



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4923**

Introduced 2/18/2020, by Rep. Norine K. Hammond

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-303.1

from Ch. 111 1/2, par. 4153-303.1

Amends the Nursing Home Care Act. Provides that a facility that determines that, despite its diligent efforts, it is unable to employ the number of registered nurses under specified minimum staffing requirements may seek a waiver from those requirements regardless of whether or not the facility has been determined by the Department of Public Health to be in violation of those requirements.

LRB101 19411 CPF 68883 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing  
5 Section 3-303.1 as follows:

6 (210 ILCS 45/3-303.1) (from Ch. 111 1/2, par. 4153-303.1)  
7 Sec. 3-303.1. Waiver of requirements.

8 (a) Upon application by a facility, the Director may grant  
9 or renew the waiver of the facility's compliance with a rule or  
10 standard for a period not to exceed the duration of the current  
11 license or, in the case of an application for license renewal,  
12 the duration of the renewal period. The waiver may be  
13 conditioned upon the facility taking action prescribed by the  
14 Director as a measure equivalent to compliance. In determining  
15 whether to grant or renew a waiver, the Director shall consider  
16 the duration and basis for any current waiver with respect to  
17 the same rule or standard and the validity and effect upon  
18 patient health and safety of extending it on the same basis,  
19 the effect upon the health and safety of residents, the quality  
20 of resident care, the facility's history of compliance with the  
21 rules and standards of this Act, and the facility's attempts to  
22 comply with the particular rule or standard in question.

23 (b) The Department may provide, by rule, for the automatic

1 renewal of waivers concerning physical plant requirements upon  
2 the renewal of a license. The Department shall renew waivers  
3 relating to physical plant standards issued pursuant to this  
4 Section at the time of the indicated reviews, unless it can  
5 show why such waivers should not be extended for the following  
6 reasons:

7 (1) the condition of the physical plant has  
8 deteriorated or its use substantially changed so that the  
9 basis upon which the waiver was issued is materially  
10 different; or

11 (2) the facility is renovated or substantially  
12 remodeled in such a way as to permit compliance with the  
13 applicable rules and standards without substantial  
14 increase in cost.

15 (c) A facility that determines that, despite its diligent  
16 efforts, it is unable to employ the required number of  
17 registered nurses under subsection (e) of Section 3-202.05 may  
18 seek a waiver from those requirements regardless of whether or  
19 not the facility has been determined by the Department to be in  
20 violation of the requirements. Upon application by a facility,  
21 the Director may grant or renew a waiver, in whole or in part,  
22 of the registered nurse staffing requirements contained in  
23 subsection (e) of Section 3-202.05, considering the criteria in  
24 subsection (a) of this Section, if the facility demonstrates to  
25 the Director's satisfaction that the facility is unable,  
26 despite diligent efforts, including offering wages at a

1 competitive rate for registered nurses in the community, to  
2 employ the required number of registered nurses and that the  
3 waivers will not endanger the health or safety of residents of  
4 the facility. A facility in compliance with the terms of a  
5 waiver granted under this subsection shall not be subject to  
6 fines or penalties imposed by the Department for violating the  
7 registered nurse staffing requirements of subsection (e) of  
8 Section 3-202.05. Nothing in this subsection (c) allows the  
9 Director to grant or renew a waiver of the minimum registered  
10 nurse staffing requirements contained in 42 CFR 483.35(b) to a  
11 facility that is Medicare-certified or to a facility that is  
12 both Medicare-certified and Medicaid-certified. Waivers  
13 granted under this subsection (c) shall be reviewed quarterly  
14 by the Department, including requiring a demonstration by the  
15 facility that it has continued to make diligent efforts to  
16 employ the required number of registered nurses, and shall be  
17 revoked for noncompliance with any of the following  
18 requirements:

19 (1) For periods in which the number of registered  
20 nurses required by law is not in the facility, a physician  
21 or registered nurse shall respond immediately to a  
22 telephone call from the facility.

23 (2) The facility shall notify the following of the  
24 waiver: the Office of the State Long Term Care Ombudsman,  
25 the residents of the facility, the residents' guardians,  
26 and the residents' representatives.

1           (d) A copy of each waiver application and each waiver  
2 granted or renewed shall be on file with the Department and  
3 available for public inspection. The Director shall annually  
4 review such file and recommend to the Long-Term Care Facility  
5 Advisory Board any modification in rules or standards suggested  
6 by the number and nature of waivers requested and granted and  
7 the difficulties faced in compliance by similarly situated  
8 facilities.

9           (Source: P.A. 100-201, eff. 8-18-17; 100-217, eff. 8-18-17.)