

## OTHER DUTIES AND RESPONSIBILITIES OF THE BUDGET COMMITTEE ON HEALTH CARE - BACKGROUND MEMORANDUM

In addition to various study responsibilities and other duties assigned to the Budget Committee on Health Care for the 2005-06 interim, the committee is also charged with the responsibility to:

- Receive an annual report from the State Board of Nursing on its study of the nursing educational requirements in this state and the nursing shortage in this state and its implications for rural communities, pursuant to North Dakota Century Code (NDCC) Section 43-12.1-08.2.
- 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 Section 50-29-02.
- 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 an amendment that mandates such coverage or payment, pursuant to Section 54-03-28.
- Receive a report from the State Department of Health regarding development of a pilot project to test an announced basic care survey process, including a recommendation of whether the unannounced survey process should continue for all basic care facilities, pursuant to Section 26 of 2005 Senate Bill No. 2004.

### STATE BOARD OF NURSING REPORT

House Bill No. 1360 (2001) created NDCC Section 43-12.1-08.2 (attached as Appendix A) which is effective through September 30, 2006. This section provides that the State Board of Nursing may address issues of supply and demand for nurses, including issues relating to recruitment, retention, and utilization, through:

1. Developing a strategic statewide plan to alleviate the nursing shortage in the state by establishing and maintaining a data base on nursing supply and demand in the state.
2. Convening various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to review and comment on data analysis prepared for the board;

recommending systematic changes; and evaluating and reporting the results of these efforts to the Legislative Assembly and the public.

3. Reviewing and studying the nursing educational requirements in this state.
4. Studying the nursing shortage in this state and the implications for rural communities.
5. Increasing, up to \$15, annual license or registration fees imposed by the board to reimburse the board for actual expense incurred.
6. Applying for, soliciting, accepting, and spending any contribution, grant, or gift made available from public or private sources for the purpose of implementing Section 43-12.1-08.2.
7. Reporting annually to the Legislative Council on the progress of the study (responsibility assigned to this committee).

In June 2002 the State Board of Nursing contracted with the University of North Dakota Center for Rural Health to conduct a nursing workforce study at a cost of \$110,000. The study is addressing the issues of supply and demand for nurses, as well as issues of recruitment, retention, and utilization of nurses. The cost of the study is being paid for by increases in renewal, endorsement, and license examination fees of \$20 per two-year period beginning July 1, 2002.

During the 2003-04 interim, the committee learned that based on reports from nursing education programs, the number of nursing students in North Dakota has remained stable or increased. There are approximately 11,000 licensed nurses in North Dakota. However, a large number of nurse retirements are expected in the next few years. The greatest shortage of nurses is in rural areas and approximately 63 percent of North Dakota nurses are located in the eight most populous counties. Based on a survey conducted by the Bureau of Health Professions, the 2000 national estimated shortage of registered nurses as compared to demand was approximately 6 percent; however, based on an anticipated 40 percent increase in demand from 2000 to 2020, compared to just a 6 percent growth in supply, the shortage is anticipated to increase to 29 percent by 2020.

House Bill No. 1245 (2003) (attached as Appendix B) provides that the State Board of Nursing is to adopt rules and establish standards for in-state nursing education requirements leading to licensure. A nursing education program may not be provided in North Dakota unless the board has approved the

program. The board may not approve a licensed practical nurse program that covers less than one academic

year of course study or the equivalent and must allow for a licensed practical nurse program that

offers less than two academic years. A registered nurse program may not cover less than two academic years or the equivalent, and the board must allow for a program that offers less than four academic years. An applicant for the North Dakota nursing licensure examination, who was educated out of state, may sit for the examination provided that the education program completed is approved by the board.

During the 2003-04 interim, the Budget Committee on Health Care learned that the State Board of Nursing finalized rules for RN and LPN programs to comply with the new law in April 2004. The State Board of Nursing received a proposal for approval in May 2004 from four state colleges that have formed a consortium (the Dakota Nurse program) and plan to begin offering RN and LPN degrees. Those colleges include Williston State College, Minot State University - Bottineau, Lake Region State College, and Bismarck State College. The final site review for the colleges was completed on June 22, 2004. After the State Board of Nursing initially determined that the curriculum for both the RN and LPN programs needed to be reworked, the State Board of Nursing granted initial approval to the Dakota Nurse practical nurse program through July 2005 with an interim report due by January 1, 2005, addressing the areas of partial compliance. The State Board of Nursing also granted initial approval to the Dakota Nurse associate degree registered nursing program through March 2006. The Dakota Nurse associate degree in nursing program is scheduled to start in fall 2005.

In March 2005 the State Board of Nursing granted initial approval through March 2006, of an associate degree registered nursing program for the State College of Science, which plans to admit approximately 20 students in fall 2005.

### **CHILDREN'S HEALTH INSURANCE PROGRAM STATE PLAN**

North Dakota Century Code Section 50-29-02 provides for the Legislative Council to receive an annual report from the Department of Human Services describing enrollment statistics and costs associated with the children's health insurance program. The Legislative Council assigned this responsibility to the Budget Committee on Health Care. The 2005 Legislative Assembly provided funding of \$12,075,542, of which \$2,895,233 is from the general fund and \$9,180,309 is federal funds for the children's health insurance program (Healthy Steps). The amount provided is \$2,036,318, of which \$428,425 is from the general fund, more than the executive budget. Compared to the 2003-05 legislative appropriation, the funding provided is an increase of \$2,589,158, \$768,071 of which is from the general fund and \$1,821,087 of federal funds.

The 2005 Legislative Assembly continued eligibility requirements for the program at 140 percent of poverty and anticipated an insurance premium rate of \$181.87 per child per month, an increase of 17.5 percent compared to the 2003-05 premium rate of \$154.78. The Legislative Assembly added funding in anticipation of additional children enrolling in the program. The executive budget provided funding to serve an average of 2,300 children per month and the 2005 Legislative Assembly increased the number to an average of 2,971 per month.

### **HEALTH INSURANCE COVERAGE MANDATES**

North Dakota Century Code Section 54-03-28 provides that a legislative measure mandating health insurance coverage may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit analysis. The interim Budget Committee on Health Care has been assigned the responsibility of recommending a private entity, after receiving recommendations from the Insurance Commissioner, to the Legislative Council to contract with to perform the cost-benefit analysis. The Insurance Commissioner is to pay the cost of the contracted services, and the cost-benefit analysis must include:

1. The extent to which the proposed mandate would increase or decrease the cost of services.
2. The extent to which the proposed mandate would increase the use of services.
3. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
4. The impact of the proposed mandate on the total cost of health care.

A majority of the members of the committee to which the legislative measure is referred, acting through the chairman, has the authority to determine whether a legislative measure mandates coverage of services. The selection also provides that any amendment to a legislative measure that mandates health insurance coverage may not be acted on by a committee of the Legislative Assembly unless the amendment is also covered by a cost-benefit analysis.

The Insurance Department categorizes and defines mandated health benefits as follows:

1. Service mandates - Benefit or treatment mandates that require insurers to cover certain treatments, illnesses, services, or procedures. Examples include child immunizations, well-child visits, and mammography.
2. Beneficiary mandates - Mandates that define the categories of individuals eligible to receive

benefits. Examples include newborns from birth, adopted children from the time of adoption, and handicapped dependents.

3. Provider mandates - Mandates that require insurers to pay for services provided by specific providers. Examples include nurse practitioners, optometrists, and psychologists.
4. Administrative mandates - Mandates that relate to certain insurance reform efforts that increase the administrative expenses of a specific health care plan. Examples include information disclosures, precluding companies from basing policy rates on gender, and precluding insurers from denying coverage for preauthorized services.

Section 6 of 2003 Senate Bill No. 2029 amended NDCC Section 54-03-28 to provide that any health insurance coverage mandate may not be acted on by any committee of the Legislative Assembly unless the measure as recommended applies only to the state public employees' group health insurance program for a period of two years. During this two-year period, the Public Employees Retirement System is to evaluate the mandate's actual costs and benefits and prepare a report for the next Legislative Assembly to be used in consideration of whether or not to repeal the expiration date and to extend the mandated coverage.

House Bill No. 1381 (2005), which was not approved by the Legislative Assembly, would have created a new section to NDCC Chapter 54-52.1 providing for the Public Employees Retirement System Board to provide insurance coverage for prescription drugs for outpatient hormone replacement therapy, contraceptives, infertility therapy, and osteoporosis treatment. The coverage would have been effective for all contracts and plans for health insurance which became effective after June 30, 2005, and which did not extend past June 30, 2007. In addition, the bill directed the Public Employees Retirement System to introduce legislation to the 60th Legislative Assembly to repeal the expiration date of the bill.

Senate Bill No. 2169 (2005), which was not approved by the Legislative Assembly, would have created a new section to NDCC Chapter 54-52.1 providing for the Public Employees Retirement System Board to provide insurance coverage for colorectal cancer screening examinations. The coverage would have been effective for all contracts and plans for health insurance which became effective after June 30, 2005, and which did not extend past June 30, 2007. In addition, the bill directed the Public Employees Retirement System to introduce legislation to the 60th Legislative Assembly to repeal the expiration date of the bill.

Cost-benefit analyses were conducted by Milliman USA during the 2005 legislative session on the two bills discussed at a total cost of \$8,323--\$6,598 for House Bill No. 1381 and \$1,725 for Senate Bill No. 2169. The Insurance Department paid an additional \$5,606 to

Milliman USA for general project work during the 2005 legislative session, for total payments of \$13,929.

## **ANNOUNCED BASIC CARE SURVEYS PILOT PROJECT**

Section 26 of 2005 Senate Bill No. 2004 (attached as Appendix C) provides that the State Department of Health is to develop a pilot project to test an announced basic care survey process. Previously, all basic care surveys were unannounced. The pilot project is to begin with 50 percent of the state-licensed basic care providers surveyed receiving an announced survey and the remaining receiving an unannounced survey. The State Department of Health is to evaluate the results of the pilot project and provide a report to the Legislative Council during the 2005-06 interim. The Legislative Council has assigned this responsibility to the Budget Committee on Health Care.

Pursuant to NDCC Chapter 23-09.3, a basic care facility is a residence that provides room and board to five or more individuals who are not related by blood or marriage to the owner or manager of the residence and who, because of impaired capacity for independent living, require health, social, or personal care services but do not require regular 24-hour medical or nursing services and:

- Makes response staff available at all times to meet the 24-hour per day scheduled and unscheduled needs of the individual; or

- Is kept, used, maintained, advertised, or held out to the public as an Alzheimer's, dementia, or special memory care facility.

The State Department of Health is responsible for establishing standards and rules for basic care facilities. The department is required to inspect all places and grant annual licenses to basic care facilities that conform to the standards established and the rules prescribed. It is illegal for a basic care facility to operate without a license. The license is issued by the State Department of Health and is not valid for more than one year. Any license may be revoked by the department for violations of standards and rules adopted by the department.

Pursuant to North Dakota Administrative Code Section 33-03-24.1-03, the State Department of Health may, at any time, inspect a facility that the department determines meets the definition of a basic care facility. The department is to perform, as deemed necessary, unannounced onsite surveys to determine the compliance with established rules and regulations. The State Department of Health indicated that workgroups consisting of individuals from industry, advocacy groups, and the department have been formed to establish guidelines for the unannounced survey process and that surveys of basic care facilities will not be scheduled until the guidelines are finalized.

## PROPOSED ACTION PLAN

The following is a proposed action plan the committee may want to consider in fulfilling its duties to receive annual reports from the State Board of Nursing, pursuant to NDCC Section 43-12.1-08.2; the children's health insurance program, pursuant to Section 50-29-02; regarding the cost-benefit analysis process, pursuant to Section 54-03-28; and a report from the State Department of Health regarding the announced basic care survey pilot project, pursuant to Section 26 of 2005 Senate Bill No. 2004:

1. Receive an annual report from the State Board of Nursing on the progress of its study of nursing educational requirements and the nursing shortage in the state.
2. 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 Section 43-12.1-08.2.
3. Receive an annual report from the Department of Human Services on enrollment statistics and costs associated with the children's health insurance program.
4. Receive recommendations from the Insurance Commissioner regarding a private entity to

contract with to conduct cost-benefit analyses of measures mandating health insurance coverage during the 2007 Legislative Assembly and the related budget to be requested by the Insurance Commissioner for the 2007-09 biennium.

5. Make a recommendation to the Legislative Council regarding the entity to conduct the cost-benefit analysis.
6. Receive a report from the State Department of Health regarding the pilot project to test an announced basic care survey process and a recommendation of whether the unannounced survey process should continue for all basic care facilities.
7. Receive information from interested organizations, entities, and individuals regarding the announced basic care survey pilot project.
8. Develop recommendations and related bill drafts.
9. Prepare the final report for submission to the Legislative Council.

ATTACH:3