

Sixty-second  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1325

Introduced by

Representatives Kreidt, Bellew, Heller, Rohr

Senator Dever

1 A BILL for an Act to amend and reenact subsection 1 of section 23-09.3-01.1 and section  
2 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the expansion of  
3 basic care and long-term care bed capacity.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09.3-01.1 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 1. Basic care beds may not be added to the state's licensed bed capacity during the  
8 period between August 1, ~~2009~~2011, and July 31, ~~2014~~2013, except when:

9 a. A nursing facility converts nursing facility beds to basic care;

10 b. An entity licenses bed capacity transferred as basic care bed capacity under  
11 section 23-16-01.1;

12 c. An entity demonstrates to the state department of health and the department of  
13 human services that basic care services are not readily available within a  
14 designated area of the state or that existing basic care beds within a fifty-mile  
15 radius have been occupied at ninety percent or more for the previous twelve  
16 months. In determining whether basic care services will be readily available if an  
17 additional license is issued, preference may be given to an entity that agrees to  
18 any participation program established by the department of human services for  
19 individuals eligible for services under the medical assistance program under title  
20 XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or

21 e.d. ~~If the~~The state department of health and the department of human services grant  
22 approval of new basic care beds to an entity, ~~the~~The approved entity shall  
23 license the beds within forty-eight months from the date of approval.

1       **SECTION 2. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

- 4       1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic  
5 care beds to nursing facility beds or relicenses nursing facility beds delicensed after  
6 July 31, 2011, nursing facility beds may not be added to the state's licensed bed  
7 capacity during the period between August 1, ~~2009~~2011, and July 31, ~~2011~~2013. A  
8 nursing facility may not delicense nursing facility bed capacity, relicense nursing facility  
9 bed capacity, convert licensed nursing bed capacity to basic care bed capacity or  
10 convert, revert licensed basic care beds bed capacity back to nursing facility beds bed  
11 capacity, or otherwise reconfigure licensed nursing facility bed capacity more than one  
12 time in a twelve-month period if the beds have been licensed as basic care.
- 13       2. ~~Transfers of beds~~Transfer of licensed nursing facility bed from one nursing facility to  
14 another entity is permitted. The nursing facility may transfer the bed capacity either as  
15 nursing facility bed capacity or basic care bed capacity. Transferred nursing facility  
16 ~~beds~~bed capacity must become licensed by an entity as the type of bed capacity  
17 originally transferred within forty-eight months of transfer. ~~Nursing facility beds~~  
18 ~~transferred before August 1, 2005, which are awaiting nursing facility licensure, may~~  
19 ~~be converted to basic care licensure.~~Bed capacity transferred as basic care bed  
20 capacity may not be reverted to nursing facility bed capacity at any time. A receiving  
21 entity may transfer the received bed capacity to another entity within the  
22 forty-eight-month period originally established at the time the nursing facility first  
23 transferred the licensed nursing facility bed capacity. The subsequent receiving entity  
24 must license the received bed capacity within the forty-eight-month period originally  
25 established at the time of the first transfer.
- 26       3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the  
27 converted beds remain in the same facility and are not transferred, the beds may  
28 revert to nursing facility status after one year of licensure as basic care beds.
- 29       4. Nursing facility beds that are converted to basic care may be transferred as basic care  
30 beds. However, upon the transfer, the basic care beds may not be relicensed as  
31 nursing facility beds.

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

- 1           c. Licensed as basic care beds by the same facility. If the licensed basic care beds
- 2           remain in the same facility and are not transferred, the beds may be reverted to
- 3           licensed nursing facility bed capacity after twelve months.