

Testimony on HB 1012
House Appropriations Committee - Human Resources Division
January 26, 2021

Good afternoon Chairman Nelson and members of the House Appropriations - Human Resources Division 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. I am here in support of HB 1012 and ask for your support of basic care and nursing facility funding.

HB 1012

First, just a quick recap of the numbers – see the attachments for assisted living, basic care, and nursing facilities.

Second, I want to address basic care funding as the DHS budget proposes a decrease in basic care funding as shown on Attachment A.

The reduction of \$7.3 million to basic care is catastrophic, and if left intact many basic care facilities will be unable to stay in business.

Before the pandemic hit basic care utilization was growing, more people needing basic care assistance were seeking this living arrangement with services. However, as you can see, basic care occupancy has dropped because of COVID-19, so the money for the increase in caseload/utilization is probably not necessary, (3.3 million). But the cost changes to continue, as well as at least a 2% inflator is absolutely necessary. This type of reduction will forever destroy care to individuals in need of this type of care.

What is basic care and why is it important? Basic care is a congregated residential setting with private and semi-private rooms, providing 24 hour staffing. Basic care provides an all-inclusive rate providing room, meals, personal care services, supervision, activities, transportation, medication administration, nursing assessment and interventions and care planning. Residents range in age from late 30's to over 100 years old, with the average age in the mid 80's. Almost two-thirds of residents living in basic care need assistance to pay for their care. The average basic care assistance rate on July 1, 2020 was \$129.69, what a bargain! Twenty-four hour care, all-inclusive rate that covers all of your needs. An independent study commissioned by DHS in 2014 stated in their report, (Myers & Stauffer), "It is therefore in the state's best interest to proactively invest additional resources to further develop it's non-institutional resources, (HCBS, basic care and assisted living) that promote the ability of the elderly and disabled to "Age in place" and be served for as long as possible in their own home or another community residential setting.". This cut to basic care is doing just the opposite and serves to harm this entire service option in North Dakota. Please take a look at Attachment B labeled Basic Care Rates Effective July 1,2020, the average rate is \$129.69. North Dakota has a real gem, called basic care and I would ask the committee to not accept the Governor's Budget reduction.

The next budget item I would like to address is Adult Residential Care. These are licensed basic care providers specializing in head injury services, (two) and in dementia care, (thirteen). These facilities are funded under the Medicaid waiver and the clients they serve screen in need of skilled nursing care. Adult Residential Care is a more independent integrated setting with 24 hour access to staff to support their independence.

Below is the list of the 15 Adult Residential Care facilities and their daily Medicaid rate, their licensed bed capacity and their occupancy as shared on the 1-14-21 HC Standard report.

<u>FACILITY NAME</u>	<u>CITY</u>	<u>DAILY RATE</u>	<u>LICENSED BEDS</u>	<u>OCCUPIED</u>
Maple View	Bismarck	\$112.08	36	31
Edgewood Senior Living	Fargo	\$108.93	35	33
Maple View Memory Care	Minot	\$103.22	43	32
Edgewood Senior Living	Mandan	\$107.08	73	48
Maple View Fargo	Fargo	\$108.26	36	30
Ecumen – Evergreens	Fargo	\$114.72	54	32
Edgewood Senior Living	Minot	\$123.77	22	18
Edgewood Senior Living	Minot	\$126.38	133	97
Roseadele	Jamestown	\$127.47	20	20
Edgewood Senior Living	Bismarck	\$133.13	44	36
Maple View	Grand Forks	\$125.62	36	25
Edgewood Senior Living	Jamestown	\$127.35	61	39
Lakewood Landing	Mandan	\$154.94	38	32
Open Door Center	Valley City	\$173.00	10	10
Dakota Pointe – HIT INC	Mandan	\$198.24	10	10

Besides the daily rate above, a room and board rate of \$758.00 per month is allowed. These providers are also in need of at least a two percent rate adjustment per year. The Governor’s Budget allows only a one percent adjustment.

Interestingly that brings me to the next budget item, skilled nursing facilities. That budget needs an enhancement of \$7.2 million for reforming the Nursing Facility Payment System. What we need for nursing facilities \$7.2 million is almost identical to the basic care reduction of \$7.3 million. Although we are on board and support the changes to the Nursing Facility Payment System, we can not in good faith ask for that money at the expense of basic care. Options to restore basic care funding:

- 1) Take the \$3.3 million funded for the bed buy-out and give it to basic care.
- 2) Take the \$5.6 million funded for the nursing facility 1% inflator and give it to basic care, (nursing facility inflator is already funded at the Skilled Market Basket in another part of the budget). As well as use that money to increase the inflator to at least two percent for all basic care providers.

- 3) Look at nursing facilities and basic care utilization, as budget savings may be found, as the pandemic has negatively impacted occupancy.
- 4) If money cannot be found in the above three options, then delay implementation of the new Nursing Facility Payment System. I hate to even suggest that option as we have worked hard to gain consensus with members and the department, any delay might damper the spirit of reform. However, we can not and will not support the reform at the expense of basic care.

That being said, I would now like to transition into the new Nursing Facility Payment System funded in this budget and ask you to support this reform.

The 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 few 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 have 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. Without their expert knowledge this project would have never been successful. Brad DeJong is with us today and he will testify on the details for the new proposed fair rental system.

As you are aware, HB 1090 contains all the policy language to implement the new payment system and HB 1012 contains the money to implement. It is impossible to just talk about the money without talking about the new policy behind it. We are still working out the policy issues, (HB 1090), with House Human Services. All policies are based upon a long and sometimes challenging negotiation process. Each detail impacts one another. They are all related and entwined to the overall success of the new payment system. We know you have final approval as legislature determines policy and the budget. I am hoping you see the value and can support all changes we are bringing to you. To trust the state and national experts who know complex payment systems. There are key components that are vital to the implementation and success of the new system.

Key Features of the New Pricing Model

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 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 pricing model, (not the property component), 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. Item 8 & 9 are really important because we are losing a key component on the payment system. That is called annual rebasing. Under annual rebasing today, if your costs are under the cost limit and your costs increase substantially, you get that full increase in your rate up to the limit. This feature has saved many facilities and has been vital. But we are giving it up. In giving this “annual rebasing up”, it is important to get the annual Skilled Market Basket and rebasing of the price every two 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 one 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 two 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 until everyone crosses over into the fair rental system. The hold harmless provision is to help those that have recently undertaken a major construction project or to help those that are planning a major

construction project if the financing of the project was in place by 12-31-21. The majority of the new money here are for those nursing facilities that have a low property rate to transition to a higher property value.

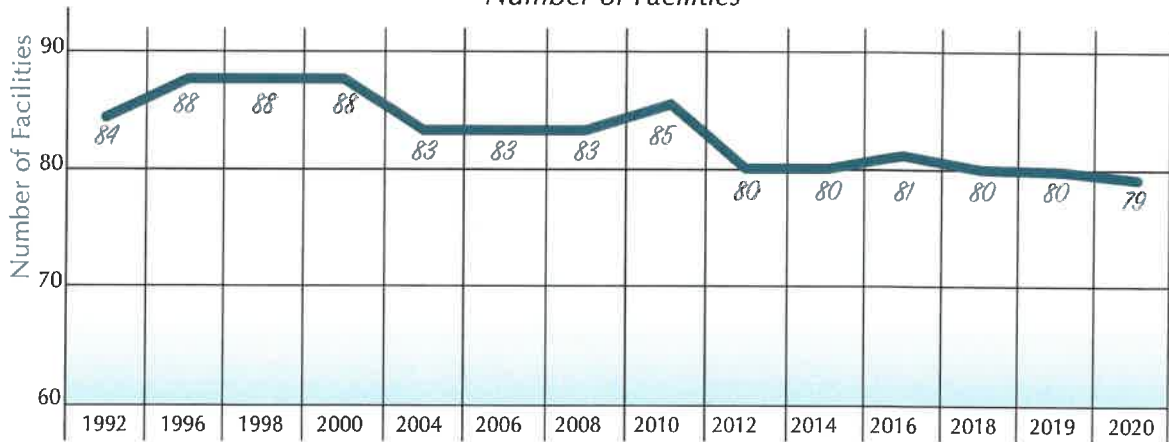
Brad DeJong is going to address in detail the fair rental system so I would like to defer any question on that topic to him. After Brad, I have asked Reier Thompson, CEO of Missouri Slope in Bismarck, to talk about his skilled nursing facility the impact of the pandemic and a little bit about a new construction project in progress today.

This concludes my testimony and I welcome your questions. Would you like to hear from Brad and Reier before you ask questions?

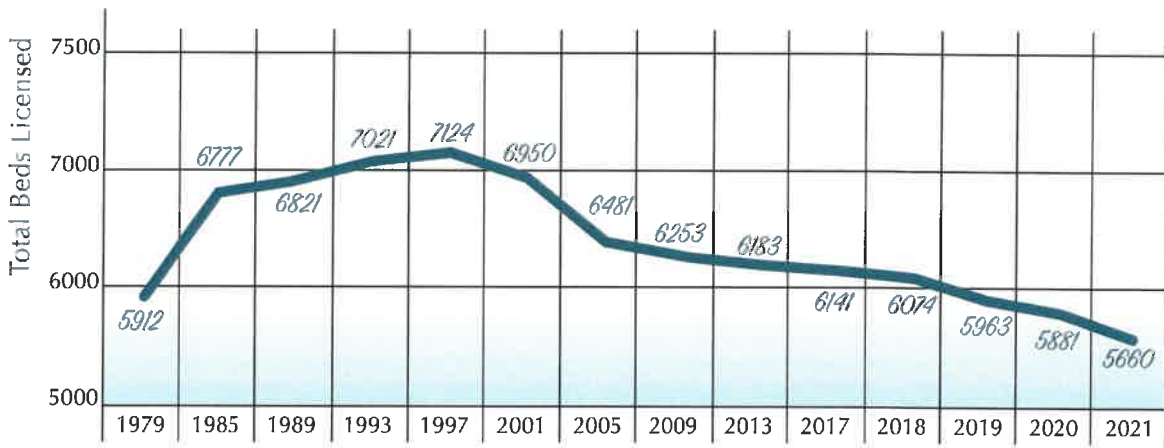
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Nursing Facilities

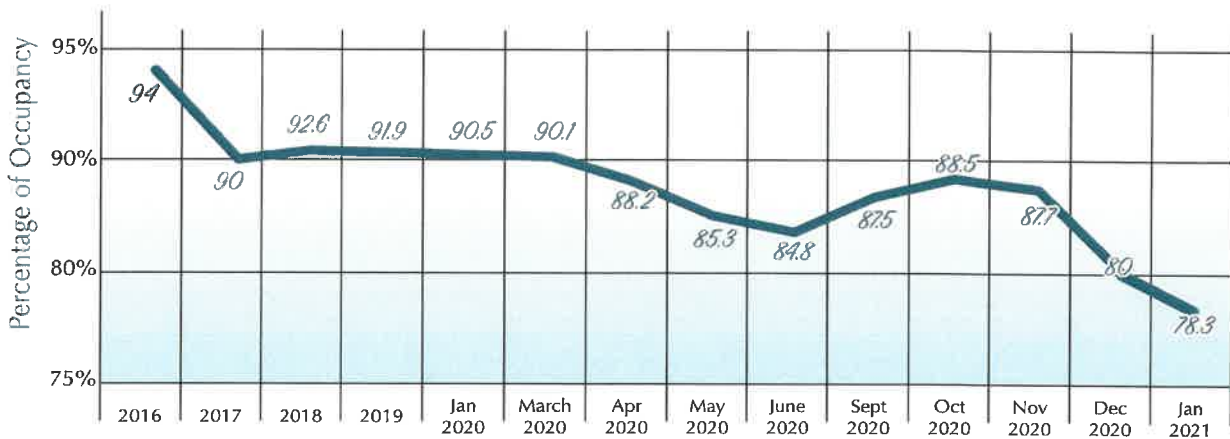
Number of Facilities



Licensed Beds



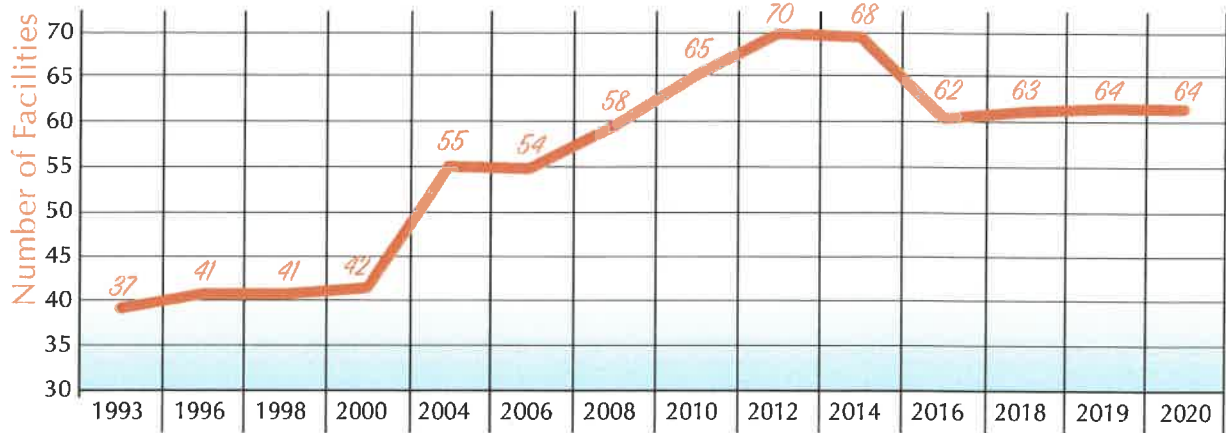
Occupancy



January - June 2020 Based on NDLTCA Survey
 September 2020 Based on HC Standard Report on September 10, 2020
 October 2020 Based on HC Standard Report on October 2, 2020
 November 2020 Based on HC Standard Report on November 2, 2020
 December 2020 Based on HC Standard Report on November 30, 2020
 January 2020 Based on HC Standard Report on January 11, 2021

Basic Care

Number of Facilities



Licensed Beds



Occupancy



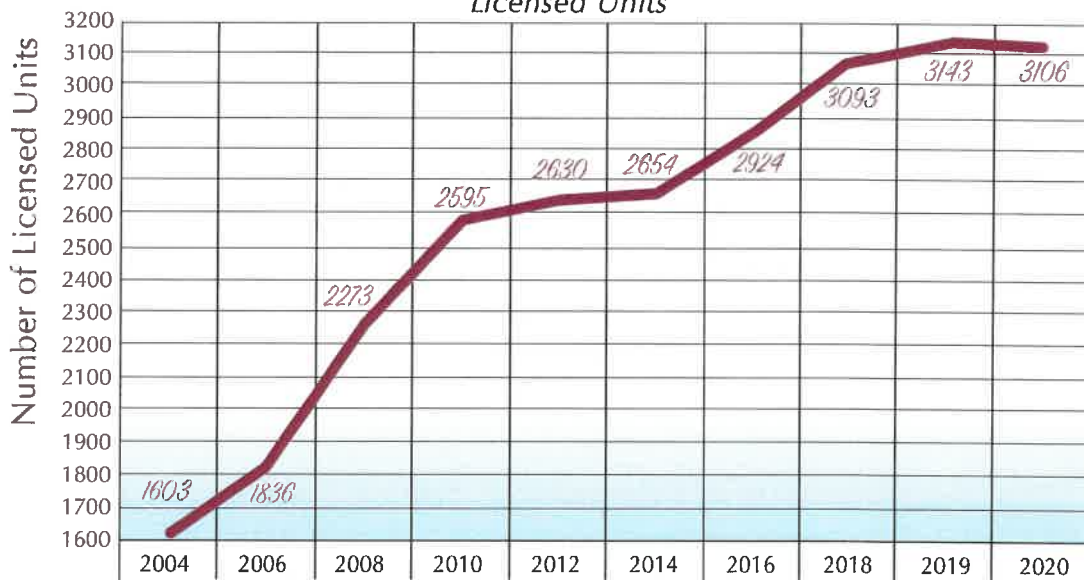
The occupancy for 2020 is based upon the 9-10-20, 10-2-20, 11-2-20 and 11-30-20 data submitted by basic care facilities (n=61) and HC Standard/Covid Reporting

Assisted Living

Number of Facilities



Licensed Units



Occupancy



The occupancy for 2020 is based upon the 9-10-20, 10-2-20, 11-2-20, and 11-30-20 data submitted by assisted living facilities (n=69) and HC Standard/Covid Reporting

North Dakota Department of Human Services Changes in Long Term Care (LTC) from 2019-2021 Appropriation to the 2021-2023 Executive Budget Recommendation

Service Description	Legislatively Approved Budget 2019 - 2021	Funding Shift	Cost Changes	Caseload / Utilization Changes	Cost to Continue	Medicaid FMAP	Take Autism Voucher Funds and move them into Autism Waiver	Basic Care Savings Plan	Eliminate Tech Dependent Waiver	PACE Rate Adjustment and Decrease Enrollment	Total Changes	2021-2023 Budget To DMB	1% & 1% Provider Inflationary Increases	Nursing Home Payment Reform	Medicaid Underfunding	Total Governor Changes	2021-2023 Budget To House
Nursing Facilities	582,849,867		33,767,833	5,808,804	39,676,637						39,676,637	622,528,504	5,846,947	7,200,000		12,846,947	635,375,451
Underfunding	120,000,000			20,000,000	20,000,000						20,000,000	622,528,504	5,846,947	7,200,000		12,846,947	635,375,451
Total Nursing Facilities	582,849,867		33,767,833	25,808,804	59,676,637						59,676,637	622,528,504	5,846,947	7,200,000		12,846,947	635,375,451
Basic Care	40,555,991		2,303,873	3,323,952	5,717,765						(1,592,235)	47,973,746	439,126			439,126	48,412,872
Home & Community Based Services	124,104,683		(5,828,850)	18,234,160	12,804,310		(845,673)		(596,112)	(1,914,734)	9,147,791	133,252,474	2,032,976			1,702,976	134,955,450
SPED	17,796,841		(886,472)	2,806,951	2,020,479						2,020,479	19,820,320	266,633			266,633	20,116,953
EXSPED	1,844,983		(43,009)	33,836	(10,073)						(10,073)	1,834,800	27,782			27,782	1,862,582
Personal Care Services	34,453,377		1,721,255	(4,925,192)	(3,203,937)						(3,203,937)	31,276,440	470,710			470,710	31,747,150
Respite Services	1,333,722		(3,739,903)	17,652,007	(14,827,181)						(1,763,206)	154,536	2,328			2,328	156,864
Home & Comm Based Service Waiver	30,104,751		(3,154,620)	17,652,007	(14,827,181)						14,482,777	44,587,528	693,836			353,836	44,941,364
Children's Medical/Fragile Waiver	504,476		4,824	4,423,687	1,846,592						(154,888)	389,736	5,966			5,966	395,702
Technology Dependent Waiver	32,898,876		(2,477,105)	4,423,687	1,946,592			(566,112)		(1,914,734)	(561,288)	32,898,004	508,262			508,262	33,407,266
PACE	61,848		10,224	(1,086,604)	10,224						10,224	72,072	1,085			1,085	73,157
Children's Hospice Waiver	2,564,772		(1,665,564)	35,144	(1,665,564)						(596,324)	2,208,448	33,626			33,626	2,242,074
Autism Waiver	1,325,009		35,144		35,144						(1,325,009)						
Autism Voucher							712,460										
							(1,358,153)										
Excess Federal Authority	736,510,511		30,231,768	47,668,916	77,898,712		646,673	(7,200,000)	(596,112)	(1,914,734)	67,241,193	802,722,724	8,116,049	7,200,000	(330,000)	14,886,049	818,741,773
Total	375,744,731	1,000,000	14,838,993	25,560,980	40,219,973	(17,377,693)	(1,358,153)	(5,075,038)	(277,552)	(991,891)	16,850,402	393,345,133	3,994,328	5,348,000	(330,000)	7,012,328	400,357,461



Basic Care Rates Effective July 1, 2020

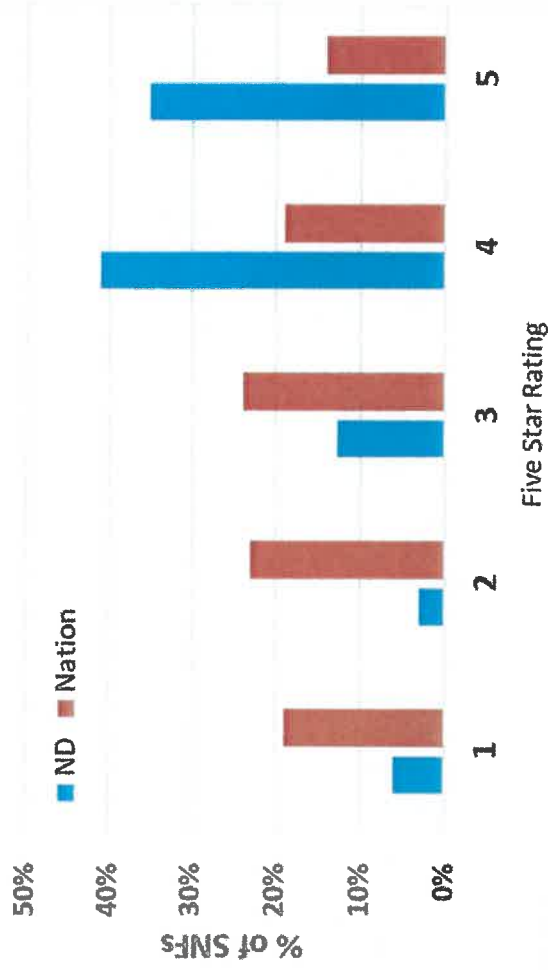
Facility	City	Personal Care Rate	Room & Board Rate	Total Rate
Prairie Villa	Arthur	\$77.99	\$68.99	\$146.98
Augusta Place	Bismarck	\$53.56	\$84.42	\$137.98
Edgewood Bismarck Senior Living	Bismarck	\$64.87	\$40.81	\$105.68
Edgewood Vista at Edgewood Village	Bismarck	\$63.64	\$63.51	\$127.15
Prairie Pointe	Bismarck	\$99.88	\$80.57	\$180.45
St. Gabriel's Community	Bismarck	\$73.77	\$112.91	\$186.68
The Terrace	Bismarck	\$72.37	\$57.95	\$130.32
St. Francis Residence	Cando	\$48.98	\$84.91	\$133.89
St. Luke's Sunrise Care Center	Crosby	\$59.64	\$96.81	\$156.45
Eventide - Lake Country Manor	Devils Lake	\$45.69	\$71.01	\$116.70
Odd Fellows Home	Devils Lake	\$50.65	\$59.44	\$110.09
Evergreen Dickinson	Dickinson	\$45.85	\$68.70	\$114.55
Manor St. Joseph	Edgeley	\$65.06	\$43.80	\$108.86
Edmore Rest Home	Edmore	\$93.49	\$39.92	\$133.41
Dakota Hill Housing	Elgin	\$60.29	\$39.85	\$100.14
Evergreen Place	Ellendale	\$59.58	\$64.81	\$124.39
Bethany Towers	Fargo	\$68.63	\$59.88	\$128.51
Edgewood Fargo Senior Living	Fargo	\$64.94	\$61.17	\$126.11
Evergreens of Fargo - 1401	Fargo	\$77.00	\$59.53	\$136.53
Evergreens of Fargo - 1411	Fargo	\$77.47	\$59.34	\$136.81
Good Samaritan Society - Fargo	Fargo	\$49.39	\$59.44	\$108.83
Gackle Care Center	Gackle	\$71.27	\$58.46	\$129.73
Edgewood Parkwood Place	Grand Forks	\$50.59	\$43.16	\$93.75
St. Anne's Guest Home	Grand Forks	\$59.27	\$67.71	\$126.98
Tufte Manor	Grand Forks	\$55.08	\$65.41	\$120.49
Senior Suites at Sakakawea	Hazen	\$85.82	\$65.25	\$151.07
Edgewood Jamestown	Jamestown	\$74.17	\$77.79	\$151.96
Rock of Ages Home, Inc.	Jamestown	\$62.71	\$46.29	\$109.00
Hill Top Home of Comfort	Killdeer	\$77.53	\$88.38	\$165.91
Good Samaritan Society - Lakota	Lakota	\$78.54	\$90.80	\$169.34
Good Samaritan Society - Larimore	Larimore	\$44.43	\$97.07	\$141.50
Parkside Lutheran Home	Lisbon	\$79.16	\$87.02	\$166.18
Maddock Memorial Home	Maddock	\$61.00	\$65.90	\$126.90

Basic Care Rates Effective July 1, 2020

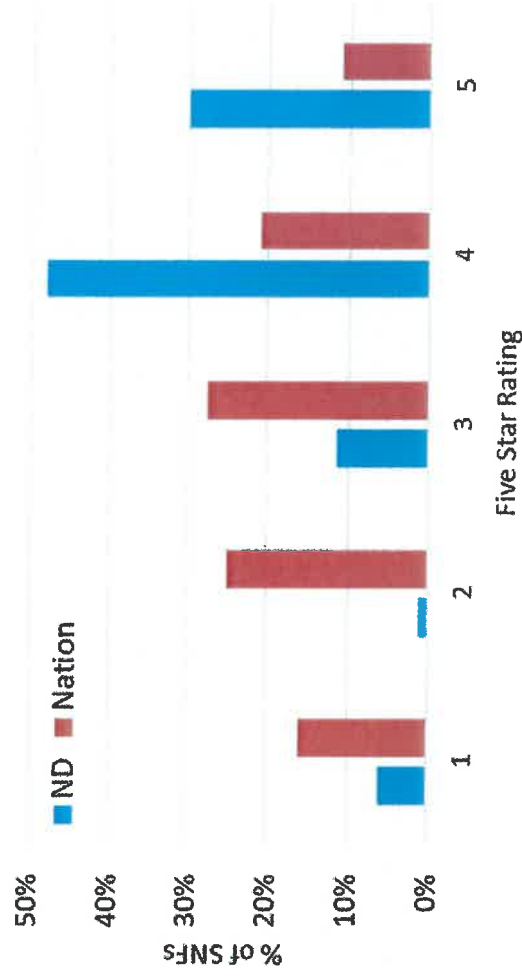
Facility	City	Personal Care Rate	Room & Board Rate	Total Rate
Edgewood Mandan	Mandan	\$51.26	\$58.11	\$109.37
Lakewood Landing	Mandan	\$46.48	\$67.13	\$113.61
Sheridan Memorial Home	McClusky	\$52.22	\$42.38	\$94.60
Edgewood Minot Senior Living	Minot	\$42.18	\$36.45	\$78.63
Borg Pioneer Memorial Home	Mountain	\$57.26	\$46.34	\$103.60
Napoleon Care Center	Napoleon	\$60.15	\$61.65	\$121.80
Lutheran Home of the Good Shepherd	New Rockford	\$58.18	\$94.73	\$152.91
Osnabrock Community Basic Care	Osnabrock	\$57.19	\$42.81	\$100.00
Good Samaritan Society - Park River	Park River	\$36.38	\$68.76	\$105.14
Harold S. Haaland Home	Rugby	\$67.29	\$66.96	\$134.25
Golden Manor	Steele	\$63.47	\$63.34	\$126.81
Siena Court	Wahpeton	\$79.62	\$82.21	\$161.83
The Leach Home	Wahpeton	\$54.77	\$77.23	\$132.00
Bethel Lutheran Home	Williston	\$62.95	\$79.96	\$142.91
Redwood Village	Wilton	\$79.19	\$65.09	\$144.28

ND vs Nation: Staffing Star Rating 2019

RN Star Rating: ND vs Nation 2019



Direct Care Staffing Rating: ND vs Nation 2019

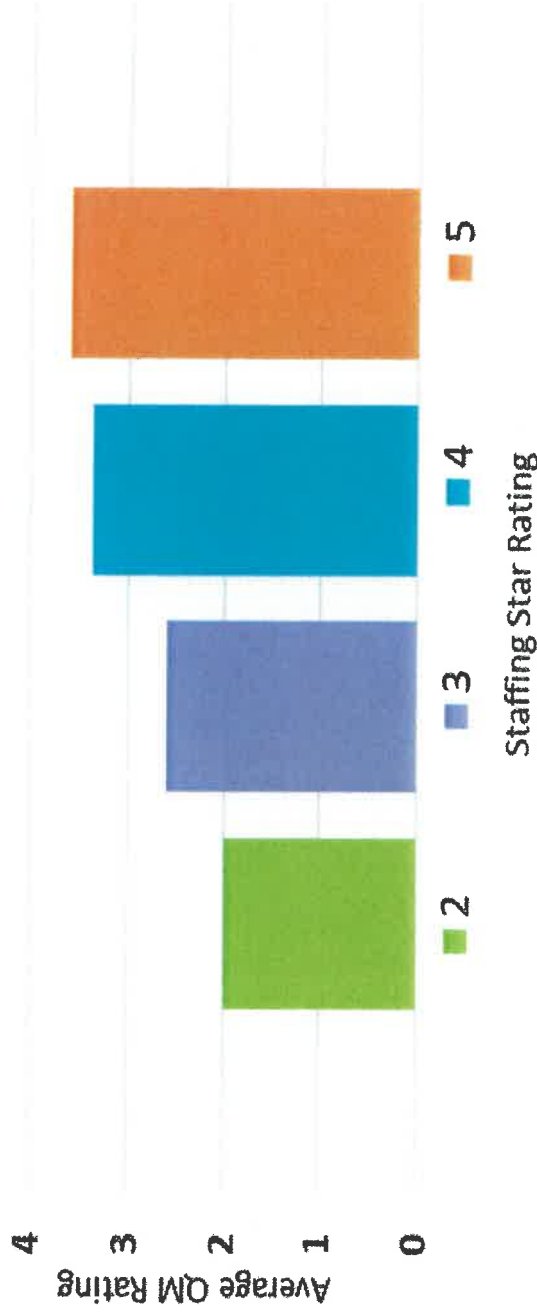


Improving Lives by Delivering Solutions for Quality Care



Staffing Association with Quality ND Facilities 2019

Avg Long Stay Quality vs Staffing Ratings



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