



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3131

Introduced 2/19/2016, by Sen. Wm. Sam McCann

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 upon application by a facility, the Director of Public Health may grant or renew a waiver of certain staffing requirements for registered nurses, considering specified criteria, 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. Provides that the Director may not grant or renew such waivers for certain minimum nurse staffing requirements contained in federal regulations to facilities that are Medicare-certified or both Medicare-certified and Medicaid-certified. Provides that these waivers shall be reviewed quarterly by the Department of Public Health, 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 certain requirements. Effective immediately.

LRB099 19003 MJP 43392 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 of the registered nurse staffing requirements
17 contained in subsection (e) of Section 3-202.05, considering
18 the criteria in subsection (a), if the facility demonstrates to
19 the Director's satisfaction that the facility is unable,
20 despite diligent efforts, including offering wages at a
21 competitive rate for registered nurses in the community, to
22 employ the required number of registered nurses and that the
23 waivers will not endanger the health or safety of residents of
24 the facility. Nothing in this subsection (c) allows the
25 Director to grant or renew a waiver of the minimum registered
26 nurse staffing requirements contained in 42 CFR 483.30(b) to a

1 facility that is Medicare-certified or to a facility that is
2 both Medicare-certified and Medicaid-certified. Waivers
3 granted under this subsection (c) shall be reviewed quarterly
4 by the Department, including requiring a demonstration by the
5 facility that it has continued to make diligent efforts to
6 employ the required number of registered nurses, and shall be
7 revoked for noncompliance with any of the following
8 requirements:

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

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

17 (d) A copy of each waiver application and each waiver
18 granted or renewed shall be on file with the Department and
19 available for public inspection. The Director shall annually
20 review such file and recommend to the Long Term Care Facility
21 Advisory Board any modification in rules or standards suggested
22 by the number and nature of waivers requested and granted and
23 the difficulties faced in compliance by similarly situated
24 facilities.

25 (Source: P.A. 85-1216.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.