

North Dakota Department of Health

LONG TERM CARE ADVISORY
COMMITTEE MEETING MINUTES

August 20, 2019
10:00 a.m. – 3:00 p.m.

Committee Members Present:

Darleen Bartz, Chief, Health Resources Section, ND Department of Health
Bruce Pritschet, Director, Division of Health Facilities, ND Department of Health
Kathy Laxdal, Program Manager, Division of Health Facilities, ND Department of Health
Rocksanne Peterson, Recorder, Division of Health Facilities, ND Department of Health
Craig Christianson, Chairman of the ND LTC Association, Sheyenne Care Center, Valley City
Peggy Krikava, Education Director, ND Long Term Care Association
Scott Foss, Board of Examiners for Nursing Home Administrators
Shelly Peterson, Executive Director, ND Long Term Care Association
Michelle Lauckner, Quality Health Associates
Joan Ehrhardt, Consumer Representative
Karla Backman, State LTC Ombudsman, ND Department of Human Services
Monte Engel, Division of Life Safety & Construction, ND Department of Health
Dr. Bruce Hetland, Bismarck Medical Director, Nursing Home Medical Directors Association
Representative Gary Kreidt, ND House of Representatives (New Salem)

Also, present:

Committee Members Absent:

Randal Albrecht, Consumer Representative
Carole Watrel, AARP
LeeAnn Thiel, Administrator, Division of Medical Services, DHS
Jamie Steig, Quality Health Associates

Welcome

A meeting of the Long-Term Care Advisory Committee was called to order at 10:05 a.m. on August 20, 2019. The meeting was held in AV 210 at the State Capitol.

Public Comment

No comments.

Approval of Minutes

The minutes from the May 20, 2019 Long Term Care Advisory Committee meeting were distributed and reviewed. Craig Christianson made the motion to approve the minutes with changes; Bruce Hetland seconded the motion. Motion carried. Under the ombudsman report it should read ombudsman training, remove the word volunteer.

Standing Reports& Legislative Update

Legislative Update: Representative Gary Kreidt.

- Representative Kreidt reported on which legislative committees he is on. He serves on the Legacy Committee. He reported there is another committee that is looking at ways to spend the earnings from the Legacy Fund. At the end of the session there \$455 million of earnings out of the Legacy Fund. \$200 million went towards balancing the budget and the rest of the money went into the general fund. He was on the employee benefit fund and asked to be taken off.
- A committee was formed to look at the payment schedule for nursing homes. There have been two meetings. There are some in state government that would like to see equalization of rates for nursing homes go away. He tries to keep informed of what is going on through the minutes.
- The head of Medical Services is Caprice Knapp. She was emailed and invited to join us today at our meeting.
- Shelly asked about the Roosevelt Library; Representative Kreidt thought it would become a reality. The library will be located on the western edge of Medora.
- Craig asked about the legacy fund and what the funds are going to be used for. Representative Kreidt stated there are all kinds of suggestions and ideas. The committee that was put together will get ideas from communities throughout the state as to where the funds can be used. He has no problem using some of the earnings to be invested back into the state but does not want to use any of the principle funds. Current amount in the Legacy Fund is about \$6 billion.
- Craig has been involved in the meetings for the payment system; the length of time to roll it out could affect many facilities and it is concerning to him. The group had a lengthy discussion regarding the payment system and the concerns and impact to the facilities.

North Dakota Long Term Care Association: Shelly Peterson/Craig Christianson.

- Shelly reported on the new payment model. It is more of a pricing model, it is dependent on the number of staff members a facility has. This model has been implemented in four states; Virginia, Tennessee, Indiana, and Florida. They are in the early stages of development. They don't have equalization of rates. Shelly reported they are doing a statistical analysis on staffing and quality of care.
- DHS is modeling all rates, so we know how the facilities fair under this system and the pricing model. She stated we are thinking DHS would save money because you get that price. And hopefully would get annual inflation. What we are trying to look at is this is

the first model and it has only implemented in four states and are there other models or other systems that should be looked at. She thinks DHS really likes the pricing model and was sold on it.

- Darleen asked if with the pricing model would cost the same for private pay as Medicaid? Shelly stated that is the question. She doesn't know what the impact is going to be. She stated that they have traditionally supported equalization of rates but what has been indicated in the meetings is that there is a need for some breathing room. So, we might be debating it that. Should we support equalization of rates or do we need that breathing room for those high staff facilities that believe they absolutely need that staff? Shelly stated that she has asked to bring the Health Department in. We have all these things that we must do and if we feel we need those staff and we have more regulations we are not going to have any give on the regulatory side and what if we get a deficiency on staffing what do we do.
- Shelly reported that Chris had said he would begin to involve the Health Department. Shelly stated the next meeting regarding the pricing/payment model is September 5, 2019.
- Darleen stated that we are seeing a lot of changes as far as what the state survey agency is being directed to do by CMS. North Dakota receives fewer complaints than any in our region and compared to most of the nation which reflects positively for quality of care. CMS is starting to increase scrutiny of the timing of investigation of facility complaints, also called facility reported incidents (FRIs). CMS wants all states to be consistent with their approach throughout the nation. Kathy reported most of the complaints coming in have been regarding staffing.
- Shelly stated that if Medicaid and the industry do not come up with something and jointly support it the Legislative will move forward with their own plan. Most of the legislators do not have a good understanding.
- Medicaid likes the pricing model because you can control the price. You know what you are going to spend. However, if it results in a decrease in staffing, this could impact the number of complaints coming into the department. Darleen stated complaints may become a priority over and above certification/recertification surveys. It has many levels of concern and impact.
- Karla feels this model will impact resident care, and not in a good way. Craig stated it is hard to be in the meetings, because all the information that is being looked at is data/numbers. Numbers don't equate to people. The group discussed the quality care for the residents, quality of staff, and the impact it would have on facilities. Quality of care for the residents will be an issue. Shelly is concerned and worried about cutting staff.
- Craig also mentioned the Geri-psych portion of that. He would lose money by cutting staff.
- There is some confusion on the proposed CMS rule changes. Darleen confirmed the changes are moving forward for phase III but does not know when they will be rolled out.

- Shelly spoke about the changes regarding the proposed change on the certified dietary manager.
- Shelly discussed the basic care waiver provision passed by the legislature. There is a facility that is trying to get a waiver and is frustrated by the policy and procedures versus a rule change. She also spoke about the changes in the Basic Care End of Life Rules, Darleen stated that are being worked on and close to be moving forward. Shelly also spoke about the plans review process and hearing.
- Representative Kreidt asked about the LSC plans reviewer position. He was under the impression that position was a permanent FTE and money allocated. Darleen explained it was a temporary position, and that we are not getting the applications and our efforts of recruitment. We believe that it would be good to have an FTE for the plan's reviewer position. Then we may be more successful in filling the position. Representative Kriedt asked what it would take to get a full-time position. Darleen stated we would need approval from the emergency commission. Representative Kriedt asked Darleen to send him a letter regarding about the position and money.
- Shelly reported that an out of state company came in to build a 200-bed nursing facility in Minot. The Minot city commission has approved it for building. There is still a lot of concern of adding a 200-bed nursing facility and the issue of the dementia unit. Shelly asked if the department had received any applications for basic care beds based on need? Darleen stated we have not. Shelly asked if we had any contact with the out of state company? Darleen had one phone call with them in May. Darleen sent them the language and the moratorium. It was the consultant working for the company that called. He had no knowledge of the moratorium or any of the rules and regulations for our state. That was the only contact. The department has not received plans for the project.
- Shelly reported the LTC pharmacist in North Dakota are putting together a Pharmacy Academy for LTC pharmacists working in nursing facilities. They are hungry for information and collaboration. They are just getting organized. Shelly suggested inviting them to present at a future meeting or maybe inviting them to join as a member of the committee. Darleen feels it would be best at this time to just ask them to present at a future meeting.
- The Fall Long-Term Care Association Conference will be held on September 16-19, 2019. Monte Engel will be presenting as will LeeAnn Thiel. Frontline care giver training will be held on October 3-4, 2019.
- Craig mentioned the three Geri-psych facilities met with the state hospital regarding the readmissions back to the state hospital when an individual has an episode that is over and above what the Geri-psych facilities can provide. They must go through Human Services just as regular skilled nursing facilities do. Craig feels should have a more of a direct access back to the state hospital for Geri-psych patients, but that is not how the statute is written. They may take it to the next legislative session to have an addendum made up where special care or Geri-psych units can have direct access to the state

hospital. St. Luke's Home, Dickinson has an RFP contract that sets their rate, and this is creating some concerns.

Quality Health Associate of North Dakota: Michelle Lauckner/Jayne Steig.

- Michelle reported Quality Health Associate of North Dakota is in between contracts right now. The last contract with CMS ended on July 17, 2019, as of right now we don't have a contract. They were alerted on June 26, 2019, that there would be delays. Don't know if they will get the contract. The potential is for them to come out between September and November. A lot of the QIO's in the country are laying off staff that have been there for 20-30 years. They did get a very small extension transition contract.
- Michelle reported two people have left their office; Tracy, who was in Grand Forks moved to Florida and Sally May retired. They have also had a few people cut back on hours.
- Quality Forum was held on May 23, 2019.
- Michelle reviewed the last data from the Quality Measure Composite Score goal of six or less. The study ended in September 2019 and we didn't quite make the 6.0 goal but did make it from April 2015- January 2019. See hand out.
- Michelle shared the National Partnership to Improve Dementia Care in Nursing Homes: Antipsychotic Medication Use Data Report (April 2019). She reported that they didn't quite make it with the antipsychotic numbers. The numbers have stayed stagnant over the time period of the partnership. North Dakota is now 48th in the Nation. The other facilities in the nation have made huge improvements. Michelle stated we still have lots of improvements to make when you compare to the nation.
- Shelly asked about the prescribers. Michelle stated the psychiatrists are the ones who are prescribing the antipsychotic meds. She said staff are working hard in facilities to say antipsychotics are not what we want for sleep. From what she sees and feels, it is not primary care physicians that are the ones prescribing the antipsychotic medications for sleep without trying something else. The group discussed residents being diagnosed with schizophrenia later in life (i.e. 80 years old). It is something to be concerned about especially if it is not the appropriate medication for the diagnosis or person. Bruce Hetland asked if they have contacted other states to see what they have done regarding their use of antipsychotic medications. Michelle stated that she has, and she has talked to other experts on the subject, Dr. Al Power for one.
- Darleen suggested using CMP funds to have Dr. Al Power come for a presentation on the use of antipsychotic medications. Michelle will contact him for cost and if he would be willing to do a presentation. There was a discussion about who to invite to the presentation and the possibility of offer CEU's.
- Scott asked how many psychiatrists there are practicing in the state. There are approximately 85 practicing psychiatrists in the state. It is felt that the other providers such as NP's, PA, DON, consulting pharmacists, etc. need to be included. Bruce Hetland stated that psychiatrists are making rounds at the LTC facilities and you won't get the primary care physician changing the psychotic medications. Scott stated that he has had

to do a lot of work with psychiatric services and education with them and patients. The psychiatrists need to be the focus. Shelly asked if Quality Health Associates would get the contract would, they have the funds to have Dr. Al Power come in for a presentation? Michelle stated that is very hard to answer at this moment, but in the past, yes, they have had the funds. Shelly asked about the possibility of the Health Department compiling a list of medical directors for facilities. Darleen stated we could possibly collect the medical director information and adding it to our license application and database.

- Michelle reported that there are 12 nursing homes that input data into NHSN.
- Michelle continues with Darleen to co-lead the partnership, but they are not actively doing a whole lot right now. Darleen asked if Michelle is wanting to reschedule the meeting that had been cancelled. Michelle said would like to do a call instead and it would consist of an update of the data.
- Michelle stated the music and memory CMP contract was only for one year and will be ending in December. She would like to bring it back to the partnership to see if this is something that they would like to reapply for funding to bring in more facilities. There are 30 facilities completing the training and getting the equipment for it. The facilities are making progress. The national music and memory organization had shut down for four months. They have started scheduling the live trainings again.

State Ombudsman: Karla Backman.

- Karla reported on the state ombudsman program. They have been getting some new volunteers.
- Karla talked about the rule making for the electronic monitor. The forms are done and on the DHS State Ombudsman's website. They are having one more workgroup meeting. Shelly stated that in talking with a few facilities they haven't had a lot of requests for electronic monitoring. She asked Karla if they had been getting anything from families and residents. Karla stated that they have been getting some requests.
- Karla indicated the electronic monitoring needs to have a time stamp on the recording. Bruce Pritschet asked who was going to check it to see if it was time stamped. Karla stated the time stamp thing comes in to play if it goes to court. Kathy stated there has been a lot of discussion of the resident's competency to say whether they want it or not.
- Peggy stated they will have a session on electronic monitoring at the fall Long-Term Care Association Conference.

Division of Health Facilities: Bruce Pritschet

- Bruce reported the average number of deficiencies for a health survey is currently 5.73. The top citation in the nation and region is F0880 and F0689 is the top citation in North Dakota. There are 2 facilities that have had back to back G citations, both were assessed a CMP.
- The length of time between surveys 11.6 months.

- Kathy and Bruce talked about the complaints that come into Health Facilities. Bruce stated that more complaints are being reported to our office. He doesn't know if it is just the start and will continue to increase, or if this is just a few months in a row where we seem to be getting a lot of calls, emails or inquiries. The complainants are not happy with the facilities. The department's preferences are that the complainant deals with it at the facility directly before submitting a complaint to the department. Most of the time we tell them to talk to the administrator or the DON first before the department. A lot of complaints are from new admissions. Something happens in the first week and they report it. The complaints are all over the place. Some want us to fire someone in the facility; that is not within our realm. Craig appreciates the Health Department referring the complainant to go back and visit with the administrator and/or the DON of the facility about their concerns.

Division of Life Safety & Construction: Monte Engel

- Monte reported the average number of deficiencies for an LSC survey is 2.16. The top citation in the nation and the region is K0353; K0211 was the top citation for North Dakota. The group discussed when fire drills need to be done. They need to be done one time each quarter and per each shift.
- There was a discussion regarding the temporary fulltime plan's reviewer position. We just got another application that and had an interview scheduled but he had canceled it. Monte had contacted him, he stated would be willing to meet at another time, but we weren't available. He was to let Monte know if when he would be available. We just got a second application in, he will have to look at it. To date, Monte has not heard back from him. Representative Kreidt asked if the position was designated as a permanent FTE would we have more applicants, Monte felt it would.
- Darleen reported that the small projects were charted a lower rate for the review.
- The Innovation Construction and Remodel Waiver and Basic Care Waiver procedures have both been placed on the department's website. Shelly asked why we decided to make a change in policy vs. rule change. The reason for the change in policy was so it could be implemented faster. We have one entity that has submitted five waiver requests. That is in the process for review.
- Shelly inquired as to the length of time it takes to review construction projects. Monte states that he has staff that are concentrating projects under \$1 million to make sure they are done within the 60 days, so they are not able to assist in the larger projects. That means it will take longer to review the larger projects. Shelly asked if Monte has had any complaints from the larger projects on that, he stated not at this point.
- Shelly asked if Monte had asked if he received plans from an out of state group for a proposed 200-bed facility (LTC, assisted living, basic care, etc.); he has not. Darleen stated that she had talked to the gentleman regarding the moratorium. She asked if we had received any notification for any transfer of beds to an out of state group in Minot at this point. Monte stated that the only transfers we have received are facility to facility transfers.

- Shelly asked about the bed lay way program and how many requests we have gotten for bed reductions with the October 1, 2019 deadline looming. As of October 1, 2019, we will have 128 beds are in the bed lay away.

New Business:

- Behavioral Health Presentation/Discussion: Pam Sagness, DHS
 - Pam Sagness gave a presentation on the Legislative Updates on Behavioral Health after 2019 Legislative Session and how that relates to LTC. There were 13 ND Behavioral Health System Study recommendations and implementation plans. There are three key focuses to reforming the system: supporting the full continuum of care, increase community-based services, and prevent criminal justice involvement for individuals with a behavioral health condition. The support for this was huge, every system is having behavioral health issues.
 - Pam talked about the program and service changes in SB 2012 which included funding for several programs. Pam talked about recovery homes and their difficulties, especially serving those with criminal backgrounds.
 - The Suicide Prevention Program was transferred from the Department of Health to the Department of Human Services. The goal was to have the suicide prevention woven through all behavioral health.
 - Pam talked about expanding access to community-based behavioral health supports through 1915i Medicaid State Plan Amendment.
 - Pam also spoke about other Behavioral Health Related Bills: HB 1105 Voluntary Program and SUD Voucher, SB 2114 Minor in Possession Education, SB 2149 Behavioral Health Resource Coordinators, SB 2196 Drug Fatality Review Panel, SB 2198 Syringe Exchange, SB 2240 Reference to Substance Use Disorders, SB 2246 Public Intoxication, SB2313 Children's System of Services and Cabinet. For the next six years there will be a commission studying juvenile justice. The juvenile justice laws have not been updated since the 1970's. (See presentation attachment.)
 - Behavioral Health Conference November 13-15, 2019 at Bismarck Event Center, Bismarck, ND.
 - There was a discussion regarding the study of beds in state hospital and Gero-psych. Darleen asked to be included in the study of beds.
 - Pam spoke about the Behavioral Crisis Intervention Response Team and how that functions. Right now, Behavioral Health Crisis services are in the Fargo region. Even though it was mandated in Century Code that we offer that statewide it was only funded in the two regions (Bismarck and Fargo) and operating in one. There were no providers in the Bismarck Region willing to do it. So, the department put out an RFP three times. Every region will have to develop a behavioral crisis intervention response team or services. Pam recommended having someone from the developmental team come and speak with the committee. Tom Eide and Rosalee Etherington are on the developmental team of the behavioral crisis intervention response team for the bed study. There are screeners available in the Jamestown

area if there is a behavioral crisis. Darleen asked if there be follow-up available throughout the state. It all depends on the region. Sarah Stolte or Chris Jones would be the contact person for the crisis intervention response team. Scott feels there is still a huge gap. Purpose of the behavioral bed study is to say we are using the behavioral beds wrong. We need to get people out of those beds who should not be in them. This applies to people who have addictions. Open access, human service centers have started using an open access approach Monday through Friday, 8:00 am – 5:00 pm.

- Pam talked about addiction and mental health providers not being integrated. She also spoke about using project ECHO in order to do the opioid training. She feels there is an opportunity to do the same thing why wouldn't we take the psychiatrist and be able to a project ECHO with other prescribers. The psychiatrist that is a medical director for field services is Dr. Laura Kroetsch, Fargo, ND. She was hired within the last six months. Working to expand services and work more with the prescribers. Pam feels it would be a good idea to invite her along with Tom Eide and Rosalee Etherington.
- Pam talked about open positions at Department of Human Services.

➤ Nurse Aide Registry Status Update – Bruce Pritschet

- Darleen reported the nurse aide registry was supposed to be done May 31, 2019. We wanted to have a month leeway before the end of the state biennium. Work on the registry still has not been completed.
- Bruce gave an update on the nurse aide registry. He reported there are nine hyperlinks on the website for the nurse aide registry. These all work but some of them take us back to the old registry yet. You can do a lot of things on the registry already. He gave a demonstration of the new Nurse Aide Registry Online Services <https://services.ndnar.org/>. It is a simple one page with bullets, if you click on a bullet it will take you to another page regarding that particular bullet. Endorsements are the most used or requested information, daily approximately 10-20 CNA endorsements are processed. Shelly inquired as to if they are coming from a specific state. The CNA endorsements come in from all over the United States but most of them are from Minnesota. The turnaround time for the online endorsements is 1-2 days the old process took longer because the information was entered manually. Shelly stated it was interesting to look at the nursing data to see where nurses come from when they get licensed. We produced more nurses by recruiting from out of state then we have educated in North Dakota. Darleen asked, "how many North Dakota nurses go to other states?" That is a good question, Shelly didn't know. Shelly asked how long it would take to be put on the registry after they have tested and passed. Bruce stated it would depend on whether they have a criminal background or not and if they haven't answered yes to any of the disciplinary questions it should go directly into the Nurse Aide Registry database as soon as it is pushed from Headmaster. This could be the same day or the next day, depending on when they

take the test. It won't be an issue from a time frame. We just have to get it working. If they have marked yes to one of the questions it will take longer because it will need department approval. Shelly asked what percent of the applicants have clear records or don't have issues. It is more than 50%, there are more certifications are clear than not.

- Kathy talked about the people inquiring about online programs or having videos, so they don't have to take a nurse off the floor to teach. Shelly asked if Kathy has approved any programs that use non-traditional teaching methods.
- Bruce also talked about the new Initial Allegation of Mistreatment, Abuse, Neglect, or Theft Reporting Form. This is updated online in real time. These are Facility Reported Incidents (FRI's). Shelly recommended renaming the title of the form to Initial Allegation of Mistreatment, Abuse, Neglect or Theft Reporting Form and Facility Reported Incidents. Bruce felt we could change the name, but it would be more confusing because this is the category the FRI's are in. He stated they could put an explanation in a paragraph.
- The print CNA verification works as does the print your registration card, registry verification and change your name, address, or contact information.
- Shelly asked about doing a webinar on how to use the Nurse Aide Registry Online Services. Bruce thought we might be able to do a webinar especially for the Initial Allegation of Mistreatment, Abuse, Neglect or Theft Reporting Form.

➤ Innovation Construction and Remodel Waiver Process Status Update

- The discussion was covered under the Division of Life Safety & Construction Update.

➤ Basic Care Waiver Process Status Update

- The discussion was covered under the Division of Life Safety & Construction Update.

QSO Memos – Kathy Laxdal:

- QSO 19-09-ALL Revisions to Appendix Q, Guidance on Immediate Jeopardy

Next Meeting Date and Time: November 19, 2019, AV210

Future Agenda Items:

State Hospital – Rosalie Etherington
QIO Scope of Work – Jayme Steig/Michelle Lauckner
Electronic Monitoring Program – Karla Backman
Chair of Pharmacy Academy
Other

Meeting adjourned: 2:50 pm