

**North Dakota Department of Health
LTC Collaborative Workgroup Meeting
August 12, 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 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.

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
- Pam Tyler, Quality Improvement Director, Sanford Health Continuing Care Center
- Janessa Vogel, Administrator, Elm Crest Manor
- Michelle Lauckner, Quality Health Associates
- Arvy Smith, Deputy Health Officer, NDDoH
- Renee Muhonen, Elim Care Inc.
- Cathy Anhalt, North Dakota Long Term Care Association
- 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

Also Present:

- Robert Casteel, Centers for Medicare and Medicaid Services
- Steven Chickering, Centers for Medicare and Medicaid Services

Absent:

- Gail Grondahl, Director of Nursing, St. Aloisius Medical Center
- Steve Przybilla, Administrator, St. Gabriel's Community
- Guy Tangedahl, MD, Medical Director, UND Family Practice Center
- Barb Groutt, Chief Executive Office, Quality Health Associates
- Karla Backman, State Long Term Care Ombudsman, Division of Aging Services

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 July 24, 2015 Meeting Minutes. Janessa Vogel motioned to approve the minutes of the July 24, 2015 meeting with one change. Char Christianson 2nd the motion; motion carried.

Update on Status of Workgroup Discussions

- Darleen gave an update from the previous collaborative meetings (See Handout).
- One participant asked whether we had ever gotten answers regarding why the CMS regional office only adds deficiencies and does not take deficiencies away during CMS look- behind surveys. Robert Casteel stated that the regional office (RO) does not see what deficiencies were cited by the state surveyors prior to the federal survey. The RO is there to see if the state agency missed something in the original survey. The participant stated she did not feel the process is fair as deficiencies can be added but not removed especially if it is a closed record.
- Steve Chickering reviewed the federal surveying process. One participant asked if it is too late to do an IDR after the state and federal survey has closed. This participant spoke about a survey where there was an issue with a resident which resulted in the facility receiving a G-level citation. It had been cited by the state surveyors, but not the regional office surveyors. Steve Chickering indicated he would be willing to review the situation and asked the participant to provide him with a chronological synopsis of what happened so he has all the facts. The participant indicated that she understood why the state surveyors cited what they did, and would get the requested information to Steve.
- One participant asked if the state can alter the 2567 after the federal look-behind survey has been completed. She also asked if the state and federal standards are different if they wind up not citing the same tags. Steve stated the standards are the same, but the facility may have already made changes or corrections prior to the federal survey. Also, the sample reviewed may not be the same.
- One participant asked why ND has more G-level citations than other states and why our region is higher than other regions. Robert Casteel stated that you need to compare North Dakota with states that follow the traditional survey process. Robert also stated the percentage might not be as high as you think. Another participant stated she would like to know what is causing the difference. Is it the survey process? Is it the providers? Is it the population, technology, staff turnover, etc.?
- Another participant questioned if we had taken a look at the G or higher level deficiencies. The workgroup had looked at this information at previous meetings. Robert Casteel stated

that it is also important to consider that ND hadn't had deficiencies cited which were a higher level of scope & severity than a G within the time frame reviewed.

- Another participant asked about the medically and behavior complex residents, does the care of a resident get looked at as a whole, or is each aspect of care looked at individually? This participant shared related to a behavioral resident whose behaviors had improved, but the facility was cited for weight loss. Robert and Steve both stated that there is a need them to look at all the information before they could respond related to that particular citation.
- Another participant spoke talked about not having an opportunity to talk about the situation before the exit. This participant did say that her facility had been surveyed recently, and communication had been good.
- Another participant questioned if you do a root cause analysis, have the proper documentation is in place, if the facility would still receive a deficiency if an issue was determined to be unavoidable. No, if it was determined that the facility had done everything possible to respond to an issue and the issue was determined to be unavoidable, a deficiency would not be cited.
- One participant stated that he is seeing inconsistency between the state and federal survey. He felt the survey process is subjective and we have a lot of issues that need to be resolved before moving forward. Steve Chickering stated that survey process is not subjective; it is based on factual information collected during the survey process.
- Robert Casteel and Steve Chickering both indicated that the acuity and needs of LTC residents have increased. Many states are struggling with this; however, he was not aware of what other states were doing to respond. Some of the issues go beyond the certification and survey process. Reimbursement may be a factor in some of the issues. Robert stated that other states also have nursing facilities are dealing with issues related to the care of the complex patient and meeting their needs.
- One participant state that at her facility, they are turning away complex patients because of the survey process. Another participant agreed that this is happening. Steve Chickering stated that we cannot alter the survey process.
- Dr. Dwelle asked if there is a formula for categorizing the patients and recognizing higher risk patients, and facilities that can take higher risk patients. It was felt that both the smaller nursing homes and the larger ones are being surveyed based on the same standards and they are not the same. Participants also stated they that the 5 star rating system is unfair and many don't like it. Darleen talked about the avoidable and unavoidable circumstances. Dr. Dwelle felt there has to be away meld the categorization of facilities and the rating system. Steve Chickering stated this is a much broader issue than just survey and certification. Robert Casteel stated the survey process is what it is.
- The consistency among survey staff was discussed. Darleen stated that education is provided to the survey staff to promote consistency.
- Darleen also spoke about some surveyors being approached by administrators regarding our meetings and their concern over retaliation by surveyors due to their participation in the meetings. Darleen indicated that our office has not discussed information about the meetings with the surveyors as she does not want there to be any question about the meetings impacting the survey process. Shelly stated that she has provided information to all the facilities regarding our meetings and she assumed that Darleen was doing that with the surveyors.
- One participant asked if we receive any of the survey evaluations back. Lucille stated we may receive about 50% of the evaluations back, and we greatly appreciate the feedback.

- One participant stated the reason for the survey is for the residents and to protect them. It is a federal process; in the whole scheme of things nursing homes do a good job. She felt G-level citations are going to happen. She knows that Darleen, Bruce, and Lucille try shield the surveyors so that they don't need to be afraid to complete the surveys of facilities.
- Steve Chickering offered reach out to Karen Tritz and Ed to make changes to interpretive guidelines. Steve stated that it would not be changing the survey process, but improving the survey process.
- Dr. Dwelle asked if any state has developed their own state rating system. Steve Chickering indicated that he was not aware of any, but would look into it.
- One participant stated that she when was asked about the rating on a facility, she always recommended that an individual go to the facility and talk with the staff about the facility to see if it is a right fit for them or a loved one.
- Another participant reported that hospitals in her area won't admit patients to a nursing home unless it has a 3, 4, or 5 star rating. It was felt that hospitals look at the ratings because they don't want the patient to be readmitted to the hospital. Two participants stated the 5 star rating is becoming a problem, especially now with technology and looking on the internet to find out what the facility is like.

Presentations and Discussions

- Presentation on Communication during the Survey Process.
 - Darleen reviewed the communications that are to take place during the survey process consistent with the CMS State Operations Manual.
 - One participant asked if a facility can refuse to let a surveyor in the building. Steve Chickering said no, facilities sign a provider agreement. If a surveyor is not performing their job properly then a facility should contact either Lucille, Bruce or Darleen. You can't customize the process to suit your needs. Once the state survey agency is made aware of the problem, we will try to our best to listen and work with you.
 - One participant asked if you can refuse to have a resident be in the survey sample. Steve Chickering stated no, you cannot refuse to include a resident in a sample, but the resident can refuse to be interviewed or observed.
 - Robert Casteel stated that if you have any problems or issues with a surveyor you need to contact their supervisor, manager, director. The surveyor may receive additional education. One participant stated that Bruce and Lucille have been very open to having her talk with them regarding any concerns related to the survey process.
 - Darleen indicated that surveyors have been treated badly at times by facilities. She shared that one situation was so bad that when it comes time for a revisit surveyors have refused to go back. Respect and professionalism is a two way street; not only do the surveyors need to be respectful, professional and courteous to the staff at the facilities but the facilities need to treat the surveyors in the same manner. One participant stated that she has spoken with the team leader if she is having a problem with a surveyor and had good results.
 - One participant indicated it is hard to scramble to get all the information together for the surveyors in the last 20 minutes prior to the exit conference. It would be helpful to everyone if the communication can happen as soon as possible. Many times it isn't until the 3rd day that an issue has been identified as a pattern. Robert Casteel stated that surveyors should ask for information prior to the decision making time (task 6). It is a matter of the team coordinating with the facility as to what they need. Robert stated that some administrators will ask the surveyors if there is anything they need on a daily basis which can be helpful to the facility and the surveyors.

- Another participant indicated some surveyors will say they have everything they need, but then at then exit conference they find out that a deficiency is being cited. Another participant stated that there usually seems to be a surprise or two during the exit conference. Steve Chickering stated that there are times when things will come up at the last minute. Steve asked for examples so that it could be addressed during training. One participant indicated that communication on both side needs to be improved.
- One participant indicated that the last survey at her facility went very well. She stated that there was communication at the end of the day and that the surveyors were open to have additional information sent to the office.
- Dr. Dwelle asked if the survey process is electronic. Steve Chickering stated that North Dakota is not a QIS survey state (electronic). Robert Casteel stated that even with QIS tags or issues may not come up. Steve Chickering stated that unless there is an IJ, the team may not know how a tag is going to be scored during the survey.
- Bruce Pritchet stated there are reasons not to let the facility know of concerns identified right away. For example, if the facility knows that the surveyor is looking at staff to see if they are knocking on the door and let the facility know they were looking at this issue, everyone would be knocking on doors, and it would be difficult to identify if this was a pattern or system issue. It would be impossible to get an accurate look at what is really going on in the facility. Bruce, Robert and Darleen all agreed that it is a case by case determination related to when a facility can be notified that an issue is being looked at. Robert stated that at some point and time a surveyor will need to sit down with the facility and let them know additional information is needed. The general objective of the exit conference is to inform the facility of the survey team's observations and preliminary findings.
- Darleen indicated that the pre-exit conference was initiated at the provider's request and that this was not part of the survey process consistent with the CMS state operations manual. Renee stated that the communication at the pre-exit is important and beneficial. Steve Chickering stated that an exit conference is not required and surveyors are directed to not cite regulations, but issues identified. Participants acknowledged that they knew the exit conference was not required.
- Dr. Dwelle asked about the QIS survey and why North Dakota is not a QIS state. Darleen stated that it was because of feedback from the industry. The industry did not want North Dakota to be one of the first QIS states and asked that we continue with the traditional survey process. CMS has currently placed implementation of more states into the QIS process on hold.
- One participant asked about receiving a list of possible tags at the exit conference. Steve Chickering stated that issues identified at the exit conference are only preliminary. The CMS state operations manual guides surveyors not to provide tags in the exit conference. Steve stated that he will take the information from today's meeting and from the advisory meeting and review it. He stated that there are some inconsistencies and they need to be addressed.
- Darleen indicated that communication among the staff in the facility should be taking place as well as the communication between surveyor and the facility.
- One participant stated that the team leaders have been excellent in promoting communication.
- One participant stated that she spent a lot of time making copies. Another participant reported that the team that came to her facility didn't ask for hardly any copies. Lucille stated that surveyors have been directed not to ask for copies unless they have identified a problem.

- Steve Chickering will get back to the group regarding the expectation for communication between the surveyors and the facility during the survey process; keeping in mind that there is a limited amount of time to complete the tasks that are required to be completed.
 - One participant spoke about not being able to provide or discuss issues related to a deficiency citation prior to receiving the deficiency statement. Steve Chickering stated that a final decision regarding the tag may not be made prior to leaving the facility. Steve and Robert Casteel stated that a facility can make their case in an IDR.
 - Bruce and Lucille reported that they review the 2567 prior to it being sent out.
 - Steve Chickering stated that a facility can send the information to the state survey agency; but the onsite survey is over once the survey team has left the facility. Steve asked why the information was not provided when the surveyors had asked for it. Steve stated that there is an endpoint to the survey and we are not going to debate it.
 - One participant asked about the IDR process and sending in new information. Darleen stated that you are to send in documentation that was present at the time of the survey to refute the findings of the survey. She stated that she needs sufficient information to support a change or removal of the findings. All information submitted that was present at the time of the survey is reviewed, even though it may not necessarily all be information that was not available to the surveyor at the time of the survey.
 - Darleen asked if surveyors can continue to provide information related to possible tags at the pre-exit at the present time, and Steve Chickering agreed that the surveyors could do so for now.
- Darleen stated we will pick up at the next meeting discussing what strategies can be implemented by facility administration and staff, as well as survey staff, to foster good communication during the survey process, yet not be so time intensive that it delays or impedes completion of the process?
 - Steve Chickering will try join us again by phone as will Robert Casteel. Both feel that this has been a good discussion.
 - We will also begin discussion on the Informal Dispute Resolution Process at the next meeting.

Next Meeting Dates: September 8, 2015

October 19, 2015

Brynhild Haugland Room – State Capital, Bismarck

Meeting Adjourned: 3:05 pm.