Testimony on HB 1090
House Human Services Committee
January 13, 2021

Good morning Chairman Weisz and members of the House Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 assisted living, basic care, and skilled nursing facilities in North Dakota. All seventy-nine skilled nursing facilities are members of the Association. I am here in support of HB 1090 and ask that you support it.

This study of the payment system was a long grueling process and it challenged us to think differently. The study was mandated in the 2019 legislative session and you directed a revised payment methodology be developed. Not a tweaking of the old system but the creation of a new methodology. That took us awhile to grasp. I believe for the first five meetings, someone in the group would ask, "Are you sure this is necessary? Wouldn't it be better to change our current system and improve it to incentivize efficiency?" Then we would go back, read the legislative language you approved and said no, we need to change the entire payment methodology and thus we did! Many times, during our months of meetings I did not think we would arrive at consensus, but we stuck with the process and in the end at our September 2020 membership meeting, approved the new payment system by a vote of 99-1. At the end we did not get everything we advocated for and neither did the state, but we believe this system can achieve better efficiency of state resources and a quality service that delivers on our promise of assuring the elderly get quality care at the end of their life.

We could never had completed this study without the knowledge and expertise of two payment experts. Joe Lubarsky, President of Eljay, LLC and Brad DeJong, Senior Partner with Eide Bailly. Brad is an expert in North Dakota's nursing facility payment system and Joe is a national expert in the development and modification of nursing facility payment systems. He has assisted in the design of payment systems in 30 states and in the last 10 years was actively involved in redesigns or major modifications in Maryland, Virginia, Mississippi, Florida, Tennessee, Washington, South Carolina, Nebraska, The District of Columbia and of course, now North Dakota. Without their expert knowledge this project would have never been successful. They are both online today to assist with any questions you may have.

We are still working out the fine details of the system. The details are important, and they are entwined to the total success of the payment system. We know you have final approval, you determine policy. I'm hoping you see the value and can support all changes we are bringing to you. To trust the state and national experts who know the details on complex payment systems. There are key components that are vital to the implementation and success of the new system. I encourage you to ask many questions. The experts, Joe and Brad, can explain everything about the proposed new system.

<u>Key Features of the New Pricing Model</u>

1. Moves to a hybrid pricing model verses our current cost-based system with limits.

2. Set price levels as a percentage of median, with direct care and other direct care at 120% of median and indirect at 110% of median.

3. The indirect price will be established separately for small nursing facilities, 55 beds and under, and large facilities, greater than 55 beds. Small nursing facilities will have a higher price of approximately $4 dollars in the indirect cost category.

4. The margin cap in all cost centers will be 3.46% of the price. Please do not confuse this with an operating margin under our current system. In our current system, everyone gets an operating margin, that will not be true in our new system. Every facility will have the opportunity to receive a margin, but it will be based on where they are operating relative to the Price Point.

- Facilities that are 3.46% or more under the Price Point will receive the facility specific allowed ~~rate~~ cost plus the margin.
- Facilities that are within 3.46% of the Price Point will receive the Price.
- Facilities that are at or over the Price Point will only receive the Price, no margin.

5. The new system would implement on 1-1-22 and the 6-30-21 cost report will be used to set the initial prices.

6. We are proposing a hold harmless provision for two years on the operating side. For the initial year starting 1-1-22 nursing facilities will be able to select to operate under the existing cost based methodology or the new pricing model. All nursing facilities will receive two sets of rates and they will decide and select the one they want. This two year hold harmless is very important and will help those who may experience rate decreases under the new pricing model to transition more slowly into the new payment model.

7. In the second year of implementation, 2023, the hold harmless provision continues. A nursing facility can continue to stay under the existing cost based system or convert to the new payment system. In year three, all must convert to the new pricing model.

8. Rebasing will occur every two years for the first four years and will be examined after that period.

9. The Medicare Skilled Nursing Facility Market Basket will be utilized to increase rates in the non-rebasing years.

10. A process has been developed to address atypical cost increases in a non-rebasing year. (i.e., pandemic – national minimum wage) and that will be outlined through the rule promulgation process.

11. Equalization of Rates continues.

12. When the two year transitional hold harmless ends, we would like to see the development of a new quality incentives payment. This is not part of the legislation before you today but something I would like to bring back in 2023 for implementation in 2024.

    Based upon a statistical analysis of costs there is <u>one</u> driver of why it costs more in some North Dakota nursing facilities and that is the number of staff they have. Lower cost facilities have less staff, high cost facilities have more. Under this new system some high staff facilities may need to reduce staffing to be successful under this model. An analysis of cost and quality data in North Dakota shows those with higher costs, (higher staffing), have better overall quality

outcomes. We would like to see a system that rewards quality and allows all nursing facilities to earn back dollars in the form of a quality payment to help support the cost of their higher staffing. Today we need the two year hold harmless transition payment, but in the future, we would love to see this as a quality payment. (See three charts on quality)

13. Implement a Fair Rental Value System as the property component on 1-1-23. Implementing this component of the new system is going to take time because to establish your Fair Rental Value the state will need to collect square footage and cost of additions and renovations made on all nursing facilities over their lifetime. This also needs a hold harmless provision, and this provision will be needed for a much longer period of time. The hold harmless provision is to help those that have recently undertaken a major construction project or to help those that are in planning or construction phase for a major project, if the financing of the project was in place by 12-31-21.

As Caprice mentioned in her testimony, we are still working on amendments to the bill and attempting to decide what might be best left to rules and the North Dakota Administrative Code. The details are very important, a word change can unknowingly have unintended consequences. We are working closely with DHS to have language that is clear and concise and most importantly meets the intent of the items negotiated this past year. We are continuing to work on amendments and language and anticipate further changes throughout the session.

This concludes my testimony your support and endorsement of this new payment system is requested. I would be happy to answer any questions you may have.

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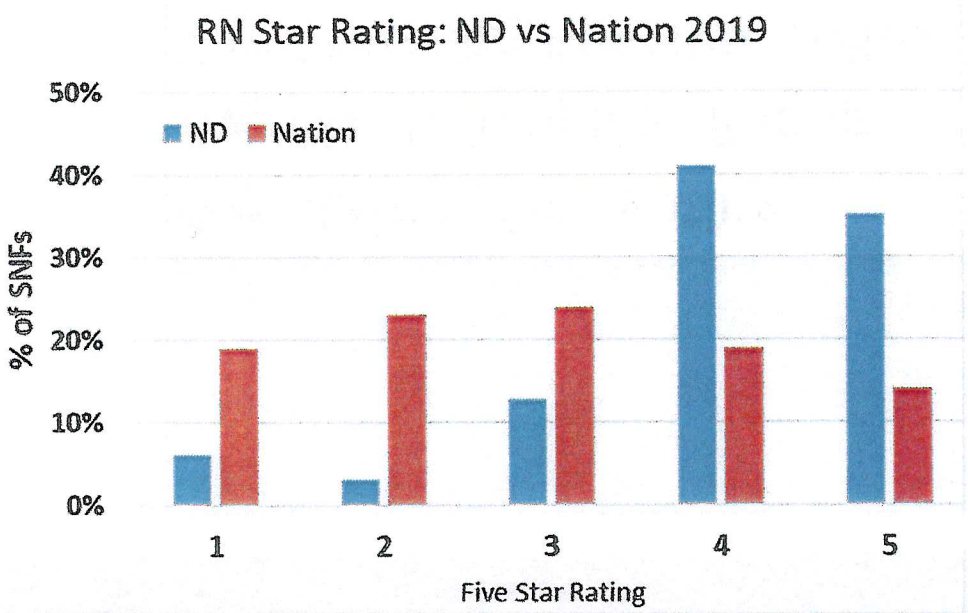
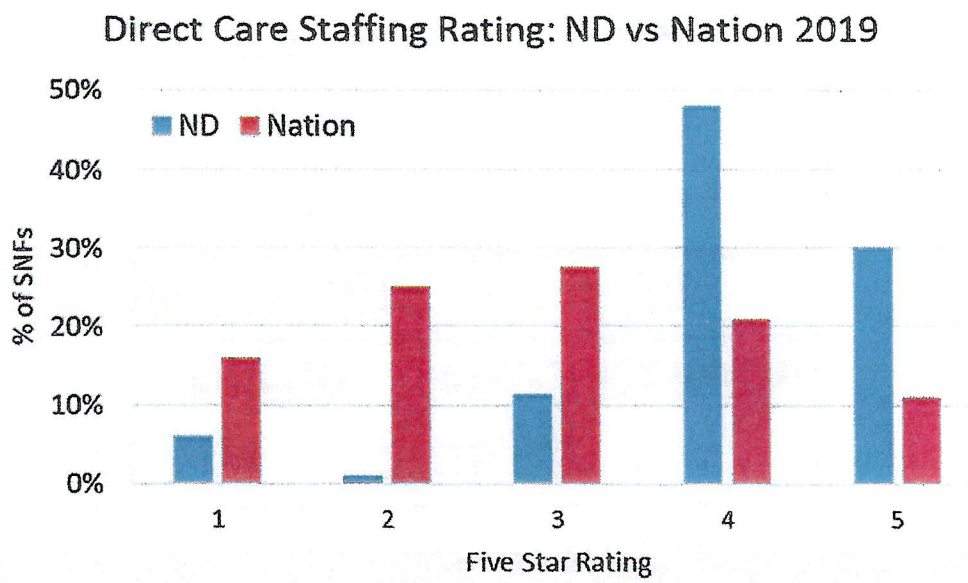
ND vs Nation on Staffing

	2019-Q1	
	Nation	North Dakota
	N =15,140	N = 80
Avg Staffing Star Rating	2.9	4.0
Avg RN Staffing Star Rating	2.9	4.0
Total Nursing Adjusted HPRD	3.9	4.8
RN Adjusted HPRD	0.7	1.1

ND vs Nation: Staffing Star Rating 2019





Improving Lives *by* Delivering Solutions *for* Quality Care

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Staffing Association with Quality ND Facilities 2019

FINDING: As staffing Star Rating increases so does the average Quality Measure Star Rating

Note: 1 star facilities (n=5) were assigned 1 star by CMS due to staffing data errors; not because of low staffing levels; and were excluded

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