

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 10, 40, 55, 60, 76, 110, and 125  
6 as follows:

7 (210 ILCS 9/10)

8 Sec. 10. Definitions. For purposes of this Act:

9 "Activities of daily living" means eating, dressing,  
10 bathing, toileting, transferring, or personal hygiene.

11 "Advisory Board" means the Assisted Living and Shared  
12 Housing Standards and Quality of Life Advisory Board.

13 "Assisted living establishment" or "establishment" means a  
14 home, building, residence, or any other place where sleeping  
15 accommodations are provided for at least 3 unrelated adults, at  
16 least 80% of whom are 55 years of age or older and where the  
17 following are provided consistent with the purposes of this  
18 Act:

19 (1) services consistent with a social model that is  
20 based on the premise that the resident's unit in assisted  
21 living and shared housing is his or her own home;

22 (2) community-based residential care for persons who  
23 need assistance with activities of daily living, including  
24 personal, supportive, and intermittent health-related  
25 services available 24 hours per day, if needed, to meet the  
26 scheduled and unscheduled needs of a resident;

27 (3) mandatory services, whether provided directly by  
28 the establishment or by another entity arranged for by the  
29 establishment, with the consent of the resident or  
30 resident's representative; and

31 (4) a physical environment that is a homelike setting  
32 that includes the following and such other elements as

1 established by the Department in conjunction with the  
2 Assisted Living and Shared Housing Standards and Quality of  
3 Life Advisory Board: individual living units each of which  
4 shall accommodate small kitchen appliances and contain  
5 private bathing, washing, and toilet facilities, or  
6 private washing and toilet facilities with a common bathing  
7 room readily accessible to each resident. Units shall be  
8 maintained for single occupancy except in cases in which 2  
9 residents choose to share a unit. Sufficient common space  
10 shall exist to permit individual and group activities.

11 "Assisted living establishment" or "establishment" does  
12 not mean any of the following:

13 (1) A home, institution, or similar place operated by  
14 the federal government or the State of Illinois.

15 (2) A long term care facility licensed under the  
16 Nursing Home Care Act. However, a long term care facility  
17 may convert distinct parts of the facility to assisted  
18 living. If the long term care facility elects to do so, the  
19 facility shall retain the Certificate of Need for its  
20 nursing and sheltered care beds that were converted.

21 (3) A hospital, sanitarium, or other institution, the  
22 principal activity or business of which is the diagnosis,  
23 care, and treatment of human illness and that is required  
24 to be licensed under the Hospital Licensing Act.

25 (4) A facility for child care as defined in the Child  
26 Care Act of 1969.

27 (5) A community living facility as defined in the  
28 Community Living Facilities Licensing Act.

29 (6) A nursing home or sanitarium operated solely by and  
30 for persons who rely exclusively upon treatment by  
31 spiritual means through prayer in accordance with the creed  
32 or tenants of a well-recognized church or religious  
33 denomination.

34 (7) A facility licensed by the Department of Human  
35 Services as a community-integrated living arrangement as  
36 defined in the Community-Integrated Living Arrangements

1 Licensure and Certification Act.

2 (8) A supportive residence licensed under the  
3 Supportive Residences Licensing Act.

4 (9) A life care facility as defined in the Life Care  
5 Facilities Act; a life care facility may apply under this  
6 Act to convert sections of the community to assisted  
7 living.

8 (10) A free-standing hospice facility licensed under  
9 the Hospice Program Licensing Act.

10 (11) A shared housing establishment.

11 (12) A supportive living facility as described in  
12 Section 5-5.01a of the Illinois Public Aid Code.

13 "Department" means the Department of Public Health.

14 "Director" means the Director of Public Health.

15 "Emergency situation" means imminent danger of death or  
16 serious physical harm to a resident of an establishment.

17 "License" means any of the following types of licenses  
18 issued to an applicant or licensee by the Department:

19 (1) "Probationary license" means a license issued to an  
20 applicant or licensee that has not held a license under  
21 this Act prior to its application or pursuant to a license  
22 transfer in accordance with Section 50 of this Act.

23 (2) "Regular license" means a license issued by the  
24 Department to an applicant or licensee that is in  
25 substantial compliance with this Act and any rules  
26 promulgated under this Act.

27 "Licensee" means a person, agency, association,  
28 corporation, partnership, or organization that has been issued  
29 a license to operate an assisted living or shared housing  
30 establishment.

31 "Licensed health care professional" means a registered  
32 professional nurse, an advanced practice nurse, a physician  
33 assistant, and a licensed practical nurse.

34 "Mandatory services" include the following:

35 (1) 3 meals per day available to the residents prepared  
36 by the establishment or an outside contractor;

1 (2) housekeeping services including, but not limited  
2 to, vacuuming, dusting, and cleaning the resident's unit;

3 (3) personal laundry and linen services available to  
4 the residents provided or arranged for by the  
5 establishment;

6 (4) security provided 24 hours each day including, but  
7 not limited to, locked entrances or building or contract  
8 security personnel;

9 (5) an emergency communication response system, which  
10 is a procedure in place 24 hours each day by which a  
11 resident can notify building management, an emergency  
12 response vendor, or others able to respond to his or her  
13 need for assistance; and

14 (6) assistance with activities of daily living as  
15 required by each resident.

16 "Negotiated risk" is the process by which a resident, or  
17 his or her representative, may formally negotiate with  
18 providers what risks each are willing and unwilling to assume  
19 in service provision and the resident's living environment. The  
20 provider assures that the resident and the resident's  
21 representative, if any, are informed of the risks of these  
22 decisions and of the potential consequences of assuming these  
23 risks.

24 "Owner" means the individual, partnership, corporation,  
25 association, or other person who owns an assisted living or  
26 shared housing establishment. In the event an assisted living  
27 or shared housing establishment is operated by a person who  
28 leases or manages the physical plant, which is owned by another  
29 person, "owner" means the person who operates the assisted  
30 living or shared housing establishment, except that if the  
31 person who owns the physical plant is an affiliate of the  
32 person who operates the assisted living or shared housing  
33 establishment and has significant control over the day to day  
34 operations of the assisted living or shared housing  
35 establishment, the person who owns the physical plant shall  
36 incur jointly and severally with the owner all liabilities

1 imposed on an owner under this Act.

2 "Physician" means a person licensed under the Medical  
3 Practice Act of 1987 to practice medicine in all of its  
4 branches.

5 "Resident" means a person residing in an assisted living or  
6 shared housing establishment.

7 "Resident's representative" means a person, other than the  
8 owner, agent, or employee of an establishment or of the health  
9 care provider unless related to the resident, designated in  
10 writing by a resident to be his or her representative. This  
11 designation may be accomplished through the Illinois Power of  
12 Attorney Act, pursuant to the guardianship process under the  
13 Probate Act of 1975, or pursuant to an executed designation of  
14 representative form specified by the Department.

15 "Self" means the individual or the individual's designated  
16 representative.

17 "Shared housing establishment" or "establishment" means a  
18 publicly or privately operated free-standing residence for 12  
19 or fewer persons, at least 80% of whom are 55 years of age or  
20 older and who are unrelated to the owners and one manager of  
21 the residence, where the following are provided:

22 (1) services consistent with a social model that is  
23 based on the premise that the resident's unit is his or her  
24 own home;

25 (2) community-based residential care for persons who  
26 need assistance with activities of daily living, including  
27 housing and personal, supportive, and intermittent  
28 health-related services available 24 hours per day, if  
29 needed, to meet the scheduled and unscheduled needs of a  
30 resident; and

31 (3) mandatory services, whether provided directly by  
32 the establishment or by another entity arranged for by the  
33 establishment, with the consent of the resident or the  
34 resident's representative.

35 "Shared housing establishment" or "establishment" does not  
36 mean any of the following:

1 (1) A home, institution, or similar place operated by  
2 the federal government or the State of Illinois.

3 (2) A long term care facility licensed under the  
4 Nursing Home Care Act. A long term care facility may,  
5 however, convert sections of the facility to assisted  
6 living. If the long term care facility elects to do so, the  
7 facility shall retain the Certificate of Need for its  
8 nursing beds that were converted.

9 (3) A hospital, sanitarium, or other institution, the  
10 principal activity or business of which is the diagnosis,  
11 care, and treatment of human illness and that is required  
12 to be licensed under the Hospital Licensing Act.

13 (4) A facility for child care as defined in the Child  
14 Care Act of 1969.

15 (5) A community living facility as defined in the  
16 Community Living Facilities Licensing Act.

17 (6) A nursing home or sanitarium operated solely by and  
18 for persons who rely exclusively upon treatment by  
19 spiritual means through prayer in accordance with the creed  
20 or tenants of a well-recognized church or religious  
21 denomination.

22 (7) A facility licensed by the Department of Human  
23 Services as a community-integrated ~~community-intergrated~~  
24 living arrangement as defined in the Community-Integrated  
25 Living Arrangements Licensure and Certification Act.

26 (8) A supportive residence licensed under the  
27 Supportive Residences Licensing Act.

28 (9) A life care facility as defined in the Life Care  
29 Facilities Act; a life care facility may apply under this  
30 Act to convert sections of the community to assisted  
31 living.

32 (10) A free-standing hospice facility licensed under  
33 the Hospice Program Licensing Act.

34 (11) An assisted living establishment.

35 (12) A supportive living facility as described in  
36 Section 5-5.01a of the Illinois Public Aid Code.

1 "Total assistance" means that staff or another individual  
2 performs the entire activity of daily living without  
3 participation by the resident.

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

5 (210 ILCS 9/40)

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

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

23 (210 ILCS 9/55)

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

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

29 (2) conviction of the applicant, or if the applicant is  
30 a firm, partnership, or association, of any of its members,  
31 or if a corporation, the conviction of the corporation or  
32 any of its officers or stockholders, or of the person  
33 designated to manage or supervise the establishment, of a  
34 felony or of 2 or more misdemeanors involving moral

1 turpitude during the previous 5 years as shown by a  
2 certified copy of the record of the court of conviction;

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

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

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

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

24 The Department shall deny an application for a license if 6  
25 months after submitting its initial application the applicant  
26 has not provided the Department with all of the information  
27 required for review and approval or the applicant is not  
28 actively pursuing the processing of its application. In  
29 addition, the Department shall determine whether the applicant  
30 has violated any provision of 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 medication record that an annual vaccination  
21 against 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 medication  
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 (210 ILCS 9/110)

3 Sec. 110. Powers and duties of the Department.

4 (a) The Department shall conduct an annual unannounced  
5 on-site visit at each assisted living and shared housing  
6 establishment to determine compliance with applicable  
7 licensure requirements and standards. Additional visits may be  
8 conducted without prior notice to the assisted living or shared  
9 housing establishment.

10 (b) Upon receipt of information that may indicate the  
11 failure of the assisted living or shared housing establishment  
12 or a service provider to comply with a provision of this Act,  
13 the Department shall investigate the matter or make appropriate  
14 referrals to other government agencies and entities having  
15 jurisdiction over the subject matter of the possible violation.  
16 The Department may also make referrals to any public or private  
17 agency that the Department considers available for appropriate  
18 assistance to those involved. The Department may oversee and  
19 coordinate the enforcement of State consumer protection  
20 policies affecting residents residing in an establishment  
21 licensed under this Act.

22 (c) The Department shall establish by rule complaint  
23 receipt, investigation, resolution, and involuntary residency  
24 termination procedures. Resolution procedures shall provide  
25 for on-site review and evaluation of an assisted living or  
26 shared housing establishment found to be in violation of this  
27 Act within a specified period of time based on the gravity and  
28 severity of the violation and any pervasive pattern of  
29 occurrences of the same or similar violations.

30 (d) The Governor shall establish an Assisted Living and  
31 Shared Housing Standards and Quality of Life Advisory Board.

32 (e) The Department shall by rule establish penalties and  
33 sanctions, which shall include, but need not be limited to, the  
34 creation of a schedule of graduated penalties and sanctions to  
35 include closure.

1 (f) The Department shall by rule establish procedures for  
2 disclosure of information to the public, which shall include,  
3 but not be limited to, ownership, licensure status, frequency  
4 of complaints, disposition of substantiated complaints, and  
5 disciplinary actions.

6 (g) (Blank). ~~The Department shall cooperate with, seek the~~  
7 ~~advice of, and collaborate with the Assisted Living and Shared~~  
8 ~~Housing Quality of Life Advisory Committee in the Department on~~  
9 ~~Aging on matters related to the responsibilities of the~~  
10 ~~Committee. Consistent with subsection (d) of Section 125, the~~  
11 ~~Department shall provide to the Department on Aging for~~  
12 ~~distribution to the committee copies of all administrative~~  
13 ~~rules and changes to administrative rules for review and~~  
14 ~~comment prior to notice being given to the public. If the~~  
15 ~~Committee, having been asked for its review, fails to respond~~  
16 ~~within 90 days, the rules shall be considered acted upon.~~

17 (h) Beginning January 1, 2000, the Department shall begin  
18 drafting rules necessary for the administration of this Act.

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

20 (210 ILCS 9/125)

21 Sec. 125. Assisted Living and Shared Housing Standards and  
22 Quality of Life Advisory Board.

23 (a) The Governor shall appoint the Assisted Living and  
24 Shared Housing Standards and Quality of Life Advisory Board  
25 which shall be responsible for advising the Director in all  
26 aspects of the administration of the Act. The Board shall give  
27 advice to the Department concerning activities of the assisted  
28 living ombudsman and all other matters deemed relevant by the  
29 Director and to the Director concerning the delivery of  
30 personal care services, the unique needs and concerns of  
31 seniors residing in housing projects, and all other issues  
32 affecting the quality of life of residents.

33 (b) The Board shall be comprised of the following persons:

34 (1) the Director who shall serve as chair, ex officio  
35 and nonvoting;

1 (2) the Director of Aging who shall serve as  
2 vice-chair, ex officio and nonvoting;

3 (3) one representative each of the Departments of  
4 Public Health, Public Aid, and Human Services, ~~the~~  
5 ~~Department on Aging,~~ the Office of the State Fire Marshal,  
6 and the Illinois Housing Development Authority, and 2  
7 representatives of the Department on Aging, all nonvoting  
8 members;

9 (4) the State Ombudsman or his or her designee;

10 (5) one representative of the Association of Area  
11 Agencies on Aging;

12 (6) four members selected from the recommendations by  
13 provider organizations whose membership consist of nursing  
14 care or assisted living establishments;

15 (7) one member selected from the recommendations of  
16 provider organizations whose membership consists of home  
17 health agencies;

18 (8) two residents of assisted living or shared housing  
19 establishments;

20 (9) three members selected from the recommendations of  
21 consumer organizations which engage solely in advocacy or  
22 legal representation on behalf of the senior population;

23 (10) one member who shall be a physician;

24 (11) one member who shall be a registered professional  
25 nurse selected from the recommendations of professional  
26 nursing associations; ~~and~~

27 (12) two citizen members with expertise in the area of  
28 gerontology research or legal research regarding  
29 implementation of assisted living statutes; ~~and~~

30 (13) two members representing providers of community  
31 care services; and

32 (14) one member representing agencies providing case  
33 coordination services.

34 (c) Members of the Board appointed under paragraphs (5)  
35 through (14) of subsection (b) created by this Act shall be  
36 appointed to serve for terms of 3 years except as otherwise

1 provided in this Section. All members shall be appointed by  
2 January 1, 2001, except that the 2 members representing the  
3 Department on Aging appointed under paragraph (3) of subsection  
4 (b) and the members appointed under paragraphs (13) and (14) of  
5 subsection (b) shall be appointed by January 1, 2005. One third  
6 of the Board members' initial terms shall expire in one year;  
7 one third in 2 years, and one third in 3 years. Of the 3 members  
8 appointed under paragraphs (13) and (14) of subsection (b), one  
9 shall serve for an initial term of one year, one shall serve  
10 for an initial term of 2 years, and one shall serve for an  
11 initial term of 3 years. A member's term does not expire until  
12 a successor is appointed by the Governor. Any member appointed  
13 to fill a vacancy occurring prior to the expiration of the term  
14 for which his or her predecessor was appointed shall be  
15 appointed for the remainder of that term. The Board shall meet  
16 at the call of the Director. The affirmative vote of 10 ~~9~~  
17 members of the Board shall be necessary for Board action.  
18 Members of this Board shall receive no compensation for their  
19 services, however, resident members shall be reimbursed for  
20 their actual expenses.

21 (d) The Board shall be provided copies of all  
22 administrative rules and changes to administrative rules for  
23 review and comment prior to notice being given to the public.  
24 If the Board, having been asked for its review, fails to advise  
25 the Department within 90 days, the rules shall be considered  
26 acted upon.

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

28 (210 ILCS 9/130 rep.)

29 Section 6. The Assisted Living and Shared Housing Act is  
30 amended by repealing Section 130.

31 Section 99. Effective date. This Act takes effect upon  
32 becoming law.