

***Health Facilities Unit
Long Term Care Advisory Committee Meeting
November 17, 2023
10:00 am to 1:00 pm***

Committee Members Present:

Tim Wiedrich, Chief, Health Response & Licensure, ND Department of Health & Human Services
Bridget Weidner, Director, Health Facilities Unit, ND Department of Health & Human Services
Kathy Laxdal, Program Manager, Health Facilities Unit, ND Department of Health & Human Services
Rocksanne Peterson, Recorder, Health Facilities Unit, ND Department of Health & Human Services
Amy Kreidt, Chairman of the NDLTC Association, St. Luke's Home, Dickinson
Peggy Krikava, Education Director, ND Long Term Care Association
Shelly Peterson, Executive Director, ND Long Term Care Association
Nikki Wegner, Executive Director, ND Long Term Care Association
Karla Backman, State LTC Ombudsman, ND Department of Health & Human Services
Karla Aldinger, Life Safety & Construction Unit, ND Department of Health & Human Services
LeeAnn Thiel, Administrator, Division of Medical Services, DHS
Pete Antonson, Chair, Board of Examiners for Nursing Home Administrators
Kelly Beechie, Health Facilities Unit, ND Department of Health & Human Services
Rick Boehm, RPh, President of the ND LTC Pharmacy Academy
Steve Hoepfner, Obernel Engineering
Dr. Bruce Hetland, Bismarck Medical Director, Nursing Home Medical Directors Association
Jennifer Lauckner, Quality Health Associates
Faye Salzer, HAI/AR Activities Coordinator and IP Coordinator, Disease Control

Also, present:

Marnie Walth, Sanford Health and Good Samaritan Society

Committee Members Absent:

Representative Gary Kreidt, ND House of Representatives (New Salem)
Natasha Green, Quality Health Associates
Lisa Thorp, Quality Health Associates

Welcome

- Bridget Weidner called the meeting to order at 10:02 am. Introductions were made. Tim Wiedrich gave an overview of our video conferencing technology.

Public Comment (10:10 am)

No comments.

Review and Approval of the October 25, 2022, Meeting Minutes:

Bruce Hetland motioned to approve the minutes as written, Shelly Peterson second. Motion carried.

Organizational Update – Tim Wiedrich

Tim gave an update on the recent leadership change for the Department of Health and Human Services (DHHS), Chris Jones recently left his position as commissioner. Sara Stoltz is the interim commissioner. They are actively searching for commissioner. We will have Renee Loh send out new organization chart.

Reports & Updates

- *Legislative Update* – Bridget reported on updated rules there will be going forward to the rules committee on December 11, 2023. Bridget will also be presenting some changes to the hospital rules. Bridget will clarify if the rules will be in effect January 1, 2024.
- *Long Term Care Association* – Amy Kreidt is the new chairman of the board as of 1/1/24 and Nikki Wegner will be the new president of the association. Shelly shared the LTCA legislative report as well as their Basic Care and Assisted Living Report.
- Shelly stated they are concerned about the campaign on the new CMS' 24/7 staffing rule. They are waiting to hear what the final rule will be regarding this. Public comment was due to CMS on November 6, 2024. North Dakota generated almost 200 comments that went through American Health Care action center against the rule. There were about 18,000 comments that went through the action center as well. It is almost impossible for facilities to have 27/7 nursing or RN coverage. They didn't consider LPNs in the rules, just RNs and CNAs. Tim asked if there will be any waiver process for the staffing shortage. The group discussed how this rule will impact the nursing facilities. Facilities barely have enough staff to provide coverage. Facilities under 100 bed capacity will struggle and may even close. Behavioral health is also an issue in facilities, the residents are suffering as well. Rick stated that medication is an issue with the behavioral health. It is recommended facilities work with physicians and consulting pharmacists. There are not enough behavioral health officials in nursing facilities and basic care facilities. Assisted living facilities also have people with behavioral health issues.
- Shelly talked about the Basic Care study; Guide House has been awarded the contract to come up with solutions. No dates regarding for the study yet.
- Shelly reported the Medicaid payment system is not quite working yet.
- Nikki reported on the office of immigration regarding the out of the country workforce.
- There will be \$50,000 in nursing scholarship given away this fall and more grants will be given away this spring.
- Peggy reported on the upcoming webinars and the spring Long-Term Care Association conference on May 7-10, 2024.
- *Quality Health Associates of North Dakota* – Jennifer Lauckner gave a report from quality Health associates. She has been working with all the nursing homes on their quality measures on pneumococcal and influenza vaccination rates. The newest report is out now, she is in the process of sending those to the nursing homes. She is looking at where they are falling out and providing some education. She is focusing on the preventable emergency department visits and hospitalizations. She is finding the reporting of pneumococcal and influenza vaccination rates are higher than the reports are showing. She feels the information is being entered wrong because of staff turnover and a lot of new people enter the data in the MDS. It is getting

entered incorrectly. They are offering the vaccinations, but they are not being administered, but staff are offering the vaccination. Jenifer is providing education to the facilities, and they are voicing they are struggling with the staff.

- *Nursing Home Medical Directors Association* – Bruce Hetland gave a report from the Nursing Home Med Directors Association. The association is trying to set up a mentoring service and CMD to get physicians certified as geriatric or nursing home medical director. Many medical directors in North Dakota cover several facilities in rural settings. Struggling to get some of the younger people to get on board. Bridget mentioned that we still updating our medical director list on Health Facilities Unit website. Bruce has not heard any complaints from the medical directors about the list on the website. Bruce mentioned there was an article done on it, a lot of states have noticed and are following our example.
- *Board of Examiners for Nursing Home Administrators (BOE)* – Pete Antonson/Peggy Krikava reported they just got back from a national conference. Dealing with a couple of complaints and issued some letters to the licensed administrators on the state side. Some states are getting rid of their board of examiners and going with an all-inclusive policy board for regulation of various types of industries. Staffing rule was discussed at the national conference. Tim stated that legislation was introduced in North Dakota to consolidate boards into a single entity as well. That resulted in a study that is being done by the Department of Commerce. They did visit with the Board of Examiners, but he is not aware of any recommendations that came as a result. It may become a consideration in the next legislative session. The Department of Labor is coming to the July Board of Examiners meeting. The biggest thing they are looking at is licensure, required hours of training, reciprocity, and the length of time to get registered for licensure.
- *State Ombudsman* – Karla Backman reported their office continues to be busy. They are doing individual resident direct advocacy as well as doing a system advocacy with the facility. They have patients that fear retaliation if they report an issue. The state ombudsmen are seeing more medication issues across all levels of care which is concerning. Karla also talked about processing transfer/discharge notices. They track transfers related to falls; they are seeing a lot of it in the facilities. She is wondering if some falls prevention education should be done within the facilities. Facilities are sending people to hospital due to falls. Karla has been asking her supervisor to increase her staff and so they have a higher visibility.
- *Medicaid Program* – LeeAnn Thiel reported personal needs allowance was increased 7/1/23 by \$35 so residents get to keep additional funds for personal expenses.
- *Disease Control* – Faye Salzer gave an update on the outbreaks of COVID in the nursing homes. They need to be aware what is going on in their communities. Staff and guests should wear masks. They continue to work with facilities. Offering a professional infection prevention conference on April 24-25, 2024. Also, offering trainings to facilities for their needs. ICARS have slowed down. There is a need to build relationships with facilities for best practices with administrators, DONs, and infection preventionists. We are seeing a decline in participation of having Disease Control assist facilities. Jennifer has also offered to help with building the relationship. Tim talked about the crisis team to assist in the staffing gap. Please still reach out to the Department of Operation Center and we will reach out to the medical reserve core to help with staffing. There is a new agreement for emergency assistance that clarifies the role of the facility and Health Response and Licensure (HRL).

- *Health Facilities* – Bridget Weidner reported Health Facilities is in the middle of annual licensing for nursing facilities, basic care, home health agencies, hospice, and hospitals. The signature thing from last year has been resolved. There still are some bumps in the road but every year things are getting better. CMS reopened the Civil Money Penalty program. Bridget was wondering if all facilities have internet access. It is thought that all the facilities have internet access.
- Tim Wiedrich reported the assisted living licensure transfer will be completed some time in January or February. We will be working with the legacy Department of Human Services to make sure this is a smooth transition. We do not want to disrupt the current licensure process. Once it is transferred over it will be carried out in the same fashion, but it will be a slightly different application process as it will be converted to an electronic format. There won't be any changes in regulations and complaints filed will be referred to other authoritative entities. There is a need to have a concrete conversation as to how we are going to handle complaints and what the regulatory expectations are. A communication plan will be put together once it has been solidified.
- Kathy Laxdal spoke about Health Facilities workload. The workload consists of complaints, VAPS reports, facility reported incidents, recertification surveys. Health Facilities surveyors are cross trained so that we can get our workload done. The average month between surveys is 15, we are doing very good. Only doing basic care complaint surveys, if a basic care facility has a lot of complaints, we will do a full survey. Kathy reviewed the QSO memos; QSO-23-01-NH, QSO-23-05-NH, QSO-23-10-NH, QSO-23-18-NH, QSO-23-21-NH, and QSO-23-23-NH. QSO-23-01-NH talks about the Special Focus Facility program, The Meadows on University is currently our Special Focus Facility. The group discussed QSO-23-21-NH and MDS coding. Tim stated Health Facilities and staff have no control over the requirements. If you have recommendations for physician involvement in the diagnosis, the nurse needs to go back to the provider. It is more a QI issue versus a payment issue. Most frequently cited health deficiencies are F0689, F0880, F0884, F0641, F0657, F0761, F0812, and F0609. The average number of deficiencies: 2.25 North Dakota, 2.03 Region VIII, 1.37 Nation. The deficiency count report by scope & severity; most severe 18 G, 40 F, 77E, 296 D, and 3 C.
- Kelly gave an update on the Nurse Aide Registry, 18,801 registered CNA's. Facility reported incident were increasing but they have tapered off. In October, Kelly received 93 reports; June and July she received 140/month. Before COVID, Health Facilities received about 40 reports. We will prioritize the facility reported incidents and may go into the facility sooner than the facilities recertification survey. Some of the facility reported incidents will involve CNA's. Since January 1, 2023, we have done 40 CNA investigations. Of those 40 registrations we have revoked 6 registrations, encumbered 5, sent 6 letters of concern, 10 still being investigated, and 13 unsubstantiated. Kelly spoke about the incident of a person impersonating her friend as a CNA at a facility. Kelly will make sure Nikki and LTCA are copied on emails going out to facilities. Amy Kreidt talked about her facility's process for verifying contract staff. She also stated that her facility is now checking ID's. She stated the problem is that most of the time the person doesn't look anything like their ID. But sometimes the person does not look like their picture. This is a difficult situation.
- *Life Safety and Construction (LSC)* – Karla Aldinger reported LSC is fully staffed. The LSC surveys follow the Health Facilities surveys. Life Safety & Construction is able to get into survey Basic

Care Facilities every two years. We have two good sized LTC projects that we are currently reviewing. We have several smaller projects that have been reviewed and are under construction. We have about 26 skilled projects that are under construction for long-term care, Plan review fees are currently sufficient. Our newsletter has been well received. Shelly would like to make sure LTCA is on the newsletter list. Tim spoke about facilities that have not paid their review fees. We have had to send out notifications the project has been reviewed but can't approve until we receive payment. Kathy also spoke about the new facilities, and they are not able to move because the MAC has not approved. We want the facilities to be able move.

- *Consumer Representatives* – nothing to report.

Old Business

- BC/Assisted Living Representative: Shelly Peterson will reach out to representatives and get back to Bridget with the names of a basic care and assisted living representative.
- We will extend an invitation to Medicaid Fraud Control Unit.

New Business

- CNA Challenge Testing: Another state questioned the CNA challenge testing; CMS came back and said CNA challenge testing is not allowed per the federal regulations. We had our legal department review and they concurred with CMS. We intend to move forward with ending Challenge Testing in North Dakota. We will need to identify a date as to when to end the Challenge Testing. Shelly asked for CMS' information or response regarding the challenge testing. The group discussed the impact this will have and moving forward. Kelly stated North Dakota has 43 training programs and are surveyed every two years. There are approximately 18,600 CNAs on the registry, 52% endorsed into North Dakota, and 60% of those who did not endorse in have gone through a training program. We will need to have a communications plan, develop a written notification, notify Headmaster, put on registry website, etc. Kelly spoke about CNA renewal requirements.

Next Meeting

- Next meeting date in April

Adjourn – 12:52 pm