

**North Dakota Department of Health
LTC Collaborative Workgroup Meeting
May 11, 2015 – 10 am to 3 pm
State Capital, Judicial Wing, AV Rooms 210 & 212**

Welcome and Purpose of Meeting:

Darleen Bartz called the meeting to order at 10:05 am and welcomed everyone. She reviewed the information that will be discussed during today's meeting.

The purpose of the workgroup is to identify key issues/concerns related to the survey and compliance of Long Term Care Facilities and prioritize those issues and concerns; and to discuss ways we can collaboratively work together on the identified priority issues/concerns. The focus of today's meeting is to discuss subjectivity in interpretation/decision making and G-level citations identified as priority issues/concerns.

Darleen reviewed the agenda for today's meeting.

Introductions:

Each member of the group introduced themselves and identified who they were representing.

Present:

- Darleen Bartz, Chief, Health Resources Section, NDDoH
- Bruce Pritschet, Director, Division of Health Facilities, NDDoH
- Lucille Rostad, Manager, Division of Health Facilities, NDDoH
- Rocksanne Peterson, Recorder, Division of Health Facilities, NDDoH
- Shelly Peterson, Executive Director, North Dakota Long Term Care Association
- Bruce Hetland, MD, North Dakota Medical Directors
- Char Christianson, Director of Nursing, Golden Acres Manor
- Gail Grondahl, Director of Nursing, St. Aloisius Medical Center
- Karla Backman, State Long Term Care Ombudsman, Division of Aging Services
- Pam Tyler, Quality Improvement Director, Sanford Health Continuing Care Center
- Renee Muhonen, Elim Care Inc.
- Janessa Vogel, Administrator, Elm Crest Manor
- Cathy Anhalt, North Dakota Long Term Care Association
- Barb Groutt, Chief Executive Office, Quality Health Associates
- Guy Tangedahl, MD, Medical Director, UND Family Practice Center
- Joan Ehrhardt, former State Long Term Care Ombudsman, Consumer Representative
- Jerry Jurena, President, North Dakota Hospital Association
- Nancy Farnham, Administrator, Maryhill Manor
- Dr. Terry Dwelle, Health Officer, NDDoH

Absent:

- Michelle Lauckner, Quality Health Associates
- Arvy Smith, Deputy Health Officer, NDDoH
- Steve Przybilla, Administrator, St. Gabriel's Community

Ground Rules – Darleen reviewed the ground rules of the meeting.

- It's your meeting (all participants).
- Everyone's comments will be considered equally (it is important for everyone to participate as we need to look at the whole picture)
- Respect each other when talking so that we have one conversation going at a time. You will have a chance to speak.
- Respect the time frames identified.
- No relevant topic is excluded.
- Respect each other's opinions (people think differently).
- Refrain from attribution (no placing blame).
- Silence is considered an agreement (so if you do not agree you need to voice your opinion).
- Work together toward common goals (finding a solution takes balance)

Review and Approval of the April 9, 2015 Meeting Minutes. Janessa Vogel motioned to approve the minutes of the April 9, 2015 meeting with a couple of changes, Char Christianson 2nd the motion; motion carried.

CMS Update, including Data Update

- Darleen Bartz gave a CMS Update (See handout). The objectives of the presentation were to gain an understanding of the statutory and regulatory requirements for the surveyors to follow the CMS Survey Process when completing surveys; gain an understanding of the federal requirements to be followed by surveyors when determining compliance; gain an understanding of the CMS information that is and is not releasable to the workgroup (public) from the State Survey Agency; and explore where there may be flexibility in the survey process.
- Darleen reviewed the Social Security Act, Code of Federal Regulations, CMS agreement with states, 42 CFR§ 488.26 Determining compliance, CMS information that is releasable to the workgroup or public from the state survey agency, CMS Data update and average number of deficiencies report. If we want any data from the CMS databases we would need to get authorization or permission from CMS. We would need to do a FOIA request. Shelly inquired as to how long it would take to get the information. Bruce Pritschet said it would depend on the amount of information that is requested and if the information was determined to be releasable.
- One participant asked if CMS specifies how many surveyors go out on a survey. Bruce indicated that the number of surveyors on a team depends on the size of the facility and the number of residents in the sample. There are certain tasks that need to be completed by nurses.
- Darleen talked about the training a surveyor goes through. Every surveyor goes through a significant amount of training, not only on the state level but also the federal level. If necessary, the SSA will do one to one training with a surveyor. Only after they pass the Surveyor Minimum Qualifications test are they allowed to do anything on an independent basis. There is a designated leader of the survey team; the surveyors have to bring the citations back to the office and are reviewed not only by the surveyors but the managers.

- Dr. Dwelle asked about slide 5 talking about uniform and consistent application and interpretation of federal requirements; the question is, do we have more intensive training and are we allowing people to use their professional judgement? He feels the surveyors have to suppress their experience in making judgments. Bruce stated that surveyors have a baseline of training, meaning they are trained to look for certain aspects and criteria in a survey. The guidance to the survey guides the survey and citations.
- Dr. Dwelle spoke about the accreditation process. He feels the accreditation process and the survey process are similar. He feels that both are struggling with the uniformity.
- One participant asked if team leaders are a separate group of surveyors. Dr. Dwelle spoke about the accreditation specialist. The specialist is there at every meeting but they are there to be there for guidance and make sure things are uniform as possible. He asked if the team leader would provide guidance rather than provide input.
- Bruce Pritschet stated that the team leaders are a separate group of surveyors, however do participate in the survey. Sometimes, a team leader will also be on a team as a team member. Darleen reviewed the scoring process for a survey. Bruce stated the Appendix P and PP guides the survey process as well as provides a checklist for the surveyors.
- Dr. Dwelle feels the judgement of the survey needs to be more uniform.
- One participant asked if there is a way for a facility to get a preview of the deficiency statement before the electronic deficiency is sent out. Another participant asked if a facility can't provide additional information until after the survey team had exited, would they be able to have a deficiency rescinded.
- Darleen stated the IDR process is available to refute the findings of the deficiency statement.
- One participant supported Dr. Dwelle's observations and confirmed what she was seeing the surveyors are using their professional opinions and judgements. Another participant stated that a surveyor observed a problem and the team leader didn't agree with it and later it was dropped from the deficiency statement.
- One participant questioned if Bruce would like the facility to give him a call when a problem arises during survey. Dr. Dwelle wondered if there could be a conversation between surveyors and management prior to the team leaving the facility after the survey. Darleen stated that we have the surveyors call in once a week to discuss issues that may arise. One participant stated that he could see where calling Bruce and/or Lucille could get out of hand.
- One participant stated she feels that there should be a process to argue their case for a deficiency. Another participant indicated that part of what the group was going to do is look at the IDR process which may address some of the concerns.
- Bruce reviewed the level of scope and severity for Federal Fiscal Year 2015. Level of Scope and Severity: G=5 states higher than ND and 44 states lower, H=12 states higher than ND and ND tied with 38 states at zero, I=1 state higher than ND and ND tied with 49 states at zero, J=29 states higher than ND and ND tied with 21 states at zero, K=25 states higher than ND and ND ties with 25 states at zero, L=10 states higher than ND and ND tied with 40 states at zero. North Dakota doesn't have anything cited for H, I, J, K.
- One participant stated he feels we are dealing with a detailed process, and the issues are communication and personalities.

Presentations and Discussion-Darleen Bartz provided an introduction to the G-level citation presentation. Bruce Pritschet presented on F325. See handout.

- G- Level Citations
 - F325 – Nutrition: was cited 4 times.
 - Bruce reviewed the interpretive guidelines for the F325 and the investigative protocols.
 - Facilities are expected to meet these requirements, which are considered to be minimal requirements.
 - One participant asked what the purpose was for going over this information and stated that she hoped we weren't going to go through all four of the citations like this. Darleen stated that we were going through this so the group knows what the surveyor is to look for. Another participant indicated that he felt it was important to go through the information.
 - Dr. Dwelle questioned how the medical and nursing standards of practice correlate to the CMS guidelines.
 - Darleen and Bruce stated that the surveyor needs to look at the medical orders and care plan to see what the doctor has ordered. As long as a facility has documentation of the physicians order, communication with the physician as needed, incorporation of the orders into the plan of care and implementation, there should not be a citation.
 - Dr. Dwelle asked how we handled a clinician for not following the standards of practice. Bruce responded that the facility should call the North Dakota Board of Nursing or North Dakota Board of Medicine. At times our office has gotten a call and Bruce will contact the perceptive boards. If there is something significant going on with a resident it is important to communicate the concerns with proper provider or clinician. Care plans need to be revised on an ongoing basis.
 - Dr. Dwelle asked if our surveyors have geriatric care experience. Bruce stated we do hire people who have geriatric experience. Also, the federal training the surveyor receives focuses on geriatrics and long term care.
 - One participant asked if any of the training focuses on the younger or short stay residents. Bruce stated not to his knowledge. CMS provides ongoing training specific such as infection control training which surveyors are required to complete. It has been recommended to get the physician or medical director more involved in the survey process.
 - Lucille stated that the facilities will have their own policies and we ask for the facilities policies. She also stated that deficiencies are cited based on the facilities policy. Dr. Dwelle stated the best practice and the standard of practice are not the same. A lot depends on the area of the United States you live in. Not all the states are the same. One participant questioned what some of the difference might be.
 - Dr. Dwelle asked whether the physicians or medical directors are signing off on the policies. One participant stated that the policies are regulatory driven. Another participant stated that staff may not know what all the policies are. Both physicians present who

work with LTC facilities indicated they do review policies and document their review of updated policies annually.

- One participant stated she has never had a surveyor call the physician regarding an issue. Darleen stated it would be helpful for facilities to help the surveyors make a connection with a physician. According to some of the members of the group the physician information should be on the face sheet of the MAR. One participant stated that if a surveyor asked for help contacting the physician that they would be willing to help.
- Dr. Dwelle asked if a surveyor contacted the clinician prior to citing a G citation, if they may not have to look at the other additional tags. Bruce and Lucille explained that the tags that are looked at throughout the survey process. The scoring of the tags are not completed until the deficiency statement is written. The surveyor may have an idea of the level of the citation, but it will not be finalized until it is reviewed by their supervisor after the survey is complete. One participant asked if the surveyors identify what is avoidable or unavoidable. The group felt that communication plays a huge factor in a determination of avoidable or unavoidable.
- Dr. Dwelle asked Bruce if he is asking the surveyors if they have called the physician or nurse practitioner. Bruce stated as of last fall he has been asking them.

The discussion of F325 concluded. The discussion on the following tags will continue at the next meeting:

- F323 – Accidents
- F309 – Quality of Care
- F314 - Pressure Ulcers

Meeting Dates: July 24, 2015
August 12, 2015

Meeting Adjourned: 3:10 pm.