

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) ~~(a)~~ 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) ~~(b)~~ 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) Upon application by a facility, the Director may grant
16 or renew a waiver, in whole or in part, of the registered nurse
17 staffing requirements contained in subsection (e) of Section
18 3-202.05, considering the criteria in subsection (a) of this
19 Section, if the facility demonstrates to the Director's
20 satisfaction that the facility is unable, despite diligent
21 efforts, including offering wages at a competitive rate for
22 registered nurses in the community, to employ the required
23 number of registered nurses and that the waivers will not
24 endanger the health or safety of residents of the facility. A
25 facility in compliance with the terms of a waiver granted under
26 this subsection shall not be subject to fines or penalties

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

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

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

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

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

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

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