

## OTHER RESPONSIBILITIES OF THE LONG-TERM CARE COMMITTEE - BACKGROUND MEMORANDUM

In addition to the various study responsibilities assigned to the Long-Term Care Committee for the 2007-08 interim, the committee has also been assigned the following responsibilities:

1. Receive a report from the State Department of Health before August 1, 2008, regarding the status of the department's demonstration project involving life safety surveys for basic care facilities and long-term care facilities during and at the conclusion of construction or renovation projects that cost more than \$3 million and whether the program should be made permanent (House Bill No. 1004).
2. Receive a report from the State Department of Health before August 1, 2008, regarding the impact of the implementation of the survey process for basic care facilities to identify and correct deficiencies (House Bill No. 1488).

### LIFE SAFETY SURVEY DEMONSTRATION PROJECT REPORT

Sections 12 and 13 of House Bill No. 1004, approved by the 2007 Legislative Assembly ([Appendix A](#)), provide that during the 2007-09 biennium the State Department of Health design and implement a demonstration project to provide a life safety survey process for basic care and long-term care facilities to assess, voluntarily, a construction project, a renovation project, or a construction and renovation project costing more than \$3 million.

The department may charge a reasonable fee for the survey, the revenue of which is deposited into the State Department of Health's operating fund, to defray the food, lodging, and transportation expenses of the survey process. Subdivision 4 of this section requires the department to report to the Legislative Council before August 1, 2008, regarding the status of the project, including the feasibility and desirability in making the program permanent and whether the department will be recommending any legislation to make the program permanent. The Long-Term Care Committee has been assigned responsibility to receive this report.

The State Department of Health currently does not conduct voluntary life safety surveys. Life safety surveys are conducted as part of the facility's certification process.

### BASIC CARE SURVEY PROCESS

House Bill No. 1488, approved by the 2007 Legislative Assembly ([Appendix B](#)), amends North Dakota Century Code (NDCC) Section 23-09.3-04 relating to licensure and inspection of basic care facilities. The section requires the State Department

of Health to implement a survey process for basic care facilities which provides that:

1. For the life safety portion of the survey, all surveys must be announced.
2. For the health portion of the survey, half of the surveys must be announced and half unannounced.
3. For complaints relating to health and life safety, all surveys must be unannounced.

The department is also to develop, in consultation with basic care facilities, a two-tiered system identifying areas of noncompliance with the health portions of the survey.

Section 2 of the bill requires the State Department of Health before August 1, 2008, to report to the Legislative Council regarding the impact of implementation of this new survey process, including whether the department will be recommending any legislative changes to the basic care survey process. The Long-Term Care Committee has been assigned responsibility to receive this report.

The **2005-06 interim Budget Committee on Health Care** received a report from the State Department of Health regarding its evaluation of a pilot project, conducted pursuant to Section 26 of 2005 Senate Bill No. 2004, of an announced survey process for basic care facilities. Previously all basic care surveys were unannounced. The pilot project began with half of the state's licensed basic care providers surveyed receiving an unannounced survey. Pursuant to NDCC Section 23-09.3-04, the State Department of Health is responsible for establishing standards and rules for basic care facilities. The department is required to inspect all facilities and grant annual licenses to facilities that conform to the standards established and to the rules prescribed. The licenses are issued by the State Department of Health and are valid for not more than one year. Any license may be revoked by the department for violations of standards and rules adopted by the department. The pilot project was conducted from July 1, 2005, through May 31, 2006. The State Department of Health's findings included:

1. Both providers and surveyors indicated that information is more readily available in most cases when the survey is announced.
2. Both providers and surveyors reported some improvement in communications with announced surveys.
3. Surveyors reported no increase in communication or contact initiated by family, residents, or staff resulting from announcing the surveys.
4. Providers indicated that in their opinion the results of the announced surveys are the same as if the surveys were unannounced.

5. Review of deficiency statements reveals approximately twice as many deficiencies result in unannounced surveys.

The following chart provides the information from the pilot project:

| <b>Number of Surveys Completed</b>      | <b>Average Number of Citations</b> |
|---|------------------------------------|
| 13 announced program surveys            | 4.4 citations                      |
| 10 unannounced program surveys          | 9.1 citations                      |
| 11 announced Life Safety Code surveys   | 3.8 citations                      |
| 11 unannounced Life Safety Code surveys | 5.8 citations                      |

The State Department of Health's recommendation to the Budget Committee on Health Care was that basic care surveys continue to be unannounced. The reasons supporting the unannounced surveys include:

1. The national standard is for surveys to be conducted unannounced to get a true picture of day-to-day care and services provided to residents.
2. Announcing surveys allows facilities to make changes that have the potential to alter survey findings.
3. The greater number of findings with unannounced surveys indicates that facilities are possibly fixing problems for the announced survey visits rather than developing a system to ensure continued compliance.
4. Citation of a deficient practice and the resulting plan of correction have a more significant impact on a facility's ability to

deliver services in an improved manner over a longer period of time.

5. During announced surveys certain deficiencies can be missed; for example, the absence of staff in a facility would be missed if the survey were announced.

The North Dakota Long Term Care Association surveyed basic care facilities regarding their experience with the announced basic care pilot project. The survey findings indicated that all facilities that experienced the announced survey process encouraged its continuation because:

1. Residents and families have an opportunity for more meaningful involvement.
2. Essential staff will be present and available for announced surveys.
3. Paperwork was efficiently delivered to surveyors for announced surveys.
4. Facility staff was more comfortable and better able to perform routine work during announced surveys.
5. Review of past payroll records could identify attempts to manipulate staffing during announced surveys.
6. Various methods of gathering data make it difficult to cover up a long-time or short-time facility practice.

The Budget Committee on Health Care made no recommendation regarding the pilot project to test the announced basic care survey process.

ATTACH:2