

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HEALTH CARE

Wednesday, August 6, 2003
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dale C. Severson, Vice Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Dale C. Severson, David Drovdal, Joyce Kingsbury, Gary Kreidt, Ralph Metcalf, Carol A. Niemeier, Vonnie Pietsch, Todd Porter, Sally M. Sandvig, Gerald Uglem; Senator Tim Mathern

Members absent: Senators Judy Lee, Tom Fischer, Ralph L. Kilzer, Russell T. Thane

Others present: See attached appendix

SUPPLEMENTARY RULES OF OPERATION AND PROCEDURE

At the request of Vice Chairman Severson, the legislative budget analyst and auditor reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*. Vice Chairman Severson said Senator Judy Lee, Chairman, was undergoing surgery and was unable to attend the meeting. He said he would inform the chairman of the committee members' hope for a speedy recovery.

PHARMACY ASSISTANCE PROGRAM STUDY

The Legislative Council staff presented a memorandum entitled *Study of Benefit Purchasing Pools, Preferred Drug Lists, and Other Pharmacy Benefit Management Concepts*. Section 11 of 2003 House Bill No. 1430 provides for a Legislative Council study of the value of medical assistance program use of benefit purchasing pools, preferred drug lists, and other pharmacy benefit management concepts, including the fiscal impact of the appeals and grievance process on existing programs.

The Legislative Council staff said purchasing pools may involve an interstate consortium of several states or an intrastate cooperative of state agencies or programs that consolidate pharmaceutical purchasing functions in order to obtain discounted prices and achieve administrative efficiencies. The Legislative Council staff said preferred drug lists involve placing certain drugs, often lower-priced generics, on a preferred drug list for treating a particular condition. When no demonstrated advantage exists between one drug and another, generally the more cost-effective drug is selected for the list. The Legislative

Council staff said prior authorization is a process where certain drugs or services require authorization from a Medicaid agency or insurer before prescribing a drug or obtaining those services.

The Legislative Council staff said an applicant or enrollee has a right to appeal to the Department of Human Services regarding a reduction, termination, or denial of Medicaid benefits. A grievance is a process of appealing to the Department of Human Services a Medicaid-related decision other than coverage of health services or payment of benefits, including matters such as not including a drug on a preferred drug list or requiring prior authorization for a particular drug.

Vice Chairman Severson called on Dr. Brendan Joyce, Administrator, Pharmacy Services, Department of Human Services, who presented information regarding pharmaceutical assistance programs. A copy of the information presented is on file in the Legislative Council office. Dr. Joyce said a preferred drug list is a process in which some medications in a drug class are given preferred status for the state Medicaid program while others are not given preferred status and therefore require prior authorization. He said a preferred drug list is developed when the medications in the drug class are determined to be equally safe and effective and therapeutically equivalent, in which case cost becomes the determining factor. He said a state may allow pharmaceutical companies to provide "bids" or offer discounts to include their medication on the preferred drug list.

Dr. Joyce said private insurers are able to negotiate significant discounts with pharmaceutical manufacturers for certain classes of drugs based on their large percentage of purchases or "market share." He said private insurers do not negotiate for discounts on other types of drugs, such as antipsychotic medications, in which the Medicaid program has the largest "market share." He said because price rebates received by states are often based on the private insurers' negotiations with drug manufacturers, states have formed purchasing pools to negotiate additional discounts.

Dr. Joyce said the North Dakota Medicaid program started requiring recipient copayments for brand name drugs in August 2002. He said prior to the copayment provision, 55 percent of medication

purchases within the Medicaid program was for brand name drugs and 45 percent for generic drugs. He said immediately after implementing the copayment, the medication split was 50 percent brand name and 50 percent generic drugs. He said the average pre-rebate cost of a brand name prescription is \$88.33 as compared to the generic average pre-rebate cost of \$19.08.

In response to a question from Senator Mathern, Dr. Joyce said North Dakota's Medicaid pharmaceutical reimbursement rates are based on the average wholesale price less 10 percent (AWP - 10%) for brand name drugs and the maximum allowable cost list for generic drugs. He said the dispensing fee rate, effective August 1, 2003, is \$5.60 for generic drugs and \$4.60 for brand name drugs.

In response to a question from Senator Mathern, Dr. Joyce said Oregon originally established a voluntary preferred drug list program which tried to educate the population about generic and other more cost-effective drugs; however, people tend to form a habit of using or prescribing a certain drug and need incentives to change their habits.

In response to a question from Representative Niemeier, Dr. Joyce said a preferred drug list is an enhanced prior authorization program. He said North Dakota's prior authorization program rules permit a pharmacy to issue a five-day supply for new prescriptions, which is intended to cover the time needed for the pharmacy to complete the prior authorization form, receive documentation from the physician, and submit the form to the Department of Human Services. He said the Department of Human Services is mandated by law to respond to the prior authorization request within 24 hours.

In response to a question from Representative Porter, Dr. Joyce said 2003 House Bill No. 1430 requires the Department of Human Services to develop and implement a prior authorization program. He said North Dakota's prior authorization program is not allowed to request "supplemental rebates" or additional discounts from drug manufacturers for prior authorization, which is considered the primary difference between a preferred drug list and a prior authorization program.

In response to a question from Representative Severson, Dr. Joyce said other states have inquired about North Dakota's interest in joining an interstate purchasing pool. He said these pools require states to agree on the preferred drug list, which is an obstacle difficult to overcome. He said the Department of Human Services has also considered the possibility of forming an intrastate purchasing pool with other state entities.

In response to a question from Representative Porter, Dr. Joyce said the Department of Human Services would be willing to cooperate with Blue Cross Blue Shield of North Dakota and other private

insurers in a private/public drug purchasing partnership.

In response to a question from Representative Niemeier, Dr. Joyce said the Department of Human Services has received primarily positive feedback from North Dakota pharmacists regarding the \$3 copayment on brand name drugs for Medicaid recipients. He said Medicaid recipients tend to use the program more efficiently because of the copayment. He said North Dakota's Medicaid program does not charge a copayment on generic drugs.

Vice Chairman Severson called on Mr. David Peske, Director, Governmental Affairs, North Dakota Medical Association, who commented on the pharmacy assistance program study. Mr. Peske said the North Dakota Medical Association supports the pharmacy assistance program study and is willing to provide assistance to the committee.

In response to a question from Senator Mathern, Mr. Peske said he will make an inquiry regarding the Oregon voluntary preferred drug list model and whether the resistance to follow the model was due to physician practices or patient quality of care concerns.

Vice Chairman Severson called on Mr. Galen Jordre, Executive Vice President, North Dakota Pharmaceutical Association, who commented on the pharmacy assistance program study. Mr. Jordre said the North Dakota Pharmaceutical Association supports the preferred drug list and prior authorization concepts. He said patients need to have access to a range of drugs for proper therapeutic outcomes. He said when prescription drugs go "over the counter" there tends to be a significant decrease in the cost of the drug. He said North Dakota pharmacies cannot legally deny service to individuals unable to pay the \$3 Medicaid copayment. He said the committee may want to consider studying the utilization of prescription drugs and management of high utilizers.

In response to a question from Senator Mathern, Mr. Jordre said the North Dakota Medicaid program reimburses pharmacists for ingredient costs and dispensing fees. The reimbursement rate for the ingredient cost is greater than the pharmacists' actual cost. He said, however, the dispensing fee has remained constant and does not reflect the increasing costs to operate a pharmacy. He said if the ingredient reimbursement was at actual cost, pharmacies would require a dispensing fee of \$10 to \$11.

In response to a question from Representative Niemeier, Mr. Jordre said the integration of medical and prescription data would assist in managing the utilization of prescription drugs.

In response to a question from Representative Niemeier, Mr. David Zentner, Director, Medical Services, Department of Human Services, said it is the intent of the Department of Human Services to combine the federal and state responsibilities of the existing Drug Utilization Review Board with the new

Drug Use Review Board created by 2003 House Bill No. 1430. He said the Drug Use Review Board members appointed by the executive director of the Department of Human Services consists of physicians and pharmacists residing in varying locations throughout North Dakota and with various areas of expertise.

It was moved by Representative Porter, seconded by Senator Mathern, and carried on a voice vote that the committee approve the following study plan related to the pharmacy assistance program study:

1. **Receive information from the Department of Human Services regarding the feasibility of creating a prescription drug benefit program for Medicaid recipients, the fiscal impact of the appeals and grievance process on existing programs, and information on current and projected Medicaid drug utilization and expenditures.**
2. **Receive testimony from other interested persons and organizations regarding prescription drug benefit programs.**
3. **Receive reports from the Department of Human Services regarding the establishment and effectiveness of a Drug Use Review Board and prior authorization program.**
4. **Receive a report from the Insurance Commissioner regarding the status of the implementation and effectiveness of a program to assist low-income individuals to gain access to prescription drug assistance programs offered by pharmaceutical manufacturers.**
5. **Monitor pharmacy assistance programs and cost-containment strategies in other states and proposed federal legislation.**
6. **Develop committee recommendations and any related bill drafts regarding various prescription drug benefit programs and/or the current appeals and grievance process for existing benefit programs.**
7. **Prepare a final report for submission to the Legislative Council.**

NURSING HOME SURVEY PROCESS STUDY

The Legislative Council staff presented a memorandum entitled *Nursing Home Survey Process - Study*. The Legislative Council staff said Section 14 of 2003 House Bill No. 1004 provides for a Legislative Council study of the nursing home survey process, including a review of federal, state, and local agency procedures and requirements that result in additional costs, duplicated procedures, and added regulations for nursing homes, and the potential for mitigating the

impact of new mandated federal rules through collaboration between the State Department of Health and the Department of Human Services and the submission of waiver requests.

The Legislative Council staff said nursing homes that provide services under Medicare or Medicaid must be certified as meeting certain federal minimum requirements established by Congress. Certification is achieved through routine facility surveys performed by states under contract with the Centers for Medicare and Medicaid Services. In North Dakota the State Department of Health is the agency responsible for conducting nursing home surveys.

The Legislative Council staff said there are two types of federally required surveys conducted--health and life safety code surveys. The health survey protocol includes interviewing a sample of residents and family members about the resident's life within the nursing home, interviews with caregivers and administrative staff, and reviews of clinical records. Health surveys examine various areas of service provided by the nursing home, including administration, quality of care, residents' rights, and dietary services. Life safety code surveys follow the National Fire Protection Association Standard 101, which sets minimum building design, construction, operation, and maintenance requirements necessary to protect building occupants from dangers caused by fire, smoke, and toxic fumes.

The Legislative Council staff said North Dakota Administrative Code Section 33-07-03.2-03 requires that nursing home facilities must obtain a license from the State Department of Health to operate in North Dakota. The State Department of Health issues renewal licenses to nursing home facilities found to be in compliance with the licensing requirements, as determined by periodic unannounced surveys conducted by the department. Long-term care facilities are not subject to federal survey requirements if they do not participate in the Medicaid or Medicare program; however, all facilities must meet the licensing rules.

Vice Chairman Severson called on Mr. Bruce Pritschet, Director, Division of Health Facilities, State Department of Health, who provided information about the process for state licensure and federal certification of skilled nursing facilities in North Dakota. A copy of the information presented is on file in the Legislative Council office. Mr. Pritschet said there are 84 state-licensed skilled nursing homes in North Dakota, 81 of which are federally certified for both Medicare and Medicaid, and three are certified for Medicare only. He said the health program survey teams conduct both state licensure and federal certification surveys during the same visit. He said the team spends approximately 10 percent of its time on state licensure requirements and 90 percent on federal certification requirements.

In response to a question from Representative Niemeier, Mr. Pritschet said he is not aware of any new federal mandates. He said there is an expectation that Congress may permit individuals other than certified nurse's aides to serve as feeding aides, which is a mandate nursing homes would welcome.

In response to a question from Representative Kreidt, Mr. Pritschet said federal regulations require a nursing home to respond with a written plan of deficiency correction to the State Department of Health within 10 **calendar** days, whereas the State Department of Health has 10 **working** days to send the citation to the nursing home facility. He said the Centers for Medicare and Medicaid Services are consulted and must concur with survey findings before the Centers for Medicare and Medicaid Services will impose enforcement action. He said the State Department of Health follows up with the facility to verify that the concerns were corrected and once verified, the facility receives recertification.

Mr. Zentner provided information regarding the nursing home survey process. A copy of the information presented is on file in the Legislative Council office. He said federal regulations require that payments for nursing facility services be limited to those facilities that meet survey and certification requirements established by the federal government. He said the Department of Human Services is prohibited from paying for services for any nursing facility that fails to meet those requirements.

Mr. Zentner said the Department of Human Services has an agreement with the State Department of Health to complete the survey process for facilities that wish to participate in the Medicaid program. He said the Department of Human Services pays the portion of the survey process costs relating to the Medicaid program. He said the Department of Human Services appropriation for the 2003-05 biennium includes approximately \$1.6 million, of which approximately \$400,000 is from the general fund for nursing home survey costs.

In response to a question from Representative Severson, Mr. Zentner said Medicaid payments to a nursing facility would cease only if the facility is removed from the Medicaid program; however, he was unaware of that ever happening in North Dakota. He said in a few instances fines have been issued or reimbursement for new admissions has been temporarily halted until the facility complies with regulations.

In response to a question from Representative Niemeier, Mr. Zentner said he did not have any recommendations to improve the nursing home survey collaboration process between the Department of Human Services and the State Department of Health.

Ms. Shelly Peterson, President, North Dakota Long Term Care Association, presented information to the committee regarding the nursing home survey process study. Ms. Peterson said the North Dakota

Long Term Care Association did not submit for approval its plan for a pilot survey project in North Dakota because the Health Care Financing Administration (now Centers for Medicare and Medicaid Services) indicated it would require compliance with the existing survey process in addition to the pilot program, which was determined to be too costly for the state. She said other states have experienced limited success in changing state laws regarding the nursing home survey process because of the prescriptive federal process.

Ms. Peterson said nursing home facilities that have repeat citations within certain areas have experienced significant increases in general liability insurance rates. She said the committee may want to consider receiving testimony from nursing home facilities that have experienced recent nursing home survey citations.

In response to a question from Representative Porter, Ms. Peterson said she will provide the committee a listing of states that have passed legislation regarding the nursing home survey process and contact those states for a summary detailing the actual "impact" realized from the legislation.

In response to a question from Representative Porter, Ms. Peterson said she is not aware of any review of the possibility of consolidating state life safety code inspections of nursing homes with inspections conducted by local entities.

In response to a question from Representative Severson, Ms. Peterson said she would ask the Insurance Commissioner for a list of insurance carriers who provide general nursing home liability insurance coverage in North Dakota and provide the list to the committee. She said insurance companies use the Centers for Medicare and Medicaid Services web site to obtain deficiency reports on nursing homes.

It was moved by Senator Mathern, seconded by Representative Kreidt, and carried on a voice vote to amend the study plan for the nursing home survey process study as included in the background memorandum prepared by the Legislative Council staff to include:

- **Expanding the study of the nursing home survey process and the impact of any new mandated federal rule to include all mandated federal rules, state licensing, and other governmental requirements.**
- **Providing that committee recommendations and any related bill drafts regarding the nursing home survey process may also address other governmental requirements.**

It was moved by Senator Mathern, seconded by Representative Porter, and carried on a voice vote that the committee approve the study plan as amended:

1. **Receive testimony from the State Department of Health regarding the nursing home survey process, including a review**

and comparison of federally required survey procedures and state licensing requirements.

2. **Receive testimony from the State Department of Health and the Department of Human Services regarding the potential for mitigating the impact of any new mandated federal rules through collaboration between the State Department of Health and the Department of Human Services and the submission of waiver requests.**
3. **Receive testimony from other interested organizations and individuals regarding the nursing home survey process and the impact of any mandated federal rules, state licensing, and other government requirements.**
4. **Develop committee recommendations and any related bill drafts regarding the nursing home survey process and other governmental requirements.**
5. **Prepare a final report for submission to the Legislative Council.**

The committee recessed for lunch at 11:30 a.m. and reconvened at 1:00 p.m.

MEDICAL ASSISTANCE PROGRAM ADVISORY COUNCIL STUDY

The Legislative Council staff presented a memorandum entitled *Medical Assistance Program Advisory Council Study*. The Legislative Council staff said Section 16 of 2003 Senate Bill No. 2012 provides for a Legislative Council study of the feasibility and desirability of establishing an advisory council for the medical assistance program of the Department of Human Services. The Legislative Council staff said the North Dakota medical assistance program was authorized in 1966, pursuant to North Dakota Century Code (NDCC) Section 50-24.1-01, for the purpose of strengthening and extending the provisions of medical care and services to people whose resources are insufficient to meet such costs. The Legislative Council staff said, pursuant to Title 42, Section 431-12 of the Code of Federal Regulations, the Department of Human Services is required to have a Medical Care Advisory Committee for the purpose of advising the department about health and medical services, including participating in policy development and program administration.

Mr. Zentner provided information regarding the medical assistance program advisory council study. A copy of the information presented is on file in the Legislative Council office. He said the Medical Care Advisory Committee reviews and makes recommendations regarding any major changes the department intends to implement in the Medicaid program. He said the committee consists of both providers and

recipient members, who are appointed for either two- or three-year terms.

Vice Chairman Severson called on Ms. Karen Haskins, Vice President, North Dakota Healthcare Association, who presented information regarding the medical assistance program advisory council study. A copy of the information presented is on file in the Legislative Council office. Ms. Haskins said the committee may want to consider studying access to Medicaid service and the service delivery system, including comparing North Dakota's delivery system to that of other states and private entities. She said the committee may also want to study how changes in the state's demographics will impact the availability of services and the impact the fiscal status of the state has on the Department of Human Services' ability to meet current and future statutorily required programmatic commitments.

Mr. Peske said the North Dakota Medical Association supports the committee's study of the medical assistance program advisory council.

It was moved by Representative Porter, seconded by Representative Drovdal, and carried on a voice vote that the committee ask the chairman of the Legislative Council for authority to expand the committee's study to include a review of Medicaid payments, access to services, and utilization.

It was moved by Representative Metcalf, seconded by Representative Drovdal, and carried on a voice vote that the committee approve the following study plan, including a review of Medicaid payments, access to services, and utilization, subject to approval of the chairman of the Legislative Council:

1. **Receive testimony from the Department of Human Services regarding the effectiveness of the current Medical Care Advisory Committee and its responsibilities in assisting the Department of Human Services with the medical assistance program.**
2. **Receive testimony from a representative of the Medical Care Advisory Committee regarding the member selection process, duties and responsibilities of the committee, how often the committee meets, and potential areas for improvement of the committee.**
3. **Receive testimony from other interested parties regarding the Department of Human Services' advisory committee for the medical assistance program.**
4. **Receive testimony from the Department of Human Services and other interested parties regarding Medicaid payments, access to services, and utilization (subject to approval by the chairman of the Legislative Council).**

5. **Develop committee recommendations and any related bill drafts regarding the Medical Care Advisory Committee and the review of Medicaid payments, access to services, and utilization (subject to approval by the chairman of the Legislative Council).**
6. **Prepare a final report for submission to the Legislative Council.**

COMMUNITY HEALTH GRANT PROGRAM

The Legislative Council staff presented a memorandum entitled *Community Health Grant Program Implementation - Background Memorandum*. The Legislative Council staff said NDCC Section 23-38-02 as amended in 2003 Senate Bill No. 2297 provides for the State Health Officer to report to the Legislative Council no later than September 30, 2004, regarding the implementation of the community health grant program.

The Legislative Council staff said the 1999 Legislative Assembly passed House Bill No. 1475, which created a tobacco settlement trust fund for the deposit of all tobacco settlement money received by the state. Through June 30, 2003, North Dakota has received tobacco settlement trust fund collections totaling \$106,231,329, \$10,623,133 of which has been transferred to the community health trust fund. The 2001 Legislative Assembly appropriated \$4.7 million from the community health trust fund for the community health grant program, which is allocated pursuant to NDCC Section 23-38-01 to student tobacco programs (40 percent), county tobacco programs (40 percent), and state aid (20 percent). In addition to the \$4.7 million appropriated for the community health grant program, the 2001 Legislative Assembly appropriated \$350,000 from the community health trust fund--\$100,000 for funding the Community Health Grant Program Advisory Committee and \$250,000 for funding grants to cities and counties for city and county employee tobacco cessation programs.

The Legislative Council staff said 2003 House Bill No. 1004 appropriates \$4.7 million from the community health trust fund for the community health grant program for the 2003-05 biennium, which is allocated between student tobacco programs, county tobacco programs, and state aid the same as the 2001-03 biennium, and authorized \$680,000 from the community health trust fund for a tobacco "quit line." Senate Bill No. 2297 (2003) provides a \$600,000 appropriation from the community health trust fund--\$100,000 for funding the Community Health Grant Program Advisory Committee and \$500,000 for providing grants for city, county, and state employee tobacco cessation programs. The Legislative Council staff said Senate Bill No. 2297 provides that any unexpended 2001-03 funds for city and county tobacco cessation programs may be continued into the 2003-05 biennium.

Vice Chairman Severson called on Ms. Kathleen Mangskau, Tobacco Program Administrator, State Department of Health, who presented information on the status of the implementation of the community health grant program. A copy of the information presented is on file in the Legislative Council office. Ms. Mangskau said the primary purpose of the community health grant program is to prevent or reduce tobacco usage in the state by strengthening North Dakota's community-based public health programs. She said the community health grant program addresses four broad goals:

1. Preventing initiation of tobacco use among youth;
2. Promoting quitting among youth and adults;
3. Reducing nonsmokers' exposure to second-hand smoke; and
4. Identifying and eliminating disparities in tobacco use among specific population groups.

Ms. Mangskau said \$4,661,077 of the total \$4.7 million 2001-03 biennium appropriation from the community health trust fund for community health grants was provided to local public health units. She said \$30,758 of the \$100,000 appropriation for the Community Health Grant Program Advisory Committee was spent during the 2001-03 biennium. She said \$45,947 of the \$250,000 appropriation was spent during the 2001-03 biennium for grants to cities and counties for employee tobacco cessation programs. She said \$204,053 of 2001-03 biennium unexpended funds for the city and county employee tobacco cessation program will be continued into the 2003-05 biennium.

In response to a question from Representative Niemeier, Ms. Mangskau said the 2001-03 biennium matching requirement for the city and county tobacco cessation program was \$1 of local funds for each \$1 of community health trust fund grants. She said 2003 Senate Bill No. 2297 changed the match requirement to \$1 of local funds for each \$3 of community health trust funds. She said the change in the match requirement will make it easier for smaller communities to raise the match funds needed to operate a tobacco cessation program.

In response to a question from Representative Kingsbury, Ms. Mangskau said local public health units have used community health grant program funding to survey local communities regarding public support for ordinances related to smoke-free facilities.

In response to a question from Representative Severson, Ms. Mangskau said city and county government agencies are required to submit a proposed budget to the State Department of Health to receive city and county employee tobacco cessation matching funds. She said quarterly reports are submitted to the State Department of Health indicating the number of individuals enrolled in the program, the number who completed the program, and the number

of individuals who remain smoke-free after three months, six months, nine months, and one year. She said this data is used to determine the most successful programs.

It was moved by Representative Drovdal, seconded by Representative Kingsbury, and carried on a voice vote that the committee approve the following study plan regarding the community health grant program:

1. Receive a report from the State Health Officer no later than September 30, 2004, regarding the implementation of the community health grant program, pursuant to NDCC Section 23-38-02.
2. Receive a report from representatives of the Community Health Grant Program Advisory Committee regarding the responsibilities and accomplishments of the committee.
3. Receive information from other interested organizations, entities, and individuals regarding the community health grant program.
4. Develop recommendations and related bill drafts necessary to implement the recommendations.
5. Prepare a final report for submission to the Legislative Council.

OTHER DUTIES AND RESPONSIBILITIES

The Legislative Council staff presented a memorandum entitled *Other Duties and Responsibilities of the Budget Committee on Health Care - Background Memorandum*. The Legislative Council staff said the Budget Committee on Health Care was assigned the following additional responsibilities:

1. Receive an annual report from the State Board of Nursing on its study, if conducted, of the nursing educational requirements in this state and the nursing shortage in this state and its implications for rural communities, pursuant to NDCC Section 43-12.1-08.2.
2. Receive an annual report from the Department of Human Services describing enrollment statistics and costs associated with the children's health insurance program state plan, pursuant to NDCC Section 50-29-02.
3. Recommend a private entity, after receiving one or more recommendations from the Insurance Commissioner, for the Legislative Council to contract with to provide cost-benefit analysis for legislative measures mandating health insurance coverage of services or payment for specified providers of services or payment for specified providers of services or an amendment that mandates such coverage or payment, pursuant to NDCC Section 54-03-28.

In response to a question from Senator Mathern, the legislative budget analyst and auditor said because the Legislative Council meets infrequently, it assigns these responsibilities to committees based on study subjects determined to be most closely related or appropriate for the committee.

It was moved by Representative Porter, seconded by Representative Kreidt, and carried on a voice vote that the committee approve the following study plan:

1. Receive reports from the State Board of Nursing regarding the study of nursing educational requirements and the nursing shortage in the state.
2. Receive an annual report from the State Board of Nursing on the progress of its study.
3. Receive information from interested organizations, entities, and individuals regarding the committee's duties to receive annual reports from the State Board of Nursing, pursuant to NDCC Section 43-12.1-08.2.
4. Receive an annual report from the Department of Human Services on the enrollment statistics and costs associated with the children's health insurance program.
5. Recommend a private entity, after receiving recommendations from the Insurance Commissioner, to the Legislative Council to contract with to conduct cost-benefit analyses of 2005 Legislative Assembly measures mandating health insurance coverage.
6. Develop recommendations and related bill drafts.
7. Prepare a final report for submission to the Legislative Council.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Representative Metcalf requested that the committee receive a report at the next meeting from the Insurance Commissioner regarding the status of the implementation and effectiveness of a program to assist low-income individuals to gain access to prescription drug assistance programs offered by pharmaceutical manufacturers.

Representative Porter said the committee should review the differences between the state's current prior authorization program and a preferred drug list. He said the review should also examine the benefits of supplemental rebates.

Representative Niemeier requested that the committee receive a report on generic versus brand name Medicaid drug usage percentages for each class of drugs.

Representative Porter said the request for expansion of the committee's study of the medical

assistance program advisory council to include a review of Medicaid payments, access to services, and utilization may want to include the following:

- An overview of North Dakota's Medicaid program and services provided;
- A comparison of North Dakota's Medicaid program to other states in the region;
- A review of Medicaid eligibility requirements and access to essential services;
- A review of the Medicaid payment system;
- Utilization of Medicaid services; and
- The waiver process and approved waiver programs in North Dakota and other states.

Representative Severson said services performed by dentists and optometrists are essential to rural communities and should be included in the access to services review.

Representative Metcalf requested that the committee's Medicaid study include a comparison of rural versus urban pharmacy reimbursements.

Representative Niemeier requested that the committee receive a report on cost comparisons of the new Drug Use Review Board to the previous Drug Utilization Review Board and a potential new medical assistance program advisory council to the existing Medical Assistance Program Advisory Council.

Representative Kreidt requested that the committee receive testimony from a representative of a nursing home regarding the survey process, including experiences with the dispute process

relating to deficiencies. He said the North Dakota Long Term Care Association may be able to assist the committee with arranging this testimony.

Representative Porter requested that the committee receive testimony regarding possible duplication of services between the State Department of Health's life safety code inspections and fire inspections conducted by fire marshals or other local entities.

Representative Kreidt requested that the committee receive a report from a representative of the State Department of Health regarding the department's responsibilities during the construction process to assist nursing homes in avoiding life safety code deficiencies.

The meeting was adjourned at 2:15 p.m.

Donald J. Wolf
Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1