

AN ACT concerning regulation.

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

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

(210 ILCS 45/3-303.1) (from Ch. 111 1/2, par. 4153-303.1)

Sec. 3-303.1. Waiver of requirements.

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

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

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

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

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

(c) Upon application by a facility, the Director may grant or renew a waiver, in whole or in part, of the registered nurse staffing requirements contained in subsection (e) of Section 3-202.05, considering the criteria in subsection (a) of this Section, if the facility demonstrates to the Director's satisfaction that the facility is unable, despite diligent efforts, including offering wages at a competitive rate for registered nurses in the community, to employ the required number of registered nurses and that the waivers will not endanger the health or safety of residents of the facility. A facility in compliance with the terms of a waiver granted under this subsection shall not be subject to fines or penalties

imposed by the Department for violating the registered nurse staffing requirements of subsection (e) of Section 3-202.05. Nothing in this subsection (c) allows the Director to grant or renew a waiver of the minimum registered nurse staffing requirements contained in 42 CFR 483.35(b) to a facility that is Medicare-certified or to a facility that is both Medicare-certified and Medicaid-certified. Waivers granted under this subsection (c) shall be reviewed quarterly by the Department, including requiring a demonstration by the facility that it has continued to make diligent efforts to employ the required number of registered nurses, and shall be revoked for noncompliance with any of the following requirements:

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

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

(d) A copy of each waiver application and each waiver granted or renewed shall be on file with the Department and available for public inspection. The Director shall annually review such file and recommend to the Long-Term ~~Long-Term~~ Care Facility Advisory Board any modification in rules or standards

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suggested by the number and nature of waivers requested and granted and the difficulties faced in compliance by similarly situated facilities.

(Source: P.A. 85-1216; revised 10-26-16.)

Section 99. Effective date. This Act takes effect upon becoming law.