A meeting of the Long Term Care Advisory Committee was called to order at 10:00 a.m. on June 19, 2008. Darleen Bartz welcomed everyone to the meeting. She mentioned that due to illness of one of the presenters, the new business agenda item related to Potential Revisions to Assisted Living Facilities Requirements will need to be rescheduled.
Approval of Minutes

Minutes of the March 7, 2008 meeting were approved as distributed. Shelly Peterson made a motion to approve the minutes; seconded by Representative Kreidt. Motion carried.

Standing Reports

Legislative Update

Representative Gary Kreidt updated the committee on the most recent activities of the legislative Long Term Care Committee. Their last meeting was held on May 20, 2008. He said there will probably be a couple more meetings before the legislature meets. Highlights of the May 20 meeting included:

1. Approval of the bill draft to require basic care facilities to provide a 30 day notice in writing to the residents prior to transfer or discharge. Representative Kreidt said he doesn’t see any problem with this at the next legislative session which begins in January, 2009.
2. Life safety code surveys in basic care facilities will continue at 50% announced and 50% unannounced through the next biennium. There was no action needed based on the information that was provided by the Department of Health.
3. One of the major issues to be studied was the moratorium on skilled nursing home beds. Gary feels the committee will move forward with keeping the moratorium. He said the skilled nursing facilities were made aware of what needed to be done.

Representative Kreidt said the Human Services Committee will be meeting on the first of July. Dr. Covington with the Nursing Consortium will be part of the agenda. He will address the nursing shortage in North Dakota.

Representative Kreidt also talked about an initiated measure for a permanent oil trust fund. Shelly Peterson asked if he felt this would be good. He feels the potential would be good for the State of North Dakota.

Comments from the North Dakota Long Term Care Association

Shelly Peterson talked about the Frank Wedge trust fund, which is $1.8 million dollars in land. She said they have received over $321,000 in proposals. These proposals include training and education. The Resident Issues Committee will meet in July to discuss the proposals.

Shelly said the ND Long Term Care Association has been conducting interviews with the long term care facilities. North Dakota has the highest satisfaction survey for employees in the nation; and ranks in the top five for residents/families.
Regarding redistribution of beds, Shelly said we need to continue with the moratorium. They will work with the Department of Health to keep the moratorium in place. The biggest issue in North Dakota is staffing in the long term care facilities. Many of these facilities are relying on the staffing pools.

Medcenter One Golden Manor in Steele plans to redesign their model of care as it is now. Within the next five months to two years, they will transition from a skilled facility to basic care/assisted living. They are currently licensed for 50 beds.

The Division of Aging Services within the Department of Human Services has put together a workgroup regarding assisted living regulations. Shelly said the next meeting will be key in looking at the draft of these regulations.

The certified nurse aide registry is in the process of becoming web-based for verification checks. Shelly is pleased that this is going to be implemented soon. Darleen Bartz said the goal for implementation, at this point, is October 1, 2008. Once this process is complete, the facilities will have 24-hour access to check the registry. This will not only meet the needs of the long term care facilities, but also the JCAH hospitals.

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

Helen Funk announced to the group that she will be retiring soon, and her last day on the job will be September 9, 2008. The Department of Human Services, Division of Aging Services, will be hiring a new State LTC Ombudsman, and the listing for the position will be available through the North Dakota Job Service.

The Elder Justice Conference scheduled for October 14-16, 2008 will include the Volunteer Community Ombudsmen. A portion of the conference will be planned specifically for the volunteers, including an appreciation luncheon. Helen said the rapid increase in gasoline prices is affecting the Volunteer Community Ombudsman Program. Most of the volunteers have paid for their own vehicle’s gas, which has really increased their expenses. She feels this will greatly affect the number of volunteers.

Helen said a two day Elder Rights Training for Regional Ombudsman was held June 3-4, 2008. Advanced Directives and HIPAA requirements were discussed as some states have modified their advanced directive forms to include a statement which authorizes the personal representative to have access to medical records. The “Money Follows the Person” grant was also discussed as Ombudsman may be involved in providing information to residents. Representatives of the Assisted Living Committee provided information concerning potential revisions to assisted living requirements. Darleen Bartz asked what some of the major issues are when assisted living facilities are being investigated. Helen responded that these include medications, fire, and restraints. The next Ombudsman Conference is scheduled for October 14-16, 2008 at the Seven Seas in Mandan.
Darleen Bartz asked if there was any potential legislation coming up, but Helen said it would probably just relate to assisted living. Shelly Peterson said the assisted living rules would include new standards for the administrator, training for direct care staff on an annual basis, and interim steps prior to closure of a facility that could be looked at – what options can be put in place if a facility is not following the standards. Committee members looking at the new assisted living regulations include Protection & Advocacy, the Ombudsman Program, Aging Services, the ND Long Term Care Association, and the ND Department of Health.

In conclusion, Helen stated it has been a pleasure to work with everyone on this Long Term Care Advisory Committee. She feels the committee has provided a great deal of up-to-date information that has been helpful in her Ombudsman work.

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

Bruce Pritschet prepared and distributed a five year citation rate comparison chart that included the years 2004 through 2008. This data compared the average citations per survey in the health program on a State, Region, and National level. In the year 2008, there have been a total of 45 surveys to date in North Dakota. The national comparison has remained relatively flat throughout the five years. Representative Kreidt suggested that for the next meeting of this committee, Bruce could maybe pick out another Region and compare it to North Dakota on the chart. Bruce responded that he could compare several regions, and it would show how North Dakota ranks amongst them.

The Citation Frequency Report displayed the top 25 health tags most frequently cited during 2008. This report contained three pages that distinguished between North Dakota, the Region VIII states, and the nation. The top three citations in all areas were:

- F323 – Facility is free of accident hazards;
- F309 – Provide necessary care for highest practical well being; and
- F371 – Store/prepare/distribute food under sanitary conditions.

In comparing the tags:

**F323** - North Dakota had 17 citations in 20.5% of the providers cited (83 active providers);
Region VIII had 181 citations in 26.4% of the providers cited (632 active providers);
Nation had 4,565 citations in 24.8% of the providers cited (15,934 active providers).

**F309** - North Dakota had 15 citations in 18.1% of the providers cited (83 active providers);
Region VIII had 138 citations in 19.0% of the providers cited (632 active providers);
Nation had 3,341 citations in 18.5% of the providers cited (15,934 active providers).

**F371** - North Dakota had 9 citations in 10.8% of the providers cited (83 active providers);
Region VIII had 144 citations in 22.3% of the providers cited (632 active providers);
Nation had 3,050 citations in 18.3% of the providers cited (15,934 active providers).
Bruce also reviewed the Deficiency Count Report for fiscal year 2008 which indicates the average number of health related deficiencies per survey by scope and severity. In comparing North Dakota to other states in the Region, North Dakota had a total of 3.42 deficiencies per survey out of 45 surveys; Colorado had a total of 5.54 deficiencies per survey out of 183 surveys; Montana had 4.76 deficiencies per survey out of 92 surveys; South Dakota had 4.36 deficiencies per survey out of 53 surveys; Utah had 2.54 deficiencies per survey out of 103 surveys; and Wyoming had 7.68 deficiencies per survey out of 34 surveys. These statistics were reported from October 2007 to present. The national total cited an average of 2.08 deficiencies per survey out of 27,664 surveys.

Shelly Peterson said you would rarely see IJ’s (immediate jeopardy) in North Dakota, but recently there have been three of them. The Long Term Care Association has asked for a meeting to take place with the Department of Health to look at the whole process. Darleen Bartz asked what kind of format would be best, and who should participate. It was felt we should look at participation of someone from every region. It was suggested we look to the Regional Office to see if they have some training available. Representative Kreidt asked what an IJ consists of. Bruce Pritschet responded that it is a potential for serious injury.

Shelly Peterson asked if the Health Department was on target with surveying the health care facilities. Darleen Bartz said that currently we are at 12.6 months between surveys, which used to be 11.9 months. She also said our workload impacts our ability to survey new providers. Unexpected workload has come up with hospital/complaint surveys. Hospitals are considered Tier III. This year there have been 14 hospital surveys added to the workload. We are hoping that we will make it through the Tier III workload. Mandatory Tier I workload includes long term care, ICFs/MR, and home health agencies. Darleen said that in hiring new staff, there is a time frame of a year before new surveyors can work independently.

Monte Engel presented a chart regarding the LSC Citation Rate Comparison which covered 5 years. This was broken down by State, Region, and Nation in comparing the average citations per survey from 2004 through present. He said the graph showed similar activity to the program surveys, with the National comparison remaining pretty flat throughout the five years.

Monte also discussed three pages of the life safety code Citation Frequency Report, which included North Dakota, Region, and Nation comparisons. He said sprinkler system maintenance and smoke partitions were common citations in all areas, and that generally those being cited on the State level, are also cited in the Region and Nation. In comparison regarding sprinkler system maintenance (K062), North Dakota cited 9 deficiencies in 10.8% of providers; the Region cited 173 deficiencies in 26.9% of providers; and the Nation cited 2,099 deficiencies in 12.8% of providers.

The Deficiency Count Report cites the average number of life safety code deficiencies per survey. North Dakota cites an average of 2.82 deficiencies per survey, which is the lowest in the Region. Other states
within our Region include: Colorado at 7.12; Montana at 8.03; South Dakota at 2.85; Utah at 5.34; and Wyoming at 6.79.

Business Process Reengineering Update

Bruce Pritschet briefly discussed the last meeting of the Business Process Reengineering LSC Process – External Workgroup, which met June 17, 2008. He said that Thomas Jaeger will be giving a life safety code presentation at the LTCA convention on September 18. Shelly Peterson will be working with Thomas Jaeger as well as Monte Engel to set up the training sessions. In addition to the long term care facilities, invitations will also be sent to hospitals, contractors, and architects. Bruce stated that Bob Bieber has updated the website at ndesa.org. This update includes a list of vendors and products, and also a quality assurance life safety code checklist.

There was also discussion on proposed legislation to look at the process of setting up a new construction process. There will be more feedback by the end of July after Shelly has attended more regional meetings. Darleen Bartz said that Representative Kreidt expects more draft legislation will be coming out of the Long Term Care Committee. Darleen presented information regarding three possible scenarios for combined fee-based/general fund funding for implementing onsite inspection of LSC new construction/renovation projects. She said there were a total of 137 construction projects reviewed by Monte Engel in 2006 and 2007. The average number of hours it takes to review a small project is approximately 3 hours, a medium project is 16 hours, and a large project is 80 hours. The estimated time needed to complete the onsite construction visits, including travel and in office review is as follows:

- **Small Projects** – 57 projects X 10 hours each is 570 hours.
- **Medium Projects** – 63 projects X 12 hours each is 756 hours.
- **Large Projects** – 17 projects X 16 hours per visit X 4 visits each for large construction project is an estimate of 1,088 hours.
- The total staff time needed is 2,414 hours for the onsite visits, or an additional 1.5 FTE when including time needed for annual and sick leave, holidays, staff training, and meetings.

Darleen Bartz said the minimum amount of staff that we anticipate is needed to complete both the in-office and onsite components of construction and renovation project onsite progressive LSC inspections, and to accomplish the added plans review, facility communication, and supervision based on the above is 2 to 3 FTE’s. This would be a conservative estimate of the additional resources that would be needed. For initial plans review by Monte Engel, it was estimated the fee would be $300 for small facilities, $900 for medium, and $2,400 for large.

Shelly Peterson commented that because hospitals are surveyed only once every five years, they have not been hit as hard. She said the Long Term Care Association is working with the ND Healthcare Association to show them the value of the construction/renovation visits. In a regional meeting that Shelly attended on June 18, the group felt the plans review figures would be good. As far as the FTE’s, they felt two rather than three would be adequate.
Bruce Pritschet talked about a five page document that addresses typical findings of noncompliance during initial construction visits in health care facilities. This will be posted on the Health Department website. He said the next meeting of the Business Process Reengineering workgroup will be held on September 4, 2008. On the agenda for the next meeting is a plan for the regional meetings.

Life Safety Code Construction/Renovation Demonstration Project Update

Bruce Pritschet presented testimony to members of the Long Term Care Committee on May 20, 2008. He updated the committee on the status of the life safety code (LSC) construction demonstration project; information about the possibility of posting facility plan information on the department’s website; and a summary of the Knife River Care Center life safety survey compliance issues. In Section 12 of House Bill 1004, the legislature charged the Department of Health with developing and implementing a demonstration project for a life safety code survey process for long term care and basic care facility construction or renovation projects. Under the demonstration project, construction and renovation projects costing more than $3 million would have access to onsite visits, on a voluntary basis, during or at the completion of the project within the 2007-2009 biennium.

Since the last meeting of the Long Term Care Committee on March 4, 2008 the Department of Health has completed one additional demonstration project construction survey at Hillsboro. The survey was completed on April 14, 2008. Several issues were discussed during the visit, including a recommendation for sprinklers in the wood overhang. The response from both the surveyor and the Hillsboro facility staff members was very positive. This was the second construction visit for this skilled nursing facility. Bruce said the next expected request for a construction survey is likely to be in the fall of this year, based on the progress of the construction and the expected date of completion for the Mandan facility.

Bruce stated that a report regarding the status of the project will be presented to the Legislative Council on or before August 1, 2008. This report will also include the feasibility and desirability of making the program permanent and whether the department will be recommending legislation to make it permanent. Additional information will be collected from two facilities participating in this project and a summary/department recommendations will be presented at a future meeting.

Update on Posting on the Department’s Website

Bruce suggested it may be helpful when new information is posted to the Health Department website that it could be printed in red for a period of time. The LTC Committee had asked the Department of Health to explore the possibility of posting facility plans on the department’s website. Research was completed in two ways – further discussion with the department’s Life Safety Code Business Process Reengineering Committee, and a review by staff from the Attorney General’s office. Following appropriate research, the department believes they can meet the request of industry to post a listing of the findings resulting from initial licensure surveys and renovation and construction project surveys, and
update this listing periodically. However, based on the response from staff at the Attorney General’s office, it appears the facility plans and portions of copyrighted materials cannot be posted.

**Bed Transfer Update**

On May 20, 2008 Bruce Pritschet presented testimony to the Long Term Care Committee regarding the number of beds transferred between facilities, the conversion of skilled nursing facility beds to basic care facility beds, and the conversion of basic care facility beds to skilled nursing facility beds during the 2007-2009 biennium, as of May 15, 2008. This information was obtained from the bed log spreadsheet that Monte Engel updates regularly. At the beginning of the biennium, there were 1,515 basic care beds and 6,380 skilled nursing facility beds licensed in North Dakota. As of May 15, 2008, there were 1,592 basic care beds and 6,279 skilled nursing facility beds licensed. This is an increase of 77 licensed basic care beds and a decrease of 101 licensed skilled nursing facility beds.

Since the beginning of the 2007 biennium, 172 skilled nursing facility beds and 44 basic care facility beds have been transferred. If the beds are not licensed right away, the beds are put into a bed bank and the facilities have 48 months in which to license them. Currently, the department has 227 skilled nursing facility beds and 55 basic care beds banked to be put into operation at some future date. Since August 1, 2007, one facility has converted skilled nursing facility beds to basic care facility beds. Good Samaritan Society-Mott converted three skilled beds to basic care beds on December 16, 2007.

Regarding conversion of basic care beds to skilled, since August 1, 2007, Bethel Lutheran Home in Williston converted five basic care beds to skilled beds on November 15, 2007.

The conversion of skilled nursing facility beds to basic care facility beds for the purpose of providing basic care services has been utilized by seven different facilities, one this biennium and six prior to this biennium. Currently, 54 basic care beds are eligible to convert back to skilled nursing beds if so desired by the facilities.

**New/Additional Basic Care Beds Update**

Darleen Bartz distributed a log that indicated the new/additional basic care beds and the facilities these beds are associated with. This chart also reflects the time frame by which these beds need to be licensed. Currently there are six approvals out there that have not been licensed yet. These six facilities would need to license their beds by August 1, 2011. Shelly Peterson indicated that basic care occupancy is about 85% across the state; long term care is at 94%; and assisted living is at 92% occupancy.

**Nurse Aide Registry Web-based Verification Update**

Bruce Pritschet handed out a copy of what the screen would look like, and the information it would contain when conducting a certified nurse aide registry verification search. There are three options for searches, including the public, another state registry, or another North Dakota facility. The Department
will have to track who is inquiring about whom. Search criteria, at a minimum, requires a last name. He said you can search by social security number, but you still need to have a last name. The social security number will never print out. Bruce said there will be a link directly to the Board of Nursing. There will also be an option to print the search results. This will indicate the Department of Health, the date, and the time. There is no fee for the search. It is anticipated the web-based verification will be implemented by October 1, 2008 at the latest.

Centers for Medicare & Medicaid Services Survey & Certification Updates

Bruce Pritschet summarized the following guidelines from CMS that have come out since the last meeting of this group in March, 2008:

- **Ref: S&C: 08-19 (Alert: Food and Drug Administration (FDA) Heparin Recall For All Provider Types)**
  The FDA has issued recalls for medications that have the potential for serious adverse reactions in patients/residents. The FDA web site for recalls is located at: [http://www.fda.gov/opacom/7alerts.HTML](http://www.fda.gov/opacom/7alerts.HTML). CMS is taking this opportunity to alert State survey agency directors of recent FDA recalls of some medications (e.g., heparin, digoxin, fentanyl patches) that have the potential for serious adverse reactions. It is important that all health care providers are aware of this information regarding recalled products. The memorandum states that pharmacy providers and distributors, and health care providers should be monitoring their supplies, including crash carts and storage cabinets, and removing recalled products in order assure that recalled products are not available for patient/resident use.

  The FDA MedWatch Web site has helpful and timely information on recalls and provides a method of receiving e-mail notifications of alerts, warnings, and recalls. FDA has the responsibility for assuring the safety and efficacy of all regulated marketed medical products.

- **Ref: S&C: 08-21 (Updated Brochure Describing the Quality Indicator Survey – QIS)**
  This memorandum contained an updated 2008 version (replaces the 2005 version) of the brochure describing the QIS and an overview of the QIS training process for State implementation. State survey agencies and Centers for Medicare & Medicaid Services regional offices may use this brochure to provide information on QIS to providers, consumers, other stakeholders, and any interested party.

  CMS is implementing the Quality Indicator Survey (QIS) which is a computer assisted long term care survey process used by selected State Survey Agencies and CMS to determine if Medicare and Medicaid certified nursing homes meet the Federal requirements.

  The QIS was designed to achieve several objectives:
  - Improve consistency and accuracy of quality of care and quality of life problem identification by using a more structured process;
✓ Enable timely and effective feedback on survey processes for surveyors and managers;
✓ Systematically review requirements and objectively investigate all triggered regulatory areas within current survey resources;
✓ Provide tools for continuous improvement;
✓ Enhance documentation by organizing survey findings through automation; and
✓ Focus survey resources on facilities (and areas within facilities) with the largest number of quality concerns.

The QIS is described as a two-staged process used by surveyors to systematically review specific nursing home requirements and objectively investigate any regulatory areas that are triggered. Although the survey process has been revised under the QIS, the Federal regulations and interpretive guidance remain unchanged. The QIS uses customized software on tablet personal computers (PCs) to guide surveyors through a structured investigation. Also included in the brochure was a chart that outlined the differences between the Traditional Survey and the QIS.

Other

Bruce Pritschet talked about a conference call he participated in with Thomas Hamilton from the Department of Health & Human Services in Baltimore, Maryland regarding changes to the nursing home compare website. They will be taking any suggestions for changes on the web page. The three data sources include staffing levels, survey results, and nineteen quality indicators. To send your comments, go to www/bettercare.cms.hhs.gov.

Next Meeting and Suggestions for Future Agenda Items

The next meeting of the Long Term Care Advisory Committee was set for Thursday, September 25, 2008 from 10:00 a.m. to 3:00 p.m. in Room 212 of the Health Department. Agenda items will include:

Standing Reports:
- Division of Health Facilities
- ND Long Term Care Association
- Ombudsman, Department of Human Services
- Legislative Update – Interim Committee

Suggestions for future agenda items included:
- Update on assisted living requirements
- Update on five year implementation of sprinkler requirements
- Bed hold – Barb Fischer
- Aging Services 20/20 plan – Linda Wright
- Money Follows the Person – Jake Reuter
• Emergency preparedness and pandemic flu planning
• Nursing consortium workforce issue – Dr. Covington
• Planning – transfer of property – Curtis Volesky

The meeting adjourned at 3:00 p.m.