



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4493

Introduced 02/03/04, by Joseph M. Lyons, Jack McGuire

SYNOPSIS AS INTRODUCED:

210 ILCS 9/40
210 ILCS 9/55
210 ILCS 9/60
210 ILCS 9/76

Amends the Assisted Living and Shared Housing Act. Provides that if an applicant for a license under the Act has not been previously licensed under the Act or if the assisted living or shared housing establishment is not in operation at the time the application is made, the Department of Public Health must (instead of may) issue a probationary license. Provides that failure to receive a license under the Act within 6 months after applying for one shall result in a denial of the application. In connection with hearings held under the Act, authorizes the Director of Public Health to compel the attendance and testimony of witnesses and the production of records and to administer oaths. Provides that an establishment that provides medication administration as an optional service shall annually administer a flu shot to each resident and shall administer or arrange for the administration of a pneumonia shot to each resident who is age 65 or older. Effective immediately.

LRB093 19840 DRJ 45583 b

1 AN ACT concerning health facilities.

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

4 Section 5. The Assisted Living and Shared Housing Act is
5 amended by changing Sections 40, 55, 60, and 76 as follows:

6 (210 ILCS 9/40)

7 Sec. 40. Probationary licenses. If the applicant has not
8 been previously licensed under this Act or if the establishment
9 is not in operation at the time the application is made, the
10 Department must ~~may~~ issue a probationary license. A
11 probationary license shall be valid for 120 days unless sooner
12 suspended or revoked. Within 30 days prior to the termination
13 of a probationary license, the Department shall fully and
14 completely review the establishment and, if the establishment
15 meets the applicable requirements for licensure, shall issue a
16 license. If the Department finds that the establishment does
17 not meet the requirements for licensure, but has made
18 substantial progress toward meeting those requirements, the
19 license may be renewed once for a period not to exceed 120 days
20 from the expiration date of the initial probationary license.
21 (Source: P.A. 91-656, eff. 1-1-01.)

22 (210 ILCS 9/55)

23 Sec. 55. Grounds for denial of a license. An application
24 for a license may be denied for any of the following reasons:

25 (1) failure to meet any of the standards set forth in
26 this Act or by rules adopted by the Department under this
27 Act;

28 (2) conviction of the applicant, or if the applicant is
29 a firm, partnership, or association, of any of its members,
30 or if a corporation, the conviction of the corporation or
31 any of its officers or stockholders, or of the person

1 designated to manage or supervise the establishment, of a
2 felony or of 2 or more misdemeanors involving moral
3 turpitude during the previous 5 years as shown by a
4 certified copy of the record of the court of conviction;

5 (3) personnel insufficient in number or unqualified by
6 training or experience to properly care for the residents;

7 (4) insufficient financial or other resources to
8 operate and conduct the establishment in accordance with
9 standards adopted by the Department under this Act;

10 (5) revocation of a license during the previous 5
11 years, if such prior license was issued to the individual
12 applicant, a controlling owner or controlling combination
13 of owners of the applicant; or any affiliate of the
14 individual applicant or controlling owner of the applicant
15 and such individual applicant, controlling owner of the
16 applicant or affiliate of the applicant was a controlling
17 owner of the prior license; provided, however, that the
18 denial of an application for a license pursuant to this
19 Section must be supported by evidence that the prior
20 revocation renders the applicant unqualified or incapable
21 of meeting or maintaining an establishment in accordance
22 with the standards and rules adopted by the Department
23 under this Act; or

24 (6) the establishment is not under the direct
25 supervision of a full-time director, as defined by rule.

26 The Department shall deny an application for a license if
27 the establishment has not been issued a license within 6 months
28 after applying for a license. In addition, the Department shall
29 determine whether the applicant has violated any provision of
30 the Nursing Home Care Act.

31 (Source: P.A. 91-656, eff. 1-1-01.)

32 (210 ILCS 9/60)

33 Sec. 60. Notice of denial; request for hearing; hearing.

34 (a) Immediately upon the denial of any application or
35 reapplication for a license under this Act, the Department

1 shall notify the applicant in writing. Notice of denial shall
2 include a clear and concise statement of the violations of this
3 Act on which the denial is based and notice of the opportunity
4 for a hearing. If the applicant or licensee wishes to contest
5 the denial of a license, it shall provide written notice to the
6 Department of a request for a hearing within 10 days after
7 receipt of the notice of denial. The Department shall commence
8 a hearing under this Section.

9 (b) A request for a hearing by aggrieved persons shall be
10 taken to the Department as follows:

11 (1) Upon the receipt of a request in writing for a
12 hearing, the Director or a person designated in writing by
13 the Director to act as a hearing officer shall conduct a
14 hearing to review the decision.

15 (2) Before the hearing is held notice of the hearing
16 shall be sent by the Department to the person making the
17 request for the hearing and to the person making the
18 decision which is being reviewed. In the notice the
19 Department shall specify the date, time, and place of the
20 hearing, which shall be held not less than 10 days after
21 the notice is mailed or delivered. The notice shall
22 designate the decision being reviewed. The notice may be
23 served by delivering it personally to the parties or their
24 representatives or by mailing it by certified mail to the
25 parties' addresses.

26 (3) The Department shall commence the hearing within 30
27 days after the receipt of request for hearing. The hearing
28 shall proceed as expeditiously as practicable, but in all
29 cases shall conclude within 90 days after commencement.

30 (b-5) The Director or his or her designee may compel, by
31 subpoena or subpoena duces tecum, the attendance and testimony
32 of witnesses and the production of books, papers, documents,
33 and records and may administer oaths to witnesses.

34 (c) The Director or hearing officer shall permit any party
35 to appear in person and to be represented by counsel at the
36 hearing, at which time the applicant or licensee shall be

1 afforded an opportunity to present all relevant matter in
2 support of his or her position. In the event of the inability
3 of any party or the Department to procure the attendance of
4 witnesses to give testimony or produce books and papers, any
5 party or the Department may take the deposition of witnesses in
6 accordance with the provisions of the laws of this State. All
7 testimony shall be reduced to writing, and all testimony and
8 other evidence introduced at the hearing shall be a part of the
9 record of the hearing.

10 (d) The Director or hearing officer shall make findings of
11 fact in the hearing, and the Director shall render his or her
12 decision within 30 days after the termination of the hearing,
13 unless additional time not to exceed 90 days is required by him
14 or her for a proper disposition of the matter. When the hearing
15 has been conducted by a hearing officer, the Director shall
16 review the record and findings of fact before rendering a
17 decision. All decisions rendered by the Director shall be
18 binding upon and complied with by the Department, the
19 establishment, or the persons involved in the hearing, as
20 appropriate to each case.

21 (Source: P.A. 91-656, eff. 1-1-01.)

22 (210 ILCS 9/76)

23 Sec. 76. Vaccinations. ~~Pneumonia shots.~~

24 (a) Before a prospective resident's admission to an
25 assisted living establishment or a shared housing
26 establishment that does not provide medication administration
27 as an optional service, the establishment shall advise the
28 prospective resident to consult a physician to determine
29 whether the prospective resident should obtain a vaccination
30 against pneumococcal pneumonia or influenza, or both.

31 (b) An assisted living establishment or shared housing
32 establishment that provides medication administration as an
33 optional service shall annually administer a vaccination
34 against influenza to each resident, in accordance with the
35 recommendations of the Advisory Committee on Immunization

1 Practices of the Centers for Disease Control and Prevention
2 that are most recent to the time of vaccination, unless the
3 vaccination is medically contraindicated or the resident has
4 refused the vaccine. Influenza vaccinations for all residents
5 age 65 or over shall be completed by November 30 of each year
6 or as soon as practicable if vaccine supplies are not available
7 before November 1. Residents admitted after November 30, during
8 the flu season, and until February 1 shall, as medically
9 appropriate, receive an influenza vaccination prior to or upon
10 admission or as soon as practicable if vaccine supplies are not
11 available at the time of the admission, unless the vaccine is
12 medically contraindicated or the resident has refused the
13 vaccine. In the event that the Advisory Committee on
14 Immunization Practices of the Centers for Disease Control and
15 Prevention determines that dates of administration other than
16 those stated in this Section are optimal to protect the health
17 of residents, the Department is authorized to adopt rules to
18 require vaccinations at those times rather than the times
19 stated in this Section. An establishment shall document in the
20 resident's medical record that an annual vaccination against
21 influenza was administered, refused, or medically
22 contraindicated.

23 An assisted living establishment or shared housing
24 establishment that provides medication administration as an
25 optional service shall administer or arrange for
26 administration of a pneumococcal vaccination to each resident
27 who is age 65 or over, in accordance with the recommendations
28 of the Advisory Committee on Immunization Practices of the
29 Centers for Disease Control and Prevention, who has not
30 received this immunization prior to or upon admission to the
31 establishment, unless the resident refuses the offer for
32 vaccination or the vaccination is medically contraindicated.
33 An establishment shall document in each resident's medical
34 record that a vaccination against pneumococcal pneumonia was
35 offered and administered, refused, or medically
36 contraindicated.

1 (Source: P.A. 92-562, eff. 6-24-02.)

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