

Testimony on HB 1065
Senate Human Services Committee
March 8, 2021

Good afternoon Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here in support of HB 1065. We represent 211 long term care facilities in North Dakota, including all 79 skilled nursing facilities.

HB 1065 was first proposed to allow the Department of Human Services to establish an occupancy limitation annually. The House was uncomfortable with the provision and instead amended the bill to allow nursing facilities to be allowed to set-aside, in a bed layaway program, 30%, (it is now 25%), of their licensed nursing facility beds in a year, but no more than 50% of their beds at any time. The second feature of HB 1065 is that it allows nursing facilities to change their bed capacity twice a year rather than just one. Although there are some federal limitations on changing bed capacity that must be followed, changing the state law would allow facilities more flexibility than they currently have. This could potentially allow a nursing facility that sets beds aside in the bed layaway program, to bring them back in service before the 12 month period. In reviewing HB 1065, I see there is another part of the statute that doesn't allow bed increases more than once a year. On page 2, lines 28 & 29 it states: Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may not occur for twelve months from the time of delicensure. To allow the flexibility we are seeking, we would need to have these two sentences removed or the time frame changed to six

months. The only time facilities would want to bring beds back into service before the current year is if demand and need rebounds.

In the June 30, 2020 cost report the following data was reported:

- 1) 24 of 79 nursing facilities reported occupancy below 90%.
- 2) The average statewide occupancy on June 30, 2020 was 91.6%.
- 3) The total amount of lost reimbursement caused by the occupancy limitation was \$3,734,889.
- 4) The range of lost reimbursement for low occupancy per nursing facility was \$505 to \$1,419,608.

When the public health emergency was declared in March 2020, we began to see an impact on occupancy. Two factors were impacting a person's decision to be admitted to a nursing facility:

- 1) Fear of contacting Covid-19 because of the risk of living in a congregated setting.
- 2) Visitation restrictions.

These two factors are still present today.

Today nursing facility occupancy is 78.3%. We have over 1200 open nursing facility beds. Since October 2, 2020, occupancy has dropped 10 percentage points and we cannot seem to reach 80%. Based on our current experience and devastating occupancy drop, today we have 62 of 79 nursing facilities under 90% occupied, that has never happened prior to the PHE.

To protect our population all facilities purposely left beds open, so they could cohort and create Covid units to segregate those with and without the virus. Anytime anyone leaves the facility for a medical appointment or other reasons, they must evaluate and quarantine up to 14 days within

the facility upon their return. This has required the use of creating more private rooms to help prevent infecting others.

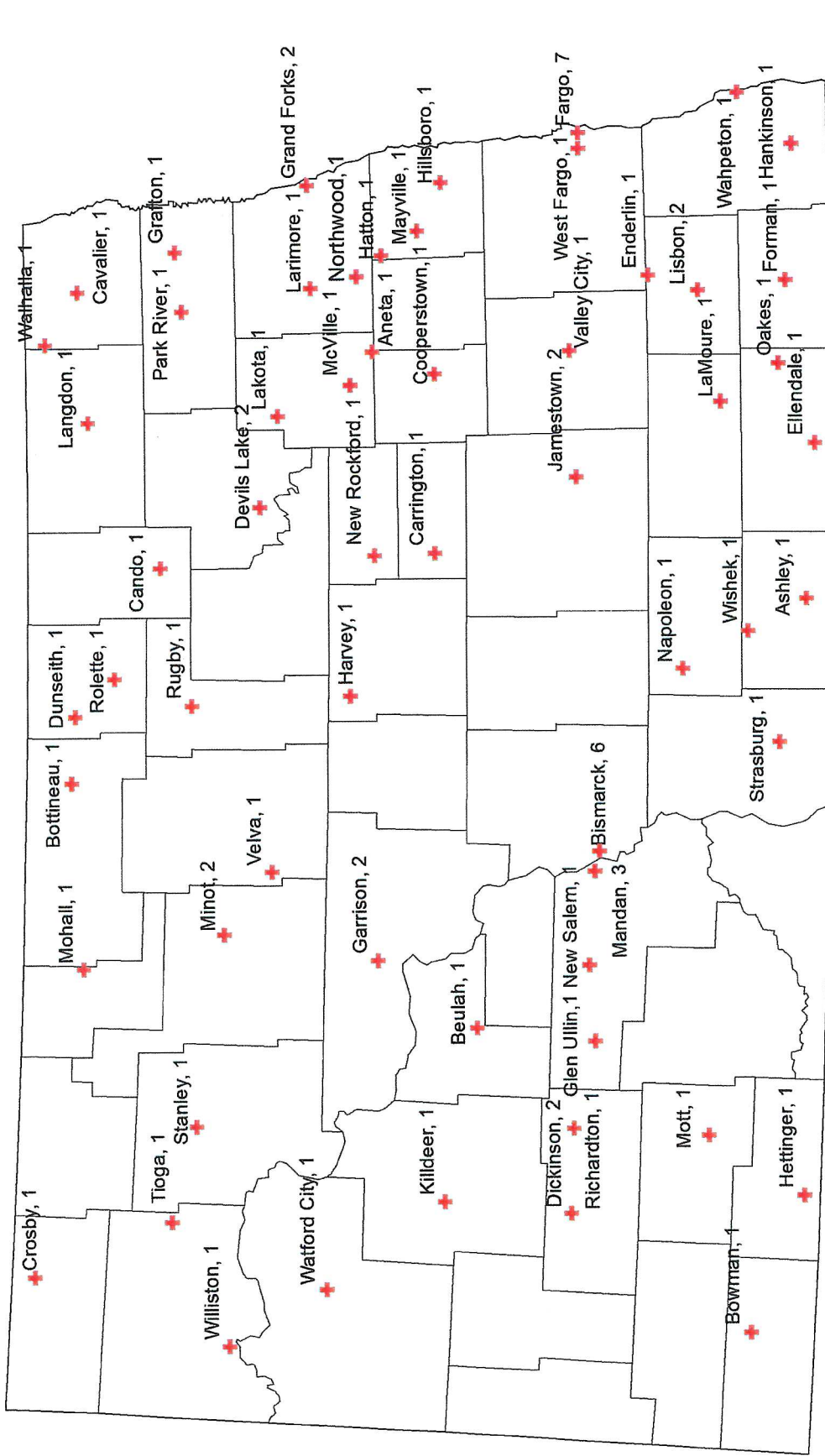
As you can imagine, all these moves to protect our vulnerable population impacted occupancy. So, it was probably a blessing in disguise when we began having a large number of open beds as we needed that space to create Covid units and quarantine zones. It is also difficult to socially distance with two people in a room. Before the PHE, we had around 58% private rooms, thank goodness we did as this helped us protect our vulnerable population. See the attachments to best see the impact.

In conclusion, we ask for your support of HB 1065 and consideration of an amendment to delete lines 28 and 29 on page 2.

Thank you for your consideration of HB 1065. I would be happy to answer any questions you may have.

Shelly Peterson, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660

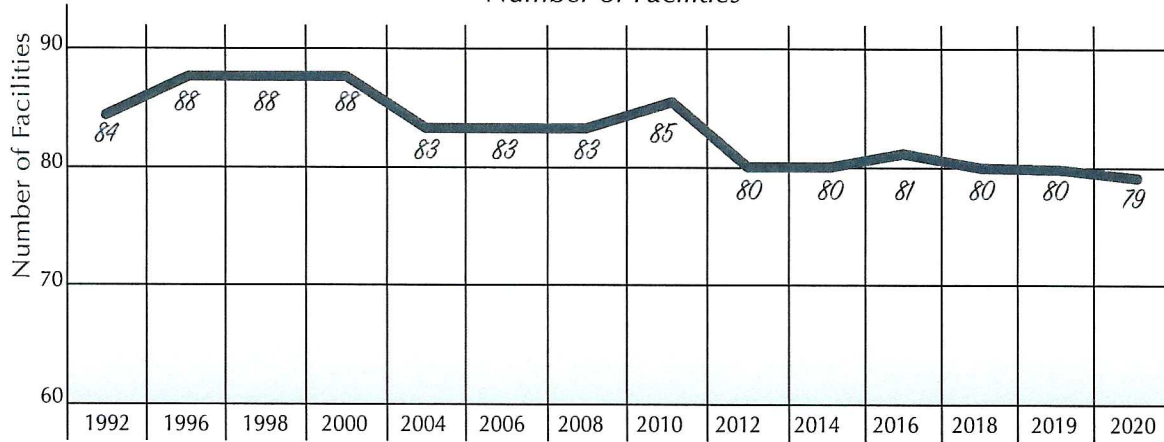
North Dakota Nursing Facilities



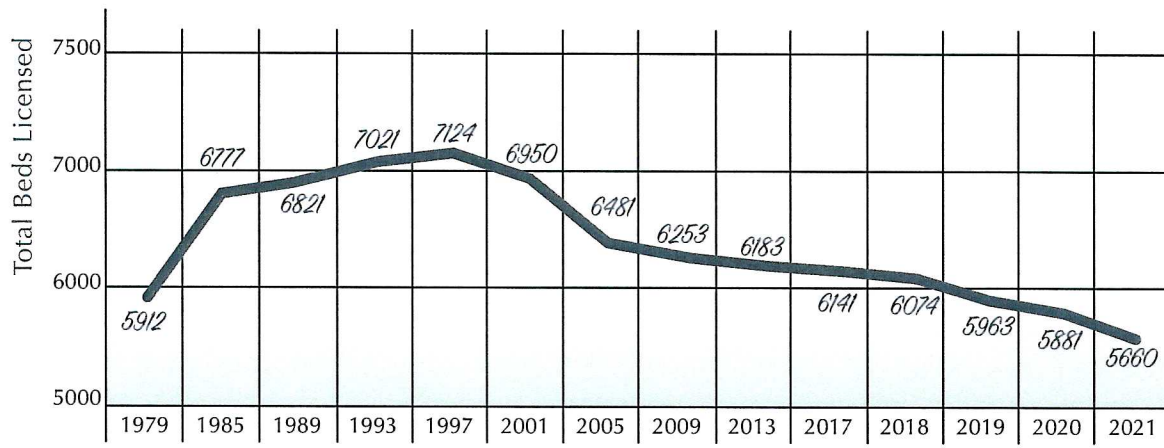
+ City (Number of Nursing Facilities)

Nursing Facilities

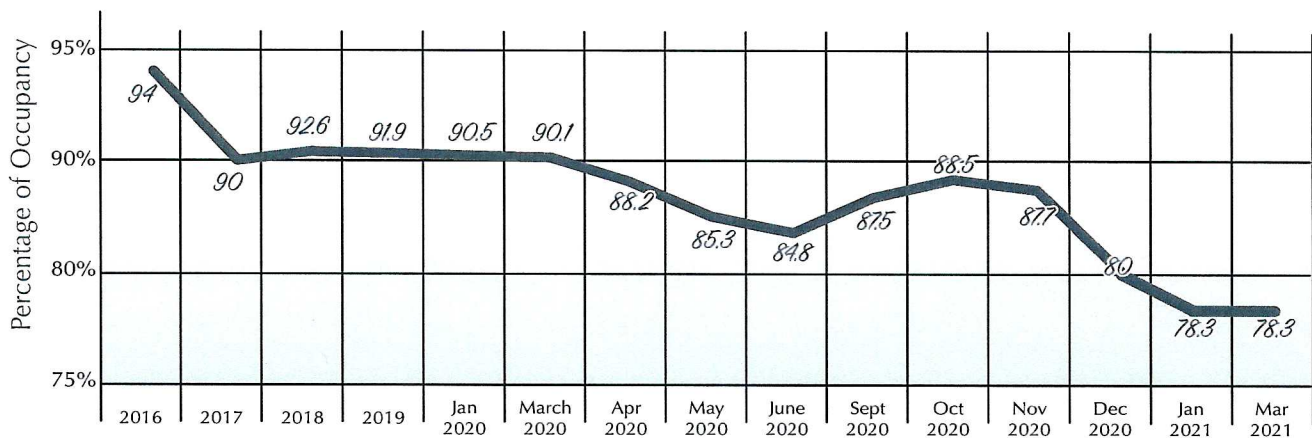
Number of Facilities



Licensed Beds



Occupancy



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 2021 Based on HC Standard Report on January 11, 2021

March 2021 Based on HC Standard Report on March 4, 2021

