

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, 76, 110, and 125 as
6 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 16
19 ~~12~~ 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 9/76)

33 Sec. 76. Vaccinations. ~~Pneumonia shots.~~

34 (a) Before a prospective resident's admission to an
35 assisted living establishment or ~~a~~ shared housing

1 establishment that does not provide medication administration
2 as an optional service, the establishment shall advise the
3 prospective resident to consult a physician to determine
4 whether the prospective resident should obtain a vaccination
5 against pneumococcal pneumonia or influenza, or both.

6 (b) An assisted living establishment or shared housing
7 establishment that provides medication administration as an
8 optional service shall annually administer a vaccination
9 against influenza to each resident, in accordance with the
10 recommendations of the Advisory Committee on Immunization
11 Practices of the Centers for Disease Control and Prevention
12 that are most recent to the time of vaccination, unless the
13 vaccination is medically contraindicated or the resident has
14 refused the vaccine. Influenza vaccinations for all residents
15 age 65 or over shall be completed by November 30 of each year
16 or as soon as practicable if vaccine supplies are not available
17 before November 1. Residents admitted after November 30, during
18 the flu season, and until February 1 shall, as medically
19 appropriate, receive an influenza vaccination prior to or upon
20 admission or as soon as practicable if vaccine supplies are not
21 available at the time of the admission, unless the vaccine is
22 medically contraindicated or the resident has refused the
23 vaccine. In the event that the Advisory Committee on
24 Immunization Practices of the Centers for Disease Control and
25 Prevention determines that dates of administration other than
26 those stated in this Section are optimal to protect the health
27 of residents, the Department is authorized to adopt rules to
28 require vaccinations at those times rather than the times
29 stated in this Section. An establishment shall document in the
30 resident's medication record that an annual vaccination
31 against influenza was administered, refused, or medically
32 contraindicated.

33 An assisted living establishment or shared housing
34 establishment that provides medication administration as an
35 optional service shall administer or arrange for
36 administration of a pneumococcal vaccination to each resident

1 who is age 65 or over, in accordance with the recommendations
2 of the Advisory Committee on Immunization Practices of the
3 Centers for Disease Control and Prevention, who has not
4 received this immunization prior to or upon admission to the
5 establishment, unless the resident refuses the offer for
6 vaccination or the vaccination is medically contraindicated.
7 An establishment shall document in each resident's medication
8 record that a vaccination against pneumococcal pneumonia was
9 offered and administered, refused, or medically
10 contraindicated.

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

12 (210 ILCS 9/110)

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

14 (a) The Department shall conduct an annual unannounced
15 on-site visit at each assisted living and shared housing
16 establishment to determine compliance with applicable
17 licensure requirements and standards. Additional visits may be
18 conducted without prior notice to the assisted living or shared
19 housing establishment.

20 (b) Upon receipt of information that may indicate the
21 failure of the assisted living or shared housing establishment
22 or a service provider to comply with a provision of this Act,
23 the Department shall investigate the matter or make appropriate
24 referrals to other government agencies and entities having
25 jurisdiction over the subject matter of the possible violation.
26 The Department may also make referrals to any public or private
27 agency that the Department considers available for appropriate
28 assistance to those involved. The Department may oversee and
29 coordinate the enforcement of State consumer protection
30 policies affecting residents residing in an establishment
31 licensed under this Act.

32 (c) The Department shall establish by rule complaint
33 receipt, investigation, resolution, and involuntary residency
34 termination procedures. Resolution procedures shall provide
35 for on-site review and evaluation of an assisted living or

1 shared housing establishment found to be in violation of this
2 Act within a specified period of time based on the gravity and
3 severity of the violation and any pervasive pattern of
4 occurrences of the same or similar violations.

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

7 (e) The Department shall by rule establish penalties and
8 sanctions, which shall include, but need not be limited to, the
9 creation of a schedule of graduated penalties and sanctions to
10 include closure.

11 (f) The Department shall by rule establish procedures for
12 disclosure of information to the public, which shall include,
13 but not be limited to, ownership, licensure status, frequency
14 of complaints, disposition of substantiated complaints, and
15 disciplinary actions.

16 (g) (Blank). ~~The Department shall cooperate with, seek the~~
17 ~~advice of, and collaborate with the Assisted Living and Shared~~
18 ~~Housing Quality of Life Advisory Committee in the Department on~~
19 ~~Aging on matters related to the responsibilities of the~~
20 ~~Committee. Consistent with subsection (d) of Section 125, the~~
21 ~~Department shall provide to the Department on Aging for~~
22 ~~distribution to the committee copies of all administrative~~
23 ~~rules and changes to administrative rules for review and~~
24 ~~comment prior to notice being given to the public. If the~~
25 ~~Committee, having been asked for its review, fails to respond~~
26 ~~within 90 days, the rules shall be considered acted upon.~~

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

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

30 (210 ILCS 9/125)

31 Sec. 125. Assisted Living and Shared Housing Standards and
32 Quality of Life Advisory Board.

33 (a) The Governor shall appoint the Assisted Living and
34 Shared Housing Standards and Quality of Life Advisory Board
35 which shall be responsible for advising the Director in all

1 aspects of the administration of the Act. The Board shall give
2 advice to the Department concerning activities of the assisted
3 living ombudsman and all other matters deemed relevant by the
4 Director and to the Director concerning the delivery of
5 personal care services, the unique needs and concerns of
6 seniors residing in housing projects, and all other issues
7 affecting the quality of life of residents.

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

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

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

13 (3) one representative each of the Departments of
14 Public Health, Public Aid, and Human Services, ~~the~~
15 ~~Department on Aging,~~ the Office of the State Fire Marshal,
16 and the Illinois Housing Development Authority, and 2
17 representatives of the Department on Aging, all nonvoting
18 members;

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

20 (5) one representative of the Association of Area
21 Agencies on Aging;

22 (6) four members selected from the recommendations by
23 provider organizations whose membership consist of nursing
24 care or assisted living establishments;

25 (7) one member selected from the recommendations of
26 provider organizations whose membership consists of home
27 health agencies;

28 (8) two residents of assisted living or shared housing
29 establishments;

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

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

34 (11) one member who shall be a registered professional
35 nurse selected from the recommendations of professional
36 nursing associations; ~~and~~

1 (12) two citizen members with expertise in the area of
2 gerontology research or legal research regarding
3 implementation of assisted living statutes;~~;~~

4 (13) two members representing providers of community
5 care services; and

6 (14) one member representing agencies providing case
7 coordination services.

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

31 (d) The Board shall be provided copies of all
32 administrative rules and changes to administrative rules for
33 review and comment prior to notice being given to the public.
34 If the Board, having been asked for its review, fails to advise
35 the Department within 90 days, the rules shall be considered
36 acted upon.

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

2 (210 ILCS 9/130 rep.)

3 Section 6. The Assisted Living and Shared Housing Act is
4 amended by repealing Section 130.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.