

North Dakota Department of Health  
Division of Health Facilities

LONG TERM CARE ADVISORY  
COMMITTEE MEETING MINUTES

November 21, 2006

Committee members and presenters present:

Darleen Bartz, Health Resources Section, ND Department of Health  
Bruce Pritschet, Director, Division of Health Facilities, ND Department of Health  
Shelly Peterson, Executive Director, North Dakota Long Term Care Association  
Kurt Stoner, Bethel Lutheran Home, Williston  
Helen Funk, State Ombudsman, Div. of Aging Services, ND Dept. of Human Services  
Dave Remillard, North Dakota Health Care Review, Inc.  
Carole Watrel, AARP  
Barb Fischer, Medical Services, ND Department of Human Services  
Lucille Torpen, Manager, Division of Health Facilities, ND Department of Health  
Monte Engel, Manager, Division of Health Facilities, ND Department of Health  
August Pepple, Administrator, Baptist Home, Bismarck  
Kaye Hessinger, Division of Health Facilities, ND Department of Health

Committee members absent from the meeting:

Dr. Jonathan Berg, Nursing Home Medical Director's Association  
Randal Albrecht, ND Board of Examiners for Nursing Home Administrators  
Maggie Anderson, Medical Services, ND Department of Human Services  
Betty Keegan, Rolette County Social Service Board  
Craig Lambrecht, MD, State Medical Officer, ND Department of Health  
Representative Gary Kreidt, ND House of Representatives (New Salem)

Welcome

A meeting of the Long Term Care Advisory Committee was called to order at 10:00 a.m. on November 21, 2006. Darleen Bartz welcomed everyone to the meeting, and mentioned that August Pepple, Administrator of the Baptist Home, would be joining us for the public comment period with issues regarding water temperatures.

Approval of Minutes

Minutes of the August 17, 2006 meeting were approved as distributed. Barb Fischer made a motion to approve the minutes; seconded by Kurt Stoner. Motion carried.

## Standing Reports

### Comments from the ND Department of Health, Division of Health Facilities

Bruce Pritschet discussed several reports which are available from a website that CMS provides to the Health Department. These are fiscal year reports and they are a means of comparison between states and regions. Deficiencies cited in the nursing homes around the state are broken into scope and severity. G citations indicate actual harm to a resident or residents. The Double G Citations Report indicated the number of citations in 2006. Comparisons in Region VIII were as follows concerning the number of Double G citations: Colorado, 48; Montana, 10; North Dakota, 5; South Dakota, 2; Utah, 5; and Wyoming, 1.

The Deficiency Count Reports were broken out into two separate documents, one regarding Health, and the other for Life Safety Code. Deficiencies by scope and severity from Region VIII for Health indicated a total of 1,496 for Colorado (359 surveys with an average of 4.17 per survey); 711 for Montana (144 surveys with an average of 4.94 per survey); 484 for North Dakota (100 surveys with an average of 4.84 per survey); 390 for South Dakota (82 surveys with an average of 4.76 per survey); 466 for Utah (221 surveys with an average of 2.11 per survey); and 428 for Wyoming (71 surveys with an average of 6.03 per survey). The national average for the health survey indicates an average of 2.23 deficiencies per survey.

Deficiencies by scope and severity from Region VIII for Life Safety Code indicated a total of 1,127 for Colorado (150 surveys with an average of 7.51 per survey); 722 for Montana (90 surveys with an average of 8.02 per survey); 678 for North Dakota (88 surveys with an average of 7.70 per survey); 322 for South Dakota (82 surveys with an average of 3.93 per survey); 390 for Utah (77 surveys with an average of 5.06 per survey); and 198 for Wyoming (30 surveys with an average of 6.60 per survey). The national average for the life safety code survey indicates an average of 4.04 per survey.

Shelly Peterson commented that North Dakota is double the national average for citations per survey; and Bruce indicated that is true. He stated that the Regional Office in Denver averages 17 deficiencies per survey. In North Dakota, the last comparative survey showed 4 deficiencies. Darleen Bartz said that the states get their direction from the Regional Office in Denver. She also said that 17 of our surveyors have been with us five years or more, so we have a lot of experience. Kurt Stoner commented that surveys are subjective and not enforced consistently throughout the states and regions. He said he just doesn't believe we are that bad here; and Shelly Peterson agreed. Bruce Pritschet stated that what we get from these reports is how North Dakota compares to other states just with the survey process. This does not necessarily depict quality, but rather where North Dakota fits in. Kurt Stoner raised a concern in the case of a lawsuit, from a provider's point of view, this could be damaging. Bruce said you can't go strictly by numbers, that there is severity involved.

Bruce Pritschet and Monte Engel talked briefly about the Tag Summary Report Top Ten, which summarizes the most frequently cited health program and life safety code regulations within the Department of Health. The top ten most frequently cited health program regulations and their citation frequency for the period 11/1/05 through 10/31/06 were as follows:

F371-Dietary Services (Proper storage, distribution & preparation of food items) - (37);  
F309-Quality of Care (Providing the proper care and services) – (31);  
F324-Quality of Care (Supervision and assistive devices to prevent injury) – (29);  
F323-Quality of Care (Environment free of accident hazards) – (32);  
F329-Quality of Care (Unnecessary medications) – (14);  
F314-Quality of Care (Pressure ulcer treatment and prevention) – (15);  
F278-Resident Assessment (Accuracy of the assessment) – (7);  
F333-Medication Errors (Significant medication errors) – (14);  
F250-Social Services (Quality of life) – (6); and  
F332-Medication Errors (Five % or greater) – (6)

Bruce believes F250 and F332 may drop off the top ten when the next report is run. He will post the report on the web again next week.

The top ten most frequently cited life safety code regulations and their citation frequency for the period 11/1/05 through 10/31/06 were as follows:

K018 - Corridor Doors (66)  
K029 - Hazardous Areas (51)  
K025 - Smoke Barriers (48)  
K130 - Miscellaneous (50)  
K147 - Electrical Wiring and Equipment (30)  
K051 – Fire Alarm System (42)  
K062 – Automatic Sprinkler Systems (Maintenance) (37)  
K017 – Corridor Walls (24)  
K069 – Kitchen Hood Fire Suppression System (40)  
K056 – Automatic Sprinkler System (Installation) (22)

Monte Engel stated that, for the most part, there is not a real significant change in the frequency of the top ten. Shelly Peterson asked if there was any more discussion at the national level as far as the number of cited life safety code deficiencies. She said that North Dakota ranks much higher. Darleen Bartz stated the direction the Regional Office is taking is moving away from the FSES. FSES is granted for a period of one year, and it is valid until the next survey. Shelly Peterson asked how many facilities have FSES now. This will probably generate a lot of concerns and expense. Darleen said this decision starts in the Central Office in Baltimore, and moves down. The Health Department completes the FSES, but the Regional Office approves them, based on the information we gather and send to them. Just because an FSES was approved in the past, there is no assurance this would continue. Monte Engel does not see FSES as being an issue anymore, and those we have primarily dealt with involved sprinkler systems. Darleen said issues where there were changes from the past were presented to Dr. Long in the Regional Office. She is anticipating a conference call in regards to this.

Monte Engel said CMS is taking a more hard line view as far as exits to a public way, i.e., they need to have a hard surface (not grass or dirt). Shelly Peterson asked that association members be notified if there are policy changes on issues like this.

### Comments from the ND Long Term Care Association

Shelly Peterson presented data regarding nursing facility turnover from the period 1990 to 2006, which was just completed. Certified nurse aide turnover ranged from 48% in 1990, to 54% in 2006. The most significant turnover occurred in 2000 at 66%. In looking at other staff areas for 2006 turnover, the following was reported: LPNs – 21%; RNs – 25%; Dietary – 45%; and Housekeeping – 32%. Some of this information will be shared with the legislative session. She said the certified nurse aide turnover is higher in urban than rural areas, and is on the increase. Shelly was in Dickinson last week and met with legislators.

Shelly also reported on the subject of nursing facility residents returning to their own homes. For the past three years, discharge rates from the nursing home to home have been consistent, and residents tend to stay for shorter periods of time. In 2005, over 1,083 individuals were discharged to their own home; and in 2006 over 1,120 individuals returned home. According to Shelly Peterson, today 25% of all residents admitted to a nursing facility return to their own home; and one-third return home or to a lower level of care such as basic care, assisting living, adult foster care, or to the home of a family member.

Shelly said that 70 of 78 facilities responded to the survey in the 12 month period ending June 30, 2006, which was a 90% return rate. The average length of stay is 403 days, or 1.10 years. The range of average length of stay is 31 days to 4.11 years. Barb Fischer asked if there were statistics regarding the average length of stay for those who had died; and also for those individuals who had returned home. Shelly said they will look at further statistics in these areas.

Shelly also shared a chart titled, “History of Inflationary Adjustment on Costs” which shows a historical perspective on what the legislature appropriated. These costs include salaries, fringes, food, utilities, drugs/nursing supplies, and miscellaneous expenses incurred in the nursing facilities. This history covers a timeframe of inflationary adjustments from 1990 through 2009.

### Comments from the Ombudsman Program, ND Department of Human Services

Helen Funk said that Medicare Part D continues to present problems and challenges for consumers as they attempt to understand & navigate the system. Numerous agency employees, including the long term care Ombudsman Program, attempt to assist in resolution of these issues.

The Deficit Reduction Act has created some new areas of concern for people, and the LTC Ombudsman Program has received several requests to assist people to access Medical Assistance. Helen said they have also had requests to advocate for people awaiting Social Security Disability determinations. Medical Assistance delays acting on their application while awaiting these disability determinations.

Orientation sessions for training new Volunteer Community Ombudsman were held throughout the regions in the state this quarter. AARP continues to assist with the recruitment of Volunteer Ombudsman. These ombudsmen often attend AARP training on Medicare Part D and other benefit programs during the year.

Helen said the Veteran's Administration provided training to the regional ombudsman during this quarter. Funding through the V.A. and placement in specialized V.A. hospitals and nursing facilities are a resource for North Dakota veterans. The LTC Ombudsman Program has assisted with referral and placement of several veterans with special needs in North Dakota.

Helen Funk also reported that residents of nursing facilities and basic care facilities, who live in locked dementia units, require special attention to assure they are living in the least restrictive environment. She feels it is important that the residents be allowed to participate in as many activities outside the locked unit, as possible, to improve their quality of life.

### Public Comment

August Pepple, Administrator of the Baptist Home in Bismarck, presented information to the committee regarding water temperature comparisons in long term care involving resident rooms and bathing areas. He said he would like to see a common sense approach to the issue, and would like the committee to consider raising the water temperature to 115 or 116 degrees F. He feels at that temperature it is not a safety concern. He said in large, older or multi-level buildings it is very difficult to move water and maintain a comfortable temperature for our residents; it becomes a quality of life issue. Mr. Pepple said many of their residents are not capable of using room sinks, and if they are, given their conservative nature, they don't let the water run to get even near the maximum water temperature of 110 degrees. He said they had outside consultants come in and they made some recommendations. They feel that 115 degrees is a safe level. The Baptist Home has spent nearly \$4,000.00 to remedy the drop in water temperatures, with minimal success. Mr. Pepple presented water temperature comparisons with four states which included: North Dakota, 110 degrees F; South Dakota, minimum 110 – maximum 125 degrees F; Montana, 120 degrees F maximum; and Minnesota, 115 degrees F maximum.

Shelly Peterson said that the water temperature is a state licensure rule, so this would be more easily changed than the federal rules. She said other facilities have expressed concern about trying to maintain the current water temperature requirement. Bruce Pritschet said there is a lot of information on the web as to what temperature you can damage your skin, and that the elderly have very fragile skin. Dave Remillard asked if this was a state standard, rather than a federal standard. Bruce said the feds use the latest Edition of the FDA Food Code book. The state licensing rules refer to charts in the 1993 edition of the Medical Facilities guidelines for construction that indicate the different temperatures for the different locations throughout the nursing facility. Dave Remillard asked what the process involves to change the temperatures from 110 to 120 degrees. Darleen said it would have to be an administrative rule change. She said the Health Department could do some research on this to see what is reasonable, how it impacts the elderly, and also ask the Regional Office in Denver what is the least temperature they have cited. Darleen thanked Mr. Pepple for bringing this information to the committee.

### Legislative Updates on Upcoming Bills

Shelly Peterson said the legislature is currently looking at issues and priorities for the next session. Some of these issues include:

- Per bed asset limit for nursing facilities.

- Annual inflator adjustment for basic care and nursing facility providers.
- Moratorium on expansion of nursing facility beds. The process is that you have to get these beds from somewhere else – you just can't buy them. Shelly said this was discussed at the Funding & Reimbursement Committee of the legislature. It was recommended to stay committed to a maximum of 48 months to put beds in service after a sale.
- Continue general moratorium for basic care beds. Darleen Bartz said a recent occupancy request for basic care was just sent out, which included one in Dickinson and one in Fargo. By December 1, the Health Department should have the statewide occupancy data available. Shelly asked if there were any recommendations to share with the members from the advisory committee regarding the moratorium. Barb Fischer said the Department of Human Services has legislation being submitted to make the moratorium permanent for basic care and assisted living.
- Basic care survey – continue the pilot project.
- Death of a Medicaid resident – need to make basic care and nursing facilities (not just hospitals) priority bills to assure payment following death.
- Definition of an assisted living facility – introduce legislation to extend the grandfathering provision on the living unit to all owner(s) on 8/1/05; and one or more owners who purchase a facility after the '07 session.
- Smoke Free ND – Continue to support the exceptions for nursing facilities and basic care facilities.

Darleen Bartz said that the Division of Health Facilities in the Department of Health is not introducing any bills this legislative session. Right now the only legislation is the Department budget bill. Shelly Peterson raised a question about proposed legislation regarding criminal background checks, what the costs would be, and nursing facilities expending dollars for the background checks. Bruce Pritschet said if it became mandatory, we would do criminal background checks on “new hires” only, but at this point we haven't gotten that federal mandate. Darleen Bartz said if this would become a federal mandate, there would be some funding available for this. The pilot project will end in 2007, so it would be in the next biennium's budget.

Carole Watrel with AARP said she wasn't sure if there were any bills being proposed. She said discussions have taken place addressing single points of entry, qualified service providers, and choices in care. Helen Funk said they are advocating for additional home and community based services. As far as the Ombudsman Program, there are no proposed changes in the law.

### Nurse Shortage Study

Patricia Moulton, Ph.D., UND Center for Rural Health in Grand Forks, gave a presentation titled, North Dakota Nursing Needs Study: Information about Long Term Care Facilities and the Utilization of Medication Assistants. Areas included in this study were:

- Overview of the North Dakota Nursing Needs Study
- Year Four Data Collection Projects
- Workplace Characteristics
- Salary

- Utilization of Medication Assistants

The Year Four Data Collection Projects included three surveys:

1. Healthcare Facility Survey, in which 200 facilities responded, and 96% of the counties were represented.
2. Licensed Nurse Survey. 1,457 surveys were completed online; 30% of the nurses who renewed online.
3. High School Student Survey. 568 students completed the survey online; and 19 counties were included.

After sharing extensive statistics gathered throughout the study, Dr. Moulton summarized her conclusions as follows:

- Nursing homes should continue to improve the workplace for nurses, including examining salary and nurse representation;
- Nursing homes should examine their utilization of medication assistants on evening and overnight shifts; and
- Nursing homes should be encouraged to set up formal medication error reporting protocols and to track system-wide medication errors in a non-punitive environment.

#### Update on My InnverView – North Dakota Satisfaction Surveys

Neil Gulsvig, Manager of My InnverView, and Dr. Grant, participated by teleconference. They indicated it was very nice working with everyone from North Dakota this year. Mr. Gulsvig feels this is a very robust and powerful survey, and that North Dakota has a tremendous baseline of information. Dr. Grant is the individual who has lead the process in North Dakota. A detailed slide overview was presented to the committee. There was a 40% response rate for facility surveys returned; a 43% response rate for family surveys returned; and employee response rate was 47%. The benchmark combines resident and families, with a national average of 33%.

Important issues for family and residents in North Dakota:

Primary strengths include:

- Quality of care
- Respectfulness of staff
- Safety of facility
- Competency of staff
- Care (concern by staff)
- Communication
- Quality of care provided by nursing assistants

Primary opportunities include:

- Adequate staff to meet needs
- Responsiveness of management
- Choices and preferences

Regarding Employee Quadrant Analysis:

Employee primary strengths include:

- Care (concern of supervisor)
- Fairness of evaluations
- Communication by supervisor
- Safety of workplace

Employee primary opportunities include:

- Assistance with job stress
- Attentiveness of management
- Care (concern of management)
- Appreciation of supervision
- Quality of resident related training

Mr. Gulsvig and Dr. Grant concluded their presentation and asked if there were any questions. Shelly Peterson said she was really pleased with the survey and the level of participation. Darleen Bartz stated that early on we were interested in having some of this information shared with the QIO in this state, and asked what has been distributed to them. Shelly Peterson said this information was shared with them from the ND Long Term Care Association.

Shelly made a recommendation to offer a second year with the grant. Darleen Bartz asked what funding would still be available from what we had previously agreed to spend on this project so that funding would still be available for placement of a temporary administrator if needed. Darleen also asked Barb if Human Services would be able to pick up half of the cost for this project for last year and the proposed coming year as we had previously discussed. Barb indicated that she thought Human Services could pick up half of the cost. Barb indicated that we could make a decision after February when the bills have been paid.

Shelly Peterson made a motion to pay for 50% of the cost to do the three satisfaction surveys up to a maximum of \$20,000 for the 2007 calendar year. Seconded by Dave Remillard. Motion carried. Comment: Barb Fischer said she will check into the possibility of an administrative match for 2007.

A summary of the grant activity for My InnerView, which was prepared by Barb Fischer on January 31, 2007 to add to these minutes, is as follows: 34 facilities have received \$25,264 for 587 Resident surveys; 2,817 Family surveys; and 4,237 Employee surveys. There are 26 facilities with \$11,315.50 obligated who have not requested payment. Payment requests are due by February 28, 2007. Total grant funds allocated to 2006 are \$36,579.50. Grant expenditures are matched with federal funds at a 50% match rate.

### CMS Updates

Darleen Bartz and Bruce Pritschet attended the CMS Region VIII Director's Conference in Denver on November 14-16, 2007. Darleen gave an overview of the highlights of their meeting in the form of a PowerPoint presentation. Key areas of discussion at the meeting included:

- Budget – everything we do has seen an increase, i.e., travel, etc.

- Continuing to move forward with the user fees for revisits. Second revisits would be charged a user fee, based on the complexity of the follow-up.
- Future directions for the State Performance Standards System (SPSS).
- QIS – The new survey process. This will be more objective and will be done with a computer. Goals are set, and pilot states will be selected.
- GPRA – goals regarding restraints and pressure sores. North Dakota scores lower on the GPRA goals.
- Special Focus Facilities in North Dakota (SFF).

#### Update on Board of Nursing Advisories

Bruce Pritchet said a letter of concern regarding the Board of Nursing advisories had been prepared in a draft form, at the request of the committee. This draft was distributed to the committee members with a request that those who wanted their name to appear on the letter should contact Bruce. There were a total of five who indicated they would sign the letter. The committee didn't feel there were enough signatures to send this out. Darleen Bartz mentioned that she had attended a nursing association meeting, and that the NDLTCA and the NDDOH names still appeared on the advisories. She felt this should be discussed, and then get it changed. It was decided that Shelly Peterson will talk with Chip Thomas from the ND Healthcare Association and that the four associations should sit down for a discussion rather than send the letter out.

#### LSC Business Process Reengineering

Bruce Pritchet stated there will be internal training within the Health Department on the Life Safety Code Business Process Reengineering which is scheduled for December 5-8, 2006. Key steps include:

- Select the process and appoint the process team – there will be an internal and an external team selected.
- Understand the current LSC survey process.
- Develop and communicate vision of improved process.
- Identify action plan – come up with a plan and obtain approval from CMS; determine if this new survey process is acceptable to CMS.
- Execute the plan.

#### Next Meeting and Suggestions for Future Agenda Items

The next meeting of the Long Term Care Advisory Committee was set for Wednesday, February 7, 2007 from 10:00 a.m. to 3:00 p.m. in Room 210 of the Health Department. Suggested agenda items include:

- Standing Reports
  - Division of Health Facilities
  - ND Long Term Care Association
  - Ombudsman, Department of Human Services
  - Update on Legislative Session

- LSC Update
  - Smoke Barriers
  - Sprinklers
  - Alcohol-based Hand-rub Solutions
- Criminal Background Checks – BCI
- Dakota Nursing Program – Dr. Elizabeth Pross
- Water Temperature Research
- LSC Business Process Reengineering Update

The meeting adjourned at 3:15 p.m.