

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1400  
(Representatives Devlin, Boucher, Nelson, Price)  
(Senators Fischer, J. Lee)

AN ACT to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North Dakota Century Code, relating to a moratorium on expansion of the licensed basic care and long-term bed capacity, the conversion of beds, and the transfer of existing basic care beds from one municipality to another municipality or to a tribal reservation.

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

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

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

1. Except when a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia pilot projects established under section 50-06-14.4 requests licensure of the facility's existing beds as basic care bed capacity, or unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, ~~2004~~ 2003, during the period between August 1, ~~2004~~ 2003, and July 31, ~~2003~~ 2007.
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~, ~~only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred~~ 2007. Existing licensed beds released by a facility and transferred to another facility must become licensed within ~~twenty-four~~ forty-eight months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~ 2007, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to ~~twice~~ the number of beds transferred. A tribal facility may seek to participate, within ~~twenty-four~~ forty-eight months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. ~~The converted beds must be located in the same block of rooms within the facility.~~

**SECTION 2. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when a nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, ~~2004~~ 2003, during the period between August 1, ~~2004~~ 2003, and July 31, ~~2003~~ 2007.
2. Transfers of existing beds from one municipality to another municipality must be approved if the state department of health licensing requirements are met, during the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~, ~~only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred~~ 2007. Existing licensed beds released by a facility and transferred to another facility must become licensed within ~~twenty-four~~ forty-eight months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, ~~2004~~ 2003, to July 31, ~~2003~~ 2007, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to ~~twice~~ the number of beds transferred. A tribal facility may seek to participate, within ~~twenty-four~~ forty-eight months of any transfer of beds, in the medical assistance program. Medical assistance payments may only be made to a medicaid-certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. ~~The converted beds must be located in the same block of rooms within the facility.~~

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1400.

House Vote:      Yeas    90      Nays    2      Absent    2

Senate Vote:    Yeas    45      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State