

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1065  
(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the expansion of long-term care bed capacity.

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

**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.**

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, 2019, and July 31, 2021. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than ~~one time~~two times in a twelve-month period.
2. Transfer of licensed nursing facility bed capacity from a nursing facility to another entity is permitted. The nursing facility may transfer the bed capacity either as nursing facility bed capacity or basic care bed capacity. Transferred bed capacity must become licensed by an entity within seventy-two months of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the seventy-two-month period originally established at the time the nursing facility first transferred the licensed nursing facility bed capacity. The subsequent receiving entity must license the received bed capacity within the seventy-two-month period originally established at the time of the first transfer.
3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the converted beds remain in the same facility and are not transferred, the beds may revert to nursing facility status after one year of licensure as basic care beds.
4. Nursing facility beds that are converted to basic care may be transferred as basic care beds. However, upon the transfer, the basic care beds may not be relicensed as nursing facility beds.
5. ~~If an Indian tribe~~a federally recognized tribal nation acquires nursing facility beds, the tribal facility must meet state licensing requirements for those beds within seventy-two months of acquisition. A tribal facility may seek to participate in the medical assistance programs. Medical assistance payments may only be made to a Medicaid certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program, including participation, screening, ratesetting, and licensing requirements.
6. A nursing facility, upon prior written notice to the state department of health, may delicense a maximum of ~~twenty-five~~thirty percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of forty-eight months. The total delicensed nursing facility bed capacity that may be held for a nursing facility at no time may be greater than fifty percent of the number of currently licensed beds in the nursing facility. Delicensed nursing

facility bed capacity in excess of fifty percent of the nursing facility's licensed capacity may not be held and is not eligible for the provisions of subsection 7. Delicensed bed capacity not sold or relicensed at the conclusion of the forty-eight-month holding period ceases to exist.

7. During the forty-eight-month holding period established at the time of delicensure, delicensed nursing facility bed capacity that is being held for the nursing facility may be:
  - a. Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may not occur for ~~twelve~~six months from the time of delicensure.
  - b. Transferred to another entity as nursing facility bed capacity or basic care bed capacity. The receiving entity must license the transferred bed capacity as the type of bed capacity transferred within a seventy-two-month period established at the time of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the seventy-two-month period established at the time of transfer. The subsequent receiving entity must license the received bed capacity within the seventy-two-month period established at the time of transfer.
  - c. Licensed as basic care beds by the same facility. If the licensed basic care beds remain in the same facility and are not transferred, the beds may be reverted to licensed nursing facility bed capacity after twelve months.
8. Notwithstanding any other provision of this section, a nursing facility bed transferred before July 1, 2019, must be relicensed by the receiving entity within a seventy-two-month period established at the time of transfer.
9. Notwithstanding any other provision of this section, a nursing facility bed in the layaway program before July 1, 2019, may remain in the program for forty-eight months from the time the bed was first laid away.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1065.

House Vote:    Yeas 92            Nays 1            Absent 1

Senate Vote:    Yeas 47            Nays 0            Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State