Sixty-seventh Legislative Assembly of North Dakota

HOUSE BILL NO. 1065

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

- 1 A BILL for an Act to amend and reenact subsection 3 of section 50-24.4-10 of the North Dakota-
- 2 Century Code, relating to nursing home's operating costs.for an Act to amend and reenact
- 3 section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the
- 4 expansion of long-term care bed capacity.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 SECTION 1. AMENDMENT. Subsection 3 of section 50-24.4-10 of the North Dakota 7 Century Code is amended and reenacted as follows:

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| 9 | per diems based on cost reports of allowable operating costs taking into consideration |
| 10 | relevant factors including resident needs, nursing hours necessary to meet resident |
| 11 | needs, size of the nursing home, and the costs that must be incurred for the care of |
| 12 | residents in an efficiently and economically operated nursing home. For the rate year |
| 13 | beginning 2006, the department shall establish limits for cost categories using the |
| 14 | June 30, 2003, cost report year as the base period. The limits may not fall below the |
| 15 | median of the most recent cost report. Until a new base period is established, the |
| 16 | department shall adjust the limits annually by the inflation rate for nursing home |
| 17 | services used to develop the legislative appropriation for the department. In |
| 18 | determining allowable historical operating cost per diems for purposes of setting limits |
| 19 | and nursing home payment rates, the department shall divide the allowable historical |
| 20 | operating costs by the actual number of resident days, except that when a nursing |
| 21 | home is occupied at less than ninety percent <u>the published rate</u> of licensed capacity |
| 22 | days, the. Annually, the department may establish procedures to adjust the |
| 23 | computation of the indirect care cost per diem to an imputed shall set the minimum |
| 24 | occupancy level at or below ninety percentrate and publish the rate for the next year |

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Sixty-seventh Legislative Assembly

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| 1 on or before January first of each year. To encourage the development of home and 2 community-based services as an alternative to nursing home care, the department- 3 may waive the imputed occupancy level requirements for a nursing home that the- 4 department determines to be providing significant home and community-based 5 services in coordination with home and community-based service providers to avoid. 6 duplicating existing services. The department shall consider establish efficiency incentives for 7 indirect care costs. The department shall consider establishing efficiency- 8 operating cost categories. 9 incentives in care related cost categories. 10 SECTION 1. 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. 13 1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic 16 care beds to nursing facility beds are incenses nursing facility bed deleensed after 19 july 31, 2011, nursing facility bed capacity, relicense nursing facility bed 10 capacity during the period between August 1, 2019, and July 31, 2021. A nursing 11 incensed basic care bed capacity basic care bed capacity, or otherwise | 1 | | |
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| | 29 | | the nursing facility first transferred the licensed nursing facility bed capacity. The |
| 31 seventy-two-month period originally established at the time of the first transfer. | 30 | | subsequent receiving entity must license the received bed capacity within the |
| | 31 | | seventy-two-month period originally established at the time of the first transfer. |

| 1 | 3. | A nursing facility may convert licensed nursing facility bed capacity to basic care. If the |
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| 2 | | converted beds remain in the same facility and are not transferred, the beds may |
| 3 | | revert to nursing facility status after one year of licensure as basic care beds. |
| 4 | 4. | Nursing facility beds that are converted to basic care may be transferred as basic care |
| 5 | | beds. However, upon the transfer, the basic care beds may not be relicensed as |
| 6 | | nursing facility beds. |
| 7 | 5. | If an Indian tribe acquires nursing facility beds, the tribal facility must meet state |
| 8 | | licensing requirements for those beds within seventy-two months of acquisition. A tribal |
| 9 | | facility may seek to participate in the medical assistance programs. Medical assistance |
| 10 | | payments may only be made to a Medicaid certified tribal facility that agrees to |
| 11 | | participate and adhere to all federal and state requirements of the medical assistance |
| 12 | | program, including participation, screening, ratesetting, and licensing requirements. |
| 13 | 6. | A nursing facility, upon prior written notice to the state department of health, may |
| 14 | | delicense a maximum of twenty-fivethirty percent of its licensed nursing facility bed |
| 15 | | capacity and have the delicensed nursing facility held for a period of forty-eight |
| 16 | | months. The total delicensed nursing facility bed capacity that may be held for a |
| 17 | | nursing facility at no time may be greater than fifty percent of the number of currently |
| 18 | | licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess |
| 19 | | of fifty percent of the nursing facility's licensed capacity may not be held and is not |
| 20 | | eligible for the provisions of subsection 7. Delicensed bed capacity not sold or |
| 21 | | relicensed at the conclusion of the forty-eight-month holding period ceases to exist. |
| 22 | 7. | During the forty-eight-month holding period established at the time of delicensure, |
| 23 | | delicensed nursing facility bed capacity that is being held for the nursing facility may |
| 24 | | be: |
| 25 | | a. Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may |
| 26 | | not occur for twelve months from the time of delicensure. |
| 27 | | b. Transferred to another entity as nursing facility bed capacity or basic care bed |
| 28 | | capacity. The receiving entity must license the transferred bed capacity as the |
| 29 | | type of bed capacity transferred within a seventy-two-month period established at |
| 30 | | the time of transfer. Bed capacity transferred as basic care bed capacity may not |
| 31 | | be reverted to nursing facility bed capacity at any time. A receiving entity may |

| 1 | | transfer the received bed capacity to another entity within the seventy-two-month |
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| 2 | | period established at the time of transfer. The subsequent receiving entity must |
| 3 | | license the received bed capacity within the seventy-two-month period |
| 4 | | established at the time of transfer. |
| 5 | | c. Licensed as basic care beds by the same facility. If the licensed basic care beds |
| 6 | | remain in the same facility and are not transferred, the beds may be reverted to |
| 7 | | licensed nursing facility bed capacity after twelve months. |
| 8 | 8. | Notwithstanding any other provision of this section, a nursing facility bed transferred |
| 9 | | before July 1, 2019, must be relicensed by the receiving entity within a seventy-two- |
| 10 | | month period established at the time of transfer. |
| 11 | 9. | Notwithstanding any other provision of this section, a nursing facility bed in the |
| 12 | | layaway program before July 1, 2019, may remain in the program for forty-eight |
| 13 | | months from the time the bed was first laid away. |