

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2403

Introduced by

Senators Marcellais, Heckaman, Warner

Representatives Boucher, Charging

1 A BILL for an Act to amend and reenact sections 23-09.3-01.1 and 23-16-01.1 of the North
2 Dakota Century Code, relating to exemptions to the moratoriums on the expansion of basic
3 care bed capacity and long-term care bed capacity.

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
6 is 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, 2005, and July 31, 2007, except when:
- 10 a. A nursing facility converts nursing facility beds to basic care; or
11 b. An entity demonstrates to the state department of health and the department
12 of human services that basic care services are not readily available within a
13 designated area of the state or that existing basic care beds within a fifty-mile
14 radius have been occupied at ninety percent or more for the previous twelve
15 months.
- 16 2. Transfers of basic care beds from one basic care facility to another entity is
17 permitted. Transferred basic care beds must become licensed within forty-eight
18 months of transfer. The entity receiving the transferred beds or any new facility
19 may seek to participate in the basic care assistance program. If the entity can
20 demonstrate that individuals can be cared for at a more independent level and that
21 this service will delay entry into the nursing facility, the entity may be approved for
22 basic care assistance funds.
- 23 3. If an Indian tribe acquires basic care beds, the tribal facility must meet state
24 licensing requirements for those beds within forty-eight months of acquisition. A

tribal facility may seek to participate 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. Notwithstanding subsection 3, for purposes of basic care beds transferred to the Turtle Mountain Band of Chippewa Indians before August 1, 2005, which are awaiting basic care facility licensure, those beds have seventy-two months from the date of acquisition within which to meet state licensing requirements.

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 a facility reverts basic care beds to nursing facility beds, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, 2005, and July 31, 2007.
2. Transfers of beds from one facility to another entity is permitted. Transferred nursing facility beds must become licensed within forty-eight months of transfer. Nursing facility beds transferred before August 1, 2005, which are awaiting nursing facility licensure, may be converted to basic care licensure.
3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the converted beds remain in the same facility and are not transferred, the beds may revert to nursing facility status after one year of licensure as basic care beds.
4. Nursing facility beds that are converted to basic care may be transferred as basic care beds. However, upon the transfer, the basic care beds may not be relicensed as nursing facility beds.
5. If an Indian tribe acquires nursing facility beds, the tribal facility must meet state licensing requirements for those beds within forty-eight months of acquisition. A tribal facility may seek to participate in the medical assistance programs. 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

- 1 medical assistance program, including participation, screening, ratesetting, and
2 licensing requirements.
- 3 6. Notwithstanding subsection 5, for purposes of nursing facility beds transferred to
4 the Turtle Mountain Band of Chippewa Indians before August 1, 2005, which are
5 awaiting nursing facility licensure, those beds have seventy-two months from the
6 date of acquisition within which to meet state licensing requirements.