

August 20, 2015

To the Honorable Members of  
The Illinois House of Representatives,  
99th General Assembly:

Today I return House Bill 3398 with a specific recommendation for change.

House Bill 3398 would allow the Department of Public Health to grant nursing homes a waiver to certain nurse staffing ratio requirements if the facility demonstrates that it is unable, despite diligent efforts, to employ the required number of registered nurses.

For nursing facilities in certain regions of our State, it is difficult to find enough qualified nurses to meet mandated staffing ratios. This results in these nursing homes facing fines and loss of funding, forcing them to cut services to their residents. House Bill 3398 is an important tool in allowing flexibility in the face of an across the board, "one size fits all" government mandate, while still ensuring that elderly Illinoisans receive safe and high quality care.

As drafted, however, the waiver provisions of House Bill 3398 do not comply with federal law. While federal law allows states to grant registered nurse staffing waivers to Medicaid-certified facilities, only the federal Centers for Medicare and Medicaid Services has the authority to grant waivers to Medicare-certified facilities. As drafted, House Bill 3398 runs afoul of federal law by allowing the Department of Public Health to grant waivers to both Medicaid- and Medicare-certified facilities.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return House Bill 3398, entitled "AN ACT concerning regulation", with the following specific recommendation for change:

On page 2, by replacing line 15 with "(c) Upon application by a facility that is not certified to participate in the Medicare program under Title XVIII of the Social Security Act, the Director may grant".

With this change, House Bill 3398 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner  
GOVERNOR