



Rep. Brandon W. Phelps

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09900HB3398ham002

LRB099 09359 RPS 34446 a

1 AMENDMENT TO HOUSE BILL 3398

2 AMENDMENT NO. _____. Amend House Bill 3398, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

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

9 (a) Upon application by a facility, the Director may grant
10 or renew the waiver of the facility's compliance with a rule or
11 standard for a period not to exceed the duration of the current
12 license or, in the case of an application for license renewal,
13 the duration of the renewal period. The waiver may be
14 conditioned upon the facility taking action prescribed by the
15 Director as a measure equivalent to compliance. In determining
16 whether to grant or renew a waiver, the Director shall consider

1 the duration and basis for any current waiver with respect to
2 the same rule or standard and the validity and effect upon
3 patient health and safety of extending it on the same basis,
4 the effect upon the health and safety of residents, the quality
5 of resident care, the facility's history of compliance with the
6 rules and standards of this Act and the facility's attempts to
7 comply with the particular rule or standard in question.

8 (b) The Department may provide, by rule, for the automatic
9 renewal of waivers concerning physical plant requirements upon
10 the renewal of a license. The Department shall renew waivers
11 relating to physical plant standards issued pursuant to this
12 Section at the time of the indicated reviews, unless it can
13 show why such waivers should not be extended for the following
14 reasons:

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

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

23 (c) Upon application by a facility, the Director may grant
24 or renew a waiver of the registered nurse staffing requirements
25 contained in subsection (e) of Section 3-202.05, considering
26 the criteria in subsection (a), if the facility demonstrates to

1 the Director's satisfaction that the facility is unable,
2 despite diligent efforts, including offering wages at a
3 competitive rate for registered nurses in the community, to
4 employ the required number of registered nurses. Waivers
5 granted under this subsection shall be reviewed quarterly by
6 the Department, including requiring a demonstration by the
7 facility that it has continued to make diligent efforts to
8 employ the required number of registered nurses, and shall be
9 revoked for noncompliance with any of the following
10 requirements:

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

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

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

1 (Source: P.A. 85-1216.)".