH occurs only after positions are filled and allowable costs are incurred. When positions remain vacant, as these have for many years, no federal funds can be drawn down. Federal dollars are not sent proactively and are only available to cover costs for positions that are filled. Mr. Lindsay stated that VDH can only draw down funds to cover filled positions.

With recent Nursing Home fee legislation increases, which was signed by Governor Youngkin, VDH’s Office of Licensure and Certification is making significant progress in filling these long-vacant inspector positions. As positions are filled and additional inspectors are in the field, there will be a significant increase in the amount of available funding that OLC is able to draw down from CMS.

Mr. Lindsay then shared the new onboarding and training process in OLC. The new training and onboarding process includes four-to six months of training using a formalized, standardized training program in line with CMS requirements. There are two dedicated training managers, one for acute care and one for long-term care. The training will include eight weeks of classroom time and CMS required education before moving to preceptorship. One trainer will be assigned to two to three novice MFIs. Previously, regional MFI teams were located all throughout the state; however, OLC has moved to a regional approach aligned with facilities and job descriptions that have been tailored to those regions.

Christopher Lindsay updated the Board on the complaint system. The complaint system will now include digital complaint intake which will include routing logic and automated reporting dashboard. The system will still be monitored and overseen by staff to ensure any egregious complaints are prioritized. A public facing portal mapping of Virginia’s nursing facilities CMS 5-star ratings is in the works and will allow for the public to categorize by deficiencies, complaints, survey reports, penalties/fines, and plans of corrections. The portal is targeting a November launch.

Ms. Kimsey thanked Mr. Lindsay for his thorough presentation on the process and system improvements. There were no questions from the Board members.

Department of Medical Assistance Services' Role in Nursing Home Quality

Tammy J. Whitlock, Deputy Director of Complex Care and Services, Department of Medical Assistance Services

Courtney Richter, Nursing Facility Quality Supervisor, Department of Medical Assistance Services

July Traylor, Nursing Facility Specialist, Department of Medical Assistance Services

Ms. Courtney Richter shared the Department of Medical Assistance Services' (DMAS) role in supporting nursing home quality through quality assurance, quality incentives value-based purchasing, and quality improvement. Approximately 19,000 Virginia Medicaid members are in nursing facilities. Additionally, 43% of nursing facilities in Virginia have a 1 or 2-star rating from CMS.

Ms. Richter discussed the Quality Improvement Programs: Civil Monetary Penalty and Nursing Facility Quality Improvement Program. The Civil Monetary Penalty Reinvestment Program (CMPRP) reinvests penalties assessed on noncompliant nursing facilities back into facilities. The project must directly improve residents' quality of life. DMAS administers the CMPRP and CMS makes the final funding determination. In fiscal year 2025, 16 projects were funded and 43% of nursing facilities participated.

The Nursing Facility Quality Improvement Program (NFQIP) began in 2022. DMAS has an agreement with Virginia Commonwealth University (VCU) Gerontology for at least two additional NFQIP project applications. DMAS has also partnered with VCU Gerontology to provide trainings, conferences, technical assistance, and other supports to nursing facilities. Training topics also include:

- Deeping Your Person-Centered, Dementia Care Practice
- Person-Centered Trauma Informed Care Training Series
- Staff Training on Value Based Purchasing Quality Metrics

Ms. Richter also shared other Nursing Facility Quality and Process Improvement Initiatives that are currently underway such as more frequent exchanges of minimum data set (MDS) data from VDH, patient-driven payment model (PDPM) reimbursement methodology, and HRA monitoring.

Ms. July Traylor discussed Long Term Services and Support Screenings. The Code of Virginia requires all individuals requesting the Commonwealth Coordinated Care Plus (CCC Plus) waiver, Program of All Inclusive Care for the Elderly (PACE) or Medicaid support for long-term services and support in a nursing facility to be screened to determine the level of care needed. The DMAS-97 form allows for individual choice. Ms. Traylor shared PACE eligibility, sites, services, and promotional activities.

Ms. Kimsey thanked DMAS for the presentations.

Stakeholder Perspectives

Sam Kukich, Director, Dignity for the Aged

Captain James Sherlock, Retired U.S. Navy Captain

Sam Kukich shared her personal story of her mother-in-law, who was neglected in a nursing facility despite paying \$10,000 per month out-of-pocket, emphasizing that nursing homes can be warehouses for older Virginians. She stated that Virginia is 38th with a letter grade of D in nursing home quality. Ms. Kukich noted 141 of Virginia's nursing facilities are on the Nursing Home Abuse Watchlist.

Ms. Kukich stated that certified nursing assistants (CNA) training programs are needed. She mentioned the book *Tender Loving Greed*, which focuses on profit within the nursing home industry.

Ms. Kukich shared concerns about the web of hidden ownership and the lack of scrutiny where funding goes. Ms. Kukich stated that inadequate staffing is directly linked to potential harm and actual harm of residents. The average amount of care residents receive has dropped to just two hours per day, compared to the recommended 6 hours. COVID-19 revealed a lack of sufficient staffing and emphasized that nursing homes are organized to make a profit. Ms. Kukich provided a call to action to “put out the fire” by mandating the ratio of 6:1 residents to healthcare staff. She shared a local university program at Christopher Newport University (CNU), which engages nursing home residents with enriching activities with CNU students.

Captain James Sherlock then shared his perspective. He stated programs like “Program of All Inclusive Care for the Elderly (PACE)” are a good alternative for some individuals who otherwise may be placed in a nursing home and that it was not a well-known option in the Commonwealth. PACE operates as Medicare/Medicaid. The total number of people enrolled in PACE is 2,277 and most people are unaware of the program. Contrary to popular belief, PACE is inspected by DMAS, not VDH. Captain Sherlock shared his concern on gaps in rural coverage for this type of program and shared opportunities to fill gaps. This would allow individuals residing in rural areas of the Commonwealth to have access to care and relieve overcrowding in rural nursing homes.

Advisory Board Discussion

Ms. Kimsey shared the three proposed workstreams handout. She noted that all the meeting handouts could be accessed by the QR codes on the agenda or those posted along the walls. For those joining online, please note that all materials can be accessed on the HHR website (<https://www.hhr.virginia.gov/initiatives/long-term-care/>)

- Workstream One: Quality of Care Initiatives/ Data
- Workstream Two: System and Processes
- Workstream Three: Family & Resident Engagement/Advocacy

Ms. Kimsey stated that the Workstreams will meet virtually before the November 14th meeting. There will be approximately five members per workstream, and staff will do their best to accommodate member’s first choice.

- Workstream One: Quality of Care Initiatives/Data: Sara Stowe, Department of Aging and Rehabilitative Services
 - Two questions were raised regarding the inclusion of community transitions to include hospitals to home and quality indicators related to inspections.
- Workstream Two: System & Processes: Christopher Lindsay, Virginia Department of Health
 - An Advisory Board member requested to add survey process to workstream two.
- Workstream Three: Family & Resident Engagement/Advocacy: July Traylor, Department of Medical Assistance Services
 - An Advisory Board member requested that family members and retribution be added to workstream three.
- Candace Gilliam shared that abuse should be described as intentional versus non-intentional. She also noted that there may be providers who are providing this care and may not have the items they need to do their job. Staffing is a huge problem, and Ms. Gilliam outlined several examples of providing care to residents including bathing, feeding, and using the restroom which takes large amounts of time. When residents had health concerns and pressure ulcers that needed to be attended to, the time needed to care for each resident was very significant.
- Ms. Kukich stated that acuity levels are considered but are not always inclusive of all human needs such as bathroom breaks even for those residents who were considered lower acuity.

Ms. Kimsey opened the floor to Advisory Board Discussion.

- Laura Finch asked Mr. Lindsay how long it would take to train the MFI OLC positions.
 - Mr. Lindsay responded that all new hires come with industry knowledge, but there will certainly be an onboarding process. VDH intentionally looked for individuals with clinical expertise who would not need as long of an onboarding process.
- Todd Barnes shared his concern with painting all nursing home providers with a broad stroke. He shared that his facility is a 5-star facility and emphasized there are good nursing facilities in Virginia. There are ways to overcome staffing issues, and it is important to bring in the players and the facilities that provide exceptional care.
- Joanna Heiskill expressed concern that nursing facilities are often perceived as places for end-of-life care. Many family members do not feel seen or heard. She recommended using facilities that are 5-stars to improve those lower star facilities. Ms. Heiskill stated that there needs to be more collaboration within agencies, and deficiencies within those agencies need to be admitted and addressed.
- Jonathan Cook shared that individuals should always assume positive intent. He said that the vast majority of those who go to work are caring and compassionate people. There may be players who are motivated by profit, but the vast majority care for their patients. His facility's mindset is to assume positive intent when the inspectors enter and asks to keep that mindset when thinking through solutions.
- Peter Anderson asked why the recommended staffing rate is not being enforced, citing a 2001 study by Medicare that suggested 4.1 hours/day of care.
 - Mr. Hilbert provided information about this being corrected back in 2023. The 2023 General Assembly enacted legislation mandating nursing home staffing standards for Virginia. The legislation established a requirement for an average of 3.08 hours of nurse staffing per resident per day. The legislation stated that, should the federal government establish its own staffing standard, the Virginia standard would not be implemented. Following the legislation, in September of 2023 VDH initiated a Notice of Intended Regulatory Action (NOIRA) to begin the process of implementing the staffing standard. A federal staffing standard stricter than Virginia's (minimum of 3.48 HPRD, including 0.55 HPRD by RNs) was promulgated by CMS in 2024, to be effective June 21, 2024. Therefore, VDH stopped working on the Virginia regulatory action. The CMS standards were vacated by U.S. District Court rulings in April 2024 and June 2025. H.R.1, enacted by Congress in 2025 and signed into law by the President, imposed a 10-year moratorium on implementation and enforcement of the regulations. VDH resumed work on the state regulatory action in 2025, with the NOIRA published in the Virginia Register of Regulations on August 11, 2025.
 - Emily Hardy requested summarized notes to be sent out in writing regarding the nursing facility staffing NOIRA. Mr. Hilbert stated he would follow up with her.
- Ms. Finch shared that she does not want to discount others' perspectives but suggests being careful not to demonize the caring staff who are working hard and to remember that these facilities are residents' homes.

Public Comment Period

Ms. Kimsey shared instructions for the public comment period.

- Tracey Pompey highlighted the importance of transparency and shared insights from her experience as a certified nursing assistant (CNA), offering a glimpse into her day-to-day work at a nursing facility.
- Janet Payne thanked the committee and shared that she feels personal experiences are missing from the committee. Her mother had 30 falls during her time in a nursing facility and when it was

investigated, no deficiencies were found. She was recently contacted by the Attorney General's office, who is investigating the facility where her mother died.

- Reese Roper expressed that more healthcare representation is needed on the board. He suggested a less punitive approach towards nursing facility inspections. Mr. Roper suggested that more needs to be done about CNA and Licensed Practical Nurse (LPN) staffing.

Advisory Board Adjourns and Next Steps

Ms. Kimsey thanked everyone for their participation and shared that while no virtual public comments came in today, they can accept those via email in the future at nursinghomeoversight@governor.virginia.gov.

Dr. Shelton also thanked members and the public for their input and sharing insight. She is looking forward to further collaboration on these issues.

Deputy Secretary Mills informed the Advisory Board members that the next meeting was scheduled for November 14th from 10:00 a.m. to 1:00 p.m. Additional meeting details would be sent out prior to the meeting.