NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LONG-TERM CARE COMMITTEE

Wednesday, March 10, 2010
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Gary Kreidt, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Gary Kreidt, Tom Conklin, Richard Holman, Robert Kilichowski, Chet Pollert, Louise Potter, Gerry Uglem, Robin Weisz, Alon C. Wieland; Senators JoNell A. Bakke, Dick Dever, Tom Fiebiger, Joan Heckaman, Jim Pomeroy

Members absent: Representatives Joyce M. Kingsbury, Vonnie Pietsch; Senators Terryl L. Jacobs, Judy Lee

Others present: Representative Shirley Meyer, member of the Legislative Management, was also in attendance.

See attached appendix for additional persons present.

It was moved by Representative Weisz, seconded by Representative Pollert, and carried on a voice vote that the minutes of the October 29, 2009, meeting be approved as distributed.

STUDY OF LONG-TERM CARE SERVICES

Ms. Maggie Anderson, Director, Medical Services Division, Department of Human Services, presented the following information on actual long-term care services utilization and spending for the 2007-09 biennium and projected utilization and spending for the 2009-11 biennium:

	2007-09 Biennium		2009-11 Biennium		2009-11 Biennium Over (Under) 2007-09 Biennium	
Services	Actual Monthly Average Number of Individuals Served	Actual Expenditures	Projected Monthly Average Number of Individuals Served	Projected Expenditures	Monthly Average Number of Individuals Served	Expenditures
Nursing facilities	3,259	$350,805,632	3,238	$412,970,212	(21)	$62,164,580
Basic care facilities	415	15,104,482	479	20,190,970	64	5,086,488
Service payments for elderly and disabled (SPED)	1,397	12,230,307	1,370	12,911,598	(27)	681,291
Expanded SPED	108	489,282	121	757,396	13	268,114
Traumatic brain injury (TBI) waiver	27	1,929,530	26	2,271,147	(1)	341,617
Aged and disabled waiver	223	3,612,234	279	6,812,046	56	3,199,812
Targeted case management	421	1,088,501	445	1,316,071	24	227,570
Personal care option	569	17,024,465	658	25,252,251	89	8,227,786
Technology-dependent waiver	1	181,563	2	406,608	1	225,045
Medically fragile waiver	1	16,658	6	185,232	5	168,574
Program of all-inclusive care for the elderly (PACE)	12	501,430	53	4,828,687	41	4,327,257
Total		$402,984,084		$487,902,218		$84,918,134

In response to a question from Senator Dever, Ms. Anderson said the increase in expenditures for nursing facilities for the 2009-11 biennium relates to funding enhancements provided by the 2009 Legislative Assembly, including 6 percent annual inflationary increases for the 2009-11 biennium, a salary and benefit supplemental payment for individuals employed by nursing facilities, and an increase in nursing facility property limits in the formula for nursing facility payments.

In response to a question from Representative Pollert, Ms. Anderson said the department will provide the committee with information regarding the cost to continue the increase in nursing facility property limits in the formula for nursing facility payments.

In response to a question from Representative Kreidt, Ms. Anderson said approximately 55 percent of the individuals served in nursing facilities are Medicaid recipients and 45 percent are private pay residents.

In response to a question from Representative Pollert, Ms. Anderson said the department will have more accurate caseload and utilization information after February 2010 reprojections are complete.

Ms. Barbara J. Fischer, Assistant Director, Budget and Operations, Medical Services Division, Department of Human Services, provided an overview of the nursing facility payment system, including information on the implementation of the resident reclassification process, the new minimum data set, and the nursing facility private pay appeals process. A copy of the information presented is on file in the Legislative Council office. She said North Dakota's nursing facility payment system has been in place since 1990 and provides for:

- Rates to be determined based on resident needs and conditions.
- Equalized rates, which means nursing facilities may not charge private pay residents a higher rate than individuals whose care is paid for under the Medicaid program.

In 1996, Ms. Fischer said, the Centers for Medicare and Medicaid Services (CMS) developed and implemented a resident assessment instrument (RAI) which provided clinical data on residents of nursing facilities. She said CMS mandated the use of the RAI by all nursing facilities in the late 1990s. Within the RAI, she said, there is a data subset referred to as the minimum data set which is used by Medicare to establish a Medicare payment rate and by the Department of Human Services to establish a classification used to determine the per day payment rate for all residents in a nursing facility who are not Medicare recipients.

Ms. Fischer said the North Dakota nursing facility payment system consists of 34 classifications that are based on the minimum data set. She said each nursing facility has specific rates associated with the 34 classifications based on each facility's historical costs. She said facility rates change annually on January 1 and may change throughout the year due to audits or special circumstances. She said there are six categories or components to the rates established for a facility:

1. Direct care rate.
2. Other direct care rate.
3. Indirect care rate.
4. Property rate.
5. Operating margins.
6. Incentive.

Ms. Fischer said only the direct care rate component is determined based on resident needs and conditions. She said the remaining components of the rate are the same for all classifications. She said rate limits have been established for direct care, other direct care, and indirect care components. She said a facility receives the lesser of the established rate for the category or the rate limit.

Ms. Fischer said residents are assessed within 14 days of admission to a facility or upon reentry from a hospital stay and are then reassessed every three months. She said a resident's classification can change only during these scheduled assessment periods.

Ms. Fischer said CMS is replacing the minimum data set 2.0 with the minimum data set 3.0 effective October 1, 2010. She said the dependence upon the minimum data set data for establishment of payment classifications results in the Department of Human Services implementing the new version in order to continue to pay nursing facilities using the existing methodologies. Under the new version, she said, a resident's classification period will remain as a three-month period; however, during that three-month period if a resident is classified in a rehabilitation category and therapies are discontinued, the resident's classification will change as of the date all therapies were discontinued to the classification that would otherwise have been in effect at the beginning of the classification period had there been no therapies. Likewise, she said, if therapies begin during the three-month classification period, a resident's classification may be changed as of the date of the start of therapies to reflect the provision of therapies.

Ms. Fischer said the responsibility for nursing facility private pay appeals resides within the Department of Human Services because the department is responsible for the oversight of the nursing facility ratesetting for both private pay clients and Medicaid clients. She said a resident or the resident's representative may request an appeal for the review of any classification issued. Once an appeal request is received by the department, a request is made to the nursing facility for supporting documentation related to the classification. She said departmental staff reviews the documentation to determine if it supports the coding of the resident's assessment. If it determines that the classification is incorrect based on the documentation not supporting the proper coding of a data element, she said, the classification is modified. She said correspondence is sent to the resident or resident's representative who made the request indicating the decision on the review of the classification.

In 2009, Ms. Fischer said, the Department of Human Services completed 146 classification appeal requests, of which 1 was for a Medicaid client and the other 145 requests were from private pay clients. Of the 146 requests, she said, 87 classifications were upheld, 26 were modified with no change in classification, 6 were denied because the appeal was not filed with the department within 30 days of the classification notice, and 27 were modified with a change in classification. She said the department completed 13 nursing facility private pay appeals in January 2010. Of those requests, she said, nine classifications were upheld, two were modified with no change in classification, and two were modified with a change in classification.

Ms. Fischer said the Department of Human Services believes the private pay appeals process is not an appropriate function to be administered by the department. She suggested private pay appeals be

managed by the Office of Administrative Hearings or through a peer review process.

In response to a question from Representative Kreidt, Ms. Fischer said the department has not had any discussions with the Office of Administrative Hearings regarding the possibility of that agency completing nursing facility private pay appeals.

In response to a question from Representative Wieland, Ms. Fischer said the Department of Human Services does not charge for completing a private pay appeals request.

Representative Wieland said he is concerned that the Office of Administrative Hearings would have to charge for completing private pay appeals. He said nursing facility residents should not be charged a fee for appeals.

In response to a question from Representative Potter, Ms. Fischer said the guidelines and criteria for coding each data element on the RAI are issued by CMS, and the State Department of Health is responsible for training employees on the completion of the RAI and for monitoring the completion as part of the survey and certification process for nursing facilities.

In response to a question from Senator Heckaman, Ms. Fischer said the number of private pay appeals has been increasing.

Chairman Kreidt said the committee will receive comments at a future committee meeting from representatives of nursing facilities and the Office of Administrative Hearings regarding a potential change in the administration of the nursing facility private pay appeals process.

Mr. Bruce R. Pritschet, Director, Division of Health Facilities, State Department of Health, provided information regarding the department's survey and licensure processes for basic care and skilled nursing facilities. A copy of the information presented is on file in the Legislative Council office. He said there are currently 63 basic care facilities in North Dakota. He said the basic care licensure survey process is divided into two components--a health or program survey and a Life Safety Code survey. He said the health or program survey is completed by health care professionals. He said one or two State Department of Health employees conduct facility surveys, depending on the size of the facility. He said the time spent onsite usually is two or three days. He said the process includes interviews, observation, and review of records and reports.

Mr. Pritschet said the Life Safety Code survey is completed by one staff member, and the time onsite may vary from a half day to a full day, depending on the size of the facility. He said the process includes a physical inspection of the entire building and a review of all necessary supporting documentation.

Mr. Pritschet said 2007 House Bill No. 1488 directed the State Department of Health to establish and implement a two-tiered survey process for basic care facilities in the state and required that all Life Safety Code surveys be announced and half of the health or program surveys be announced and the other half unannounced. He said the department implemented the new survey process in October 2007. He said the process included a categorization of the survey findings into two groups called tiers. He said Tier 1 findings are isolated findings that do not have more than a minimal potential for causing a negative impact on the resident. He said Tier 2 findings are more serious, usually apply to more than one resident, and encompass all other findings identified during the survey.

Since October 2007, Mr. Pritschet said, a total of 32 basic care facilities have had a health or program survey completed using the two-tiered process. Of the 32 surveys, he said, 18 have been unannounced and 14 have been announced. He said a total of 193 findings have been identified, of which 74 were Tier 1 findings and 119 were Tier 2 findings.

Mr. Pritschet said the department has completed 58 Life Safety Code surveys since July 1, 2007. He said a total of 203 findings have been identified during the surveys with an average of 3.5 findings per facility.

Mr. Pritschet said the State Department of Health is responsible for the state licensure and the federal Medicare and Medicaid certification of skilled nursing facilities in North Dakota. He said state law requires skilled nursing facilities to be licensed in order to operate. He said the federal Medicare and Medicaid certification process is voluntary. He said facilities apply to participate in Medicare and Medicaid and must be certified as meeting the minimum standards to be eligible to receive payment from Medicare or Medicaid. He said part of the requirements includes participation in an unannounced survey process to ensure the facility is in compliance with federal requirements. He said the department works under an agreement with CMS to complete the federal survey process.

Mr. Pritschet said the State Department of Health completes the state licensure survey in conjunction with the federal certification survey at the frequency required by CMS. He said skilled nursing facilities are to be surveyed every 9 months to 15 months with an average of no more than 12.9 months between surveys. He said the survey team size can vary from two to six surveyors based on the size of the facility. He said the surveyors are health professionals who have completed state and federal training. He said any deficient practices identified are documented in writing and sent to the facility for it to develop a plan of correction.

In response to a question from Senator Fiebiger, Mr. Pritschet said a facility's deficiency list is available to the public.

Representative Kreidt said a facility's plan of correction is also posted in the facility and is available to the public.

In response to a question from Representative Kreidt, Mr. Pritschet said skilled nursing facilities average approximately 4.5 deficiencies. He said he would provide the committee with information on how

North Dakota's survey results compare to national averages.

Ms. Rosanne Schmidt, Chairman, North Dakota Long Term Care Association, provided information regarding the availability of long-term care services across North Dakota. A copy of the information presented is on file in the Legislative Council office. She provided the following summary of the availability of long-term care beds:

	Total Number of Licensed Beds (as of February 2010)	Total Number of Vacant Licensed Beds (as of March 2010)
Basic care facilities	1,727	227
Nursing facilities	6,248	450

Ms. Schmidt said the following new facilities will be opening in 2010:

City	Facility	Number of Beds/Units	Anticipated Opening Date
Bismarck	Good Samaritan Society	48 nursing facility beds	May 3, 2010
		16 basic care beds	July 6, 2010
		16 assisted living units	July 6, 2010
Bismarck	St. Gabriel's Community	72 nursing facility beds	June 2010
Grand Forks	Valley Memorial Homes	36 nursing facility beds	August 2, 2010
West Fargo	Eventide at Sheyenne Crossings	64 nursing facility beds	March 2010

Ms. Schmidt said it appears as though there is an adequate supply of nursing facility beds in certain locations in rural and urban North Dakota.

Representative Pollert suggested the Veterans' Home provide the committee with information regarding current occupancy rates and projected occupancy rates for its new facility. Chairman Kreidt said the Veterans' Home will be asked to provide this information to the committee at its next meeting.

Ms. Shari Doe, President, North Dakota Association of County Social Service Directors, provided information regarding county-funded home and community-based care services. A copy of the information presented is on file in the Legislative Council office. She said providing care to people in their own homes began in certain counties in the late 1960s and spread to all counties by the 1970s. She said funding for those services was provided by federal funds and county funds. She said state-funded home and community-based care services began in the 1980s.

Ms. Doe said there are currently six funding streams from three different sources--federal funds, state funds, and county funds--that are used to pay for the cost of home and community-based care services:

1. SPED.
2. Expanded SPED.
3. Medicaid state plan personal care.
4. Medicaid waiver.
5. Technology-dependent Medicaid waiver.
6. County-funded.

Ms. Doe said there were 3,448 total home and community-based care cases as of December 31, 2009. Of those cases, she said, 860 were receiving a county-funded service in 43 counties. She said 10 counties do not offer a county-funded program. She said each participating county has its own rules of determining eligibility for services and the fees for those services.

Ms. Doe said a majority of the counties also directly provide in-home care services as a qualified service provider. She said the number of county in-home care staff has been decreasing. She said more counties are using individual and agency qualified service providers rather than county staff to provide these services.

Ms. Marie Thompson, Home and Community-Based Services Case Manager, Burleigh County Social Services, provided information regarding home and community-based care services. A copy of the information presented is on file in the Legislative Council office. She said it is generally not difficult to hire a qualified service provider in Bismarck, but she said there may be a delay in finding a qualified service provider in the rural areas of Burleigh County. She said if there is not an available qualified service provider, the case manager and the client will attempt to find someone that is willing to become a qualified service provider and the client is willing to have as the client's provider.

In response to a question from Senator Bakke, Ms. Thompson said qualified service providers are reimbursed for time spent with the client. She said qualified service providers are not reimbursed for travel time.

Representative Pollert said the 2009 Legislative Assembly provided funding to the Department of Human Services for providing approximately a $1 per hour increase for qualified service providers.

Ms. LeeAnn Thiel, Administrator, Medicaid Payment and Reimbursement Services, Medical Services Division, Department of Human Services, provided information regarding the licensure of assisted living facilities. A copy of the information presented is on file in the Legislative Council office. She said an assisted living facility must apply to the Department of Human Services for a license annually. She said the following items must be submitted along with the assisted living license application:

1. A payment of $75.
2. A copy of the license issued by the State Department of Health Food and Lodging Division or local health unit.
3. A blank copy of the written agreement with the tenant that includes the rates for rent and services, payment terms, refund policies, rate changes, tenancy criteria, and living unit inspections.

4. A copy of the written notice provided to tenants that explains how they may report a complaint regarding the assisted living facility.
5. A copy of the facility's brochure.
6. A copy of the resident handbook.

Ms. Thiel said the Department of Human Services may deny or revoke an assisted living facility's license if:

1. The application for a license or renewal of a license or supporting documents contain fraudulent or untrue representations or if the license was otherwise issued based upon bribery or fraudulent or untrue representations.
2. The assisted living facility is in violation of or is unwilling or unable to conform to the requirements of North Dakota Administrative Code (NDAC) Chapter 75-03-34.
3. The assisted living facility, or the premises proposed for the assisted living facility, is not or will not be maintained according to NDAC Chapter 75-03-34.
4. The assisted living facility is denied any license necessary under federal, state, or local law or such license has been revoked.
5. The assisted living facility refuses to allow the department access to any material or information necessary to determine compliance with licensing requirements.
6. The assisted living facility demonstrates a pattern of failing to abide by the terms of its contract with tenants.

Ms. Thiel said the Department of Human Services has the authority to assess a fine against any individual, institution, organization, limited liability company, or public or private corporation that provides assisted living services or uses the term assisted living in its marketing but does not have a license issued by the department. She said the fine may be up to $50 per day beginning 60 days after written notification by the department of noncompliance.

Ms. Thiel said the Department of Human Services suggests the committee review the appropriateness of the responsibility for the licensing of an assisted living facility being within the Department of Human Services.

In response to a question from Senator Bakke, Ms. Thiel said assisted living facility complaints are referred to the long-term care ombudsman representative in the area.

In response to a question from Representative Pollert, Ms. Thiel said the department has not revoked an assisted living facility license.

Chairman Kreidt asked the Department of Human Services to provide the committee with information regarding the number of licensed assisted living facilities in the state, including information on the number of assisted living facilities that are a part of a nursing facility.

Senator Dever suggested the committee consider changing the responsibility for assisted living licensure from the Department of Human Services to the State Department of Health.

Ms. Karen Tescher, Assistant Director, Long-Term Care Continuum, Medical Services Division, Department of Human Services, provided information regarding the assisted living facility rent subsidy pilot project provided for in 2009 House Bill No. 1327. A copy of the information presented is on file in the Legislative Council office. She said House Bill No. 1327 provides that before March 1, 2010, the Department of Human Services is to grant $200,000 to a facility under North Dakota Century Code (NDCC) Section 23-16-01.1, which incurs a transfer of the location of all the facility's beds and a change of operator before June 1, 2009, for costs associated with remodeling the facility. In order to receive the grant, the facility must agree to:

1. Meet the requirements of both an assisted living facility and a basic care facility;
2. Use at least $50,000 of the grant to conduct a rent subsidy pilot project for at least four assisted living residents; and
3. Report to the Department of Human Services on the success of the rent subsidy pilot project compared to the basic care assistance program.

Ms. Tescher said the Department of Human Services has entered a contract with Golden Manor, Inc., with an effective date of March 1, 2010. She said the contract provides that:

- The grantee must meet the requirement of both an assisted living facility and a basic care facility.
- At least $50,000 of the grant must be used to conduct a rent subsidy pilot project for at least four assisted living residents. The individuals receiving rent subsidy must be Medicaid-eligible and have a functional need as established by a county case manager in at least one activity of daily living. A functional assessment must be completed every 12 months for an individual receiving a rent subsidy. The monthly rent subsidy may not exceed $1,000 per month or the difference between the base rent less one-third of the individual's monthly maintenance income.
- A written report must be submitted on the success of the rent subsidy pilot project compared to the basic care assistance program by December 1, 2010.
- A final written report is due by June 30, 2011.

Ms. Tescher said the board of directors for Golden Manor, Inc., is in the process of converting a 50-bed skilled care facility to a 10-bed basic care facility and 10 assisted living units. She said the board is committed to reopening Golden Manor, Inc., as soon as possible.

Ms. Tescher provided an overview of the Department of Human Services' adult foster care

services and related department program funding. A copy of the information presented is on file in the Legislative Council office. She said NDCC Section 50-11-00.1 defines an adult family foster home as an occupied private residence in which adult family foster care is regularly provided by the owner or lessee thereof, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.

Ms. Tescher said applicants for an adult family foster care license are directed to contact the home and community-based services case manager in their local county social service office. She said home and community-based services case managers are responsible for completing the initial licensing study and assisting the applicant in completing all of the required documentation. Once all of the application documentation is complete, she said, the case manager submits the information to the regional human service center for review. She said the human service center issues the adult family foster care license once all documentation has been reviewed. She said the initial license period is 12 months. After completion of the initial licensing period, licenses are effective for 24 months. She said there are currently 64 licensed adult family foster care homes and 168 licensed beds in North Dakota.

In the event of an adult family foster care complaint, Ms. Tescher said, the home and community-based services case manager is responsible for completing an investigation. She said results of the investigation are reviewed with representatives of the regional human service center and the Aging Services Division. She said any action needed as a result of the investigation is generally issued from the human service center representative.

Ms. Tescher said adult family foster care typically provides services that can include bathing, communication, dressing, eye care, feeding, hair care, housework, laundry, medication assistance, mobility, money management, shopping, toileting, and transportation. She said the services are identified on the monthly rate worksheet by the county home and community-based services case manager, and a rate is determined according to the number of activities that have been identified.

Ms. Tescher provided the following summary of adult family foster care charges for public pay clients:

Room and board	Adult family foster care providers receive up to $525 per month which is paid by the resident.
Cost of care	The maximum rate for adult family foster care providers per client under SPED and expanded SPED is $1,819 per month or $55.85 per day.
	The maximum rate for adult family foster care providers per client under the home and community-based services waiver is $2,049.10 per month or $66.10 per day.

For private pay clients, Ms. Tescher said, adult family foster care charges range from $1,200 to $5,000 per month. She said this rate includes room, board, and care.

Ms. Char Schmidt, Administrator, Edgewood Vista, provided comments regarding the committee's study of long-term care services. A copy of her comments is on file in the Legislative Council office. She said Edgewood Vista provides services to individuals needing assisted living, memory care, and basic care. She said Edgewood Vista currently provides services to approximately 600 individuals and employs approximately 370 individuals in North Dakota. She said both the Department of Human Services and the State Department of Health have an appropriate role in the licensure of assisted living facilities. She said the Food and Lodging Division of the State Department of Health licenses the kitchen for assisted living facilities, and the Department of Human Services issues the overall assisted living license. She said the Department of Human Services does not issue the license until all information requested for licensure is submitted by the facility. She said Edgewood Vista encourages the committee to maintain licensure responsibilities for assisted living facilities with the Department of Human Services and the State Department of Health as current law provides.

Mr. Chuck Stebbins, North Dakota Center for Persons With Disabilities, Minot State University, Minot, provided information regarding the Qualified Service Provider Association of North Dakota. He said the Qualified Service Provider Association of North Dakota is a network of independent qualified service providers. He said the network provides mutual support while improving the quality of qualified service provider services and enhancing the role of the qualified service provider.

The committee recessed for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

STUDY OF THE IMPACT OF INDIVIDUALS WITH TRAUMATIC BRAIN INJURY

Lieutenant Waylon Tomac, North Dakota Army National Guard, provided information regarding services available to returning veterans with TBI. A copy of the information presented is on file in the Legislative Council office. According to various sources, Lieutenant Tomac said, 18 percent to 62 percent of soldiers returning from Afghanistan and Iraq have at least a mild case of TBI. He said the North Dakota Army National Guard has hired a director of psychological health to lead the effort in educating the soldiers and medical providers on how to help soldiers deal with TBI and to assist returning soldiers with any mental health issues. He said returning soldiers are given a postdeployment health assessment which has questions relating to TBI. He said these questions alert the medical providers to any soldiers suspected of having TBI. He said soldiers diagnosed with some form of TBI are assessed for the degree of rehabilitation needed. If neurological or psychological rehabilitation is warranted, he said, the soldier is provided care at the

active duty installation or from local health care providers.

Ms. Susan Wagner, Human Service Program Administrator, Division of Mental Health and Substance Abuse Services, Department of Human Services, provided information regarding services available to individuals with TBI through the department and the private sector, the cost of these services, and funding available to assist in paying for these services. A copy of the information presented is on file in the Legislative Council office. She said the department does not have a specific TBI program. She said individuals with TBI can access services at the regional human service centers as well as other divisions within the department. She said rehabilitation consulting and services provide training and employment services to individuals with TBI to assist them in becoming employed and sustaining employment. In federal fiscal year 2009, she said, 143 individuals with TBI were served and 19 of those individuals were employed. She said the department also provides services to individuals with TBI through the home and community-based services waiver.

Ms. Wagner said the following private sector entities provide services to individuals with TBI:

- North Dakota Protection and Advocacy provides advocacy services.
- HIT, Inc., and High Soaring Eagle Ranch provide residential and transitional care services.
- HIT, Inc., provides transitional care and social and recreational services.
- The Head Injury Association of North Dakota provides information and referral services, public awareness and education, peer mentoring services, and informal support services.

Senator Bakke suggested the Department of Human Services provide the committee with information regarding services available to children with TBI. Chairman Kreidt said the department will be asked to provide this information to the committee at its next meeting.

Ms. Wagner provided information regarding the TBI implementation partnership grant, including progress toward implementing the goals of the grant, and the implementation of 2009 Senate Bill No. 2198. A copy of the information presented is on file in the Legislative Council office. She said the Department of Human Services, in partnership with the University of North Dakota School of Medicine and Health Sciences Center for Rural Health, was awarded a TBI implementation partnership grant in April 2007. She said the grant is a three-year grant with the department receiving approximately $118,000 each year. She said the grant officially ends March 31, 2010. She said the department will be requesting a one-year extension to spend the remaining funds. She said the focus in the one-year extension period will be continued education and awareness activities. She provided the following summary of the status of the goals of the grant:

Goal	Status
Sustainability - To build a formal presence and infrastructure for the advancement of TBI-focused issues	Complete. A TBI advisory committee has been established consisting of representatives of individuals with TBI, family caregivers, service providers, the Department of Veterans' Affairs, the Indigenous People's Brain Injury Association, and state agencies. The committee meets on a quarterly basis for assisting in the management of the grant and advising the Department of Human Services on the needs of individuals with TBI and their family members.
Education and awareness - To provide timely information, resources, and education regarding TBI to individuals with TBI, family members, other caregivers, and service and support providers	Ongoing. TBI 101 training has been conducted at each of the eight regional human service centers, county social service boards, and numerous statewide conferences. Toolkits on different aspects of TBI have been disseminated to senior citizen centers, clinics, coaches, and teachers.
Enhancement of services - To ensure a coordinated system to access and receive support for individuals with TBI and their families	Ongoing. A project to integrate a TBI screening tool at the eight regional human service centers is in progress. The home and community-based services case managers at the county social service boards are reporting data on the individuals who receive home and community-based services on a monthly basis. Relationships with the veterans' system of care are in place with the goal to work cooperatively to meet the needs of veterans.
Tribal issues - To improve access for American Indian individuals with TBI and their families to culturally appropriate information, services, and support	Ongoing. The TBI project director from the University of North Dakota School of Medicine and Health Sciences Center for Rural Health and two members of the TBI advisory committee facilitated a talking circle on each of the four reservations. Information on TBI was shared as well as establishing a number of contacts for ongoing collaboration and support.

Ms. Wagner said the Department of Human Services is in the process of implementing 2009 Senate Bill No. 2198. She said the bill provides a $330,000 general fund appropriation to the department for providing services to individuals with TBI. She provided the following summary regarding the implementation of Senate Bill No. 2198:

- The department has entered a contract with HIT, Inc., for social and recreational services. The total amount of the contract is $40,104 and provides for 1,440 hours of service at an hourly rate of $27.85 for up to nine individuals.
- The department entered a contract with the Head Injury Association of North Dakota for referral services, public awareness and education, peer mentoring services, and informal support services. The amount of the contract is $112,200. Another contract for the

provision of additional public awareness in the amount of $5,460 is in place as well.

- The department has budgeted $111,540 for increased and specialized vocational rehabilitation and consultation to individuals with TBI.
- The department has budgeted $57,600 for quality assurance and training for home and community-based services case managers and others who provide services to individuals with TBI.
- The department held a joint meeting with the Adjutant General, Department of Veterans' Affairs, Superintendent of Public Instruction, and the State Department of Health to discuss ways to efficiently coordinate services to individuals with TBI while avoiding duplication. Additional meetings will be held at least quarterly.

Mr. Bruce Murry, Interim Director, Head Injury Association of North Dakota, provided information regarding the committee's study of the impact of individuals with TBI. A copy of the information presented is on file in the Legislative Council office. He said the Head Injury Association of North Dakota has begun providing informal brain injury support services, including public awareness, training, group facilitation, advocacy, and monthly reporting. He said the association partnered with MeritCare for a conference in October 2009 and is partnering with the Indigenous People's Brain Injury Association for a joint conference in May 2010.

Representative Pollert suggested the Veterans' Home provide the committee with information regarding services provided to individuals with TBI. Chairman Kreidt said the Veterans' Home will be asked to provide this information to the committee at its next meeting.

STUDY OF THE REGISTRATION OF HEALTH CARE PROFESSIONALS

Ms. Darleen Bartz, Section Chief, Health Resources Section, State Department of Health, provided information regarding the department's long-term care professionals workgroup. A copy of the information presented is on file in the Legislative Council office. She said the department has established a long-term care professionals workgroup consisting of members representing the State Department of Health, the Board of Nursing, the North Dakota Healthcare Association, the North Dakota Long Term Care Association, the Department of Human Services, developmental disabilities, and home health care. She said the workgroup met on February 2, 2010, and has a second meeting scheduled for March 22, 2010. She said the workgroup reviewed Section 3 of 2009 House Bill No. 1269 which directs the Legislative Management to study the registration of health care professionals, received presentations by representatives of the Board of Nursing and the State Department of Health regarding each of the entity's respective registrations, and discussed the benefits and concerns relating to one entity overseeing both registries. She said the department will provide the committee with recommendations from the workgroup at a future meeting.

Representative Kreidt asked the State Department of Health to provide the committee with information regarding any additional funding that may be needed to implement the workgroup's recommendations.

Dr. Constance Kalanek, Executive Director, Board of Nursing, distributed information regarding the number of individuals on the board's unlicensed assistive persons registry and provided comments regarding the committee's study of the registration of health care professionals. A copy of the information distributed is on file in the Legislative Council office. She said the current number of individuals registered on the board's unlicensed assistive persons is 3,129, including:

Unlicensed assistive persons	1,341
Unlicensed assistive persons - Medication assistant	563
Technician - Medication assistant	19
State Department of Health - Medication assistant	1,206
Total	3,129

Dr. Kalanek said the Board of Nursing supports the work of the State Department of Health's long-term care professionals workgroup.

OTHER COMMITTEE RESPONSIBILITIES

Ms. Linda Wright, Director, Aging Services Division, Department of Human Services, provided information on the implementation of 2009 House Bill No. 1043. A copy of the information presented is on file in the Legislative Council office. She said the department has entered a contract with the Alzheimer's Association Minnesota-North Dakota Chapter for provision of a dementia care services program in each area of the state served by a regional human service center as provided for in House Bill No. 1043. She said the Alzheimer's Association has hired five regional care consultants to provide services in the state. She said the staff is currently receiving training in all aspects of dementia and on the Mittelman service delivery intervention.

Mr. John C. Bole, Director, Developmental Disabilities Division, Department of Human Services, provided information regarding the status of the department's study of developmental disabilities service provider rates pursuant to 2009 House Bill No. 1556. A copy of the information presented is on file in the Legislative Council office. He said House Bill No. 1556 provides that during the 2009-10 interim the Department of Human Services is to contract with an independent contractor to study the methodology and calculations for the ratesetting structure used by the department to reimburse all developmental disabilities service providers. He said the study is to address reimbursement adequacy and equitability and

fairness of reimbursement rates among such providers; the level of medical and supportive services required by providers to adequately serve individuals in those categories; the varying levels of medical and behavioral complexity of individuals requiring services by the providers; and any other analytical comparisons bearing upon issues of reimbursement adequacy, fairness, and equitability to such providers.

Mr. Bole said the department has awarded a contract to Burns and Associates, Inc., and its subcontractor, Human Services Research Institute, in the amount of $200,000 to complete the study. He said the contractors' preliminary conclusions include:

- North Dakota's current reimbursement system mixes a cost-based reimbursement structure with additional compensation specifically related to individuals who are medically fragile or behaviorally challenged. There is an inherent disconnect between providing funding on a needs basis and a cost basis.
- North Dakota's assessment tools, the interim ratesetting and budgeting process, and the audit and cost settlement process make operation of the state's current reimbursement system very complex and resource-intensive.
- In North Dakota, determining the appropriate payment for medically fragile or behaviorally challenged individuals is difficult for several reasons.
- North Dakota must determine whether payment should be need-based or cost-based and avoid mixing these methodologies.

Mr. Bole said an interim report is due by June 15, 2010, and the final report is due August 15, 2010.

In response to a question from Senator Heckaman, Ms. JoAnne D. Hoesel, Director, Division of Mental Health and Substance Abuse, Department of Human Services, said the rules governing the interim ratesetting process clearly state what costs are allowable and nonallowable.

Chairman Kreidt asked the Department of Human Services to provide the committee with information regarding the number of developmental disabilities providers who are over the allowable cost limit.

Senator Heckaman suggested the Department of Human Services provide the committee with a summary of the developmental disabilities ratesetting process. Chairman Kreidt asked the department to provide this information to the committee at its next meeting.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

Chairman Kreidt announced the next committee meeting may be held on Wednesday, May 5, 2010, or Thursday, May 6, 2010.

It was moved by Senator Fiebiger, seconded by Representative Uglem, and carried on a voice vote that the Long-Term Care Committee meeting be adjourned subject to the call of the chair.

Chairman Kreidt adjourned the meeting at 3:10 p.m.

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Roxanne Woeste
Assistant Legislative Budget Analyst and Auditor

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Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:1