

**Testimony on HB 1290**  
**Senate Human Services Committee**  
**March 1, 2023**

Good morning, Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here to testify in support of HB 1290 and ask you for a Do Pass.

HB 1290 does one thing, it extends the moratorium on increasing the number of nursing homes or basic care facilities in North Dakota. Why would we want a law that prevents any expansion of nursing homes or basic care facilities in our state? Because we do not need any more facilities and we want to prevent any expansion of institutional capacity. Most North Dakotans want to stay at home as they age and need care, they hope to have their final days at home with their family.

North Dakota is very different from the rest of the country, well over 100 years ago we developed “homes for the aged”. They were developed by churches and non-profit organizations. The model of care was to have a nursing home in every community to care for our beloved elders. Today over 90 percent of North Dakota nursing homes are non-profit, many are still affiliated with a church. North Dakota did such a good job in developing and building facilities that in the mid-90’s we had one of the highest nursing facilities beds per 1000 elderly in the nation. More recently it was felt that North Dakota’s development of in-home services was seriously lagging. In 2015 the Department of Justice began an

investigation in North Dakota under Title II of the Americans with Disabilities Act. Title II requires public entities to administer services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. Complainants alleged being forced to enter nursing homes because services in the community were not available.

Five years later on 12-14-20 the US government and the State of North Dakota entered into a settlement agreement. In the agreement, North Dakota agrees to provide timely community based services and support to give every person the option to be in the most integrated setting appropriate.

That agreement doesn't mean we can't have nursing facilities and basic care facilities, we will always need that level of care, it is still an option. We believe we need to be prudent and guard against any expansion of institutional capacity. The bill before you does just that it limits the expansion of nursing homes and basic care.

In 2009 we desperately needed more nursing facility beds in the Bismarck and Fargo communities. That occurred as re-distribution of beds occurred between entities who wished to sell their beds and others who needed the increased capacity.

There is an exception for basic care beds. On lines 12-15 it states; "(If) an entity demonstrates to the department that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile radius have been occupied at ninety percent or more for the previous twelve months." Additional basic care beds could be approved, but an unmet need must be demonstrated.

The other exception to adding basic care beds is a nursing facility can take some of their existing nursing facility beds and convert them to basic care. This generally has occurred in small rural nursing homes where they wanted to provide a lower level of care for those not needing 24 hour skilled nursing care, but 24 hour supervision, housing and services.

North Dakota has had a moratorium on nursing facility beds since 1996. It was adopted way back then because our institutional capacity was high. The highest nursing facility bed count was 7,124. Today we have 5,226 nursing facility beds, 1,898 less beds.

In summary, I ask you to support the bill before you. It has helped to transform the continuum of care, serving those who need 24 hour skilled nursing care and freeing up funding to provide services at home. Today the Medicaid budget supports 55% of all individuals living in a nursing home. I would be happy to answer any question you have.

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