

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2079

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 23-09.3-01.1 and subsections 1 and 2 of section
2 23-16-01.1 of the North Dakota Century Code, relating to the moratoria on basic care and
3 nursing facility bed capacity; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 23-09.3-01.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

8 1. Basic care beds may not be added to the state's licensed bed capacity during the
9 period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017, except when:

- 10 a. A nursing facility converts nursing facility beds to basic care;
- 11 b. An entity licenses bed capacity transferred as basic care bed capacity under
12 section 23-16-01.1;
- 13 c. An entity demonstrates to the state department of health and the department of
14 human services that basic care services are not readily available within a
15 designated area of the state or that existing basic care beds within a fifty-mile
16 [80.47-kilometer] radius have been occupied at ninety percent or more for the
17 previous twelve months. In determining whether basic care services will be
18 readily available if an additional license is issued, preference may be given to an
19 entity that agrees to any participation program established by the department of
20 human services for individuals eligible for services under the medical assistance
21 program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
- 22 d. The state department of health and the department of human services grant
23 approval of new basic care beds to an entity. The approved entity shall license
24 the beds within forty-eight months from the date of approval.

- 1 2. Transfers of basic care beds from one basic care facility to another entity is permitted.
2 Transferred basic care beds must become licensed within forty-eight months of
3 transfer. The entity receiving the transferred beds or any new facility may seek to
4 participate in the basic care assistance program. If the entity can demonstrate that
5 individuals can be cared for at a more independent level and that this service will delay
6 entry into the nursing facility, the entity may be approved for basic care assistance
7 funds.
- 8 3. If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing
9 requirements for those beds within forty-eight months of acquisition. A tribal facility
10 may seek to participate in the basic care assistance program. Basic care assistance
11 payments may only be made to a tribal facility that agrees to participate and adhere to
12 all federal and state requirements of the basic care assistance program including
13 participation, screening, ratesetting, and licensing requirements.

14 **SECTION 2. AMENDMENT.** Subsections 1 and 2 of section 23-16-01.1 of the North Dakota
15 Century Code are amended and reenacted as follows:

- 16 1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic
17 care beds to nursing facility beds or relicenses nursing facility beds delicensed after
18 July 31, 2011, nursing facility beds may not be added to the state's licensed bed
19 capacity during the period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017. A
20 nursing facility may not delicense nursing facility bed capacity, relicense nursing facility
21 bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert
22 licensed basic care bed capacity back to nursing facility bed capacity, or otherwise
23 reconfigure licensed nursing facility bed capacity more than one time in a
24 twelve-month period.
- 25 2. Transfer of licensed nursing facility bed capacity from a nursing facility to another
26 entity is permitted. The nursing facility may transfer the bed capacity either as nursing
27 facility bed capacity or basic care bed capacity. Transferred bed capacity must
28 become licensed by an entity ~~as the type of bed capacity originally transferred~~ within
29 forty-eight months of transfer. Bed capacity transferred as basic care bed capacity
30 may not be reverted to nursing facility bed capacity at any time. A receiving entity may
31 transfer the received bed capacity to another entity within the forty-eight-month period

1 originally established at the time the nursing facility first transferred the licensed
2 nursing facility bed capacity. The subsequent receiving entity must license the
3 received bed capacity within the forty-eight-month period originally established at the
4 time of the first transfer.

5 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.