



Rep. Kevin Joyce

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LRB093 17922 DRJ 50338 a

1 AMENDMENT TO SENATE BILL 2768

2 AMENDMENT NO. _____. Amend Senate Bill 2768 by replacing
3 everything after the enacting clause with the following:

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

1 services available 24 hours per day, if needed, to meet the
2 scheduled and unscheduled needs of a resident;

3 (3) mandatory services, whether provided directly by
4 the establishment or by another entity arranged for by the
5 establishment, with the consent of the resident or
6 resident's representative; and

7 (4) a physical environment that is a homelike setting
8 that includes the following and such other elements as
9 established by the Department in conjunction with the
10 Assisted Living and Shared Housing Standards and Quality of
11 Life Advisory Board: individual living units each of which
12 shall accommodate small kitchen appliances and contain
13 private bathing, washing, and toilet facilities, or
14 private washing and toilet facilities with a common bathing
15 room readily accessible to each resident. Units shall be
16 maintained for single occupancy except in cases in which 2
17 residents choose to share a unit. Sufficient common space
18 shall exist to permit individual and group activities.

19 "Assisted living establishment" or "establishment" does
20 not mean any of the following:

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

23 (2) A long term care facility licensed under the
24 Nursing Home Care Act. However, a long term care facility
25 may convert distinct parts of the facility to assisted
26 living. If the long term care facility elects to do so, the
27 facility shall retain the Certificate of Need for its
28 nursing and sheltered care beds that were converted.

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

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

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

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

8 (7) A facility licensed by the Department of Human
9 Services as a community-integrated living arrangement as
10 defined in the Community-Integrated Living Arrangements
11 Licensure and Certification Act.

12 (8) A supportive residence licensed under the
13 Supportive Residences Licensing Act.

14 (9) A life care facility as defined in the Life Care
15 Facilities Act; a life care facility may apply under this
16 Act to convert sections of the community to assisted
17 living.

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

20 (11) A shared housing establishment.

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

23 "Department" means the Department of Public Health.

24 "Director" means the Director of Public Health.

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

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

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

33 (2) "Regular license" means a license issued by the
34 Department to an applicant or licensee that is in

1 substantial compliance with this Act and any rules
2 promulgated under this Act.

3 "Licensee" means a person, agency, association,
4 corporation, partnership, or organization that has been issued
5 a license to operate an assisted living or shared housing
6 establishment.

7 "Licensed health care professional" means a registered
8 professional nurse, an advanced practice nurse, a physician
9 assistant, and a licensed practical nurse.

10 "Mandatory services" include the following:

11 (1) 3 meals per day available to the residents prepared
12 by the establishment or an outside contractor;

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

15 (3) personal laundry and linen services available to
16 the residents provided or arranged for by the
17 establishment;

18 (4) security provided 24 hours each day including, but
19 not limited to, locked entrances or building or contract
20 security personnel;

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

26 (6) assistance with activities of daily living as
27 required by each resident.

28 "Negotiated risk" is the process by which a resident, or
29 his or her representative, may formally negotiate with
30 providers what risks each are willing and unwilling to assume
31 in service provision and the resident's living environment. The
32 provider assures that the resident and the resident's
33 representative, if any, are informed of the risks of these
34 decisions and of the potential consequences of assuming these

1 risks.

2 "Owner" means the individual, partnership, corporation,
3 association, or other person who owns an assisted living or
4 shared housing establishment. In the event an assisted living
5 or shared housing establishment is operated by a person who
6 leases or manages the physical plant, which is owned by another
7 person, "owner" means the person who operates the assisted
8 living or shared housing establishment, except that if the
9 person who owns the physical plant is an affiliate of the
10 person who operates the assisted living or shared housing
11 establishment and has significant control over the day to day
12 operations of the assisted living or shared housing
13 establishment, the person who owns the physical plant shall
14 incur jointly and severally with the owner all liabilities
15 imposed on an owner under this Act.

16 "Physician" means a person licensed under the Medical
17 Practice Act of 1987 to practice medicine in all of its
18 branches.

19 "Resident" means a person residing in an assisted living or
20 shared housing establishment.

21 "Resident's representative" means a person, other than the
22 owner, agent, or employee of an establishment or of the health
23 care provider unless related to the resident, designated in
24 writing by a resident to be his or her representative. This
25 designation may be accomplished through the Illinois Power of
26 Attorney Act, pursuant to the guardianship process under the
27 Probate Act of 1975, or pursuant to an executed designation of
28 representative form specified by the Department.

29 "Self" means the individual or the individual's designated
30 representative.

31 "Shared housing establishment" or "establishment" means a
32 publicly or privately operated free-standing residence for 16
33 ~~12~~ or fewer persons, at least 80% of whom are 55 years of age or
34 older and who are unrelated to the owners and one manager of

1 the residence, where the following are provided:

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

5 (2) community-based residential care for persons who
6 need assistance with activities of daily living, including
7 housing and personal, supportive, and intermittent
8 health-related services available 24 hours per day, if
9 needed, to meet the scheduled and unscheduled needs of a
10 resident; and

11 (3) mandatory services, whether provided directly by
12 the establishment or by another entity arranged for by the
13 establishment, with the consent of the resident or the
14 resident's representative.

15 "Shared housing establishment" or "establishment" does not
16 mean any of the following:

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

19 (2) A long term care facility licensed under the
20 Nursing Home Care Act. A long term care facility may,
21 however, convert sections of the facility to assisted
22 living. If the long term care facility elects to do so, the
23 facility shall retain the Certificate of Need for its
24 nursing beds that were converted.

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

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

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

33 (6) A nursing home or sanitarium operated solely by and
34 for persons who rely exclusively upon treatment by

1 spiritual means through prayer in accordance with the creed
2 or tenants of a well-recognized church or religious
3 denomination.

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

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

10 (9) A life care facility as defined in the Life Care
11 Facilities Act; a life care facility may apply under this
12 Act to convert sections of the community to assisted
13 living.

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

16 (11) An assisted living establishment.

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

19 "Total assistance" means that staff or another individual
20 performs the entire activity of daily living without
21 participation by the resident.

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

23 (210 ILCS 9/40)

24 Sec. 40. Probationary licenses. If the applicant has not
25 been previously licensed under this Act or if the establishment
26 is not in operation at the time the application is made and if
27 the Department determines that the applicant meets the
28 licensure requirements of this Act, the Department shall ~~may~~
29 issue a probationary license. A probationary license shall be
30 valid for 120 days unless sooner suspended or revoked. Within
31 30 days prior to the termination of a probationary license, the
32 Department shall fully and completely review the establishment
33 and, if the establishment meets the applicable requirements for

1 licensure, shall issue a license. If the Department finds that
2 the establishment does not meet the requirements for licensure,
3 but has made substantial progress toward meeting those
4 requirements, the license may be renewed once for a period not
5 to exceed 120 days from the expiration date of the initial
6 probationary license.

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

8 (210 ILCS 9/55)

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

11 (1) failure to meet any of the standards set forth in
12 this Act or by rules adopted by the Department under this
13 Act;

14 (2) conviction of the applicant, or if the applicant is
15 a firm, partnership, or association, of any of its members,
16 or if a corporation, the conviction of the corporation or
17 any of its officers or stockholders, or of the person
18 designated to manage or supervise the establishment, of a
19 felony or of 2 or more misdemeanors involving moral
20 turpitude during the previous 5 years as shown by a
21 certified copy of the record of the court of conviction;

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

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

27 (5) revocation of a license during the previous 5
28 years, if such prior license was issued to the individual
29 applicant, a controlling owner or controlling combination
30 of owners of the applicant; or any affiliate of the
31 individual applicant or controlling owner of the applicant
32 and such individual applicant, controlling owner of the
33 applicant or affiliate of the applicant was a controlling

1 owner of the prior license; provided, however, that the
2 denial of an application for a license pursuant to this
3 Section must be supported by evidence that the prior
4 revocation renders the applicant unqualified or incapable
5 of meeting or maintaining an establishment in accordance
6 with the standards and rules adopted by the Department
7 under this Act; or

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

10 The Department shall deny an application for a license if 6
11 months after submitting its initial application the applicant
12 has not provided the Department with all of the information
13 required for review and approval or the applicant is not
14 actively pursuing the processing of its application. In
15 addition, the Department shall determine whether the applicant
16 has violated any provision of the Nursing Home Care Act.

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

18 (210 ILCS 9/60)

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

20 (a) Immediately upon the denial of any application or
21 reapplication for a license under this Act, the Department
22 shall notify the applicant in writing. Notice of denial shall
23 include a clear and concise statement of the violations of this
24 Act on which the denial is based and notice of the opportunity
25 for a hearing. If the applicant or licensee wishes to contest
26 the denial of a license, it shall provide written notice to the
27 Department of a request for a hearing within 10 days after
28 receipt of the notice of denial. The Department shall commence
29 a hearing under this Section.

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

32 (1) Upon the receipt of a request in writing for a
33 hearing, the Director or a person designated in writing by

1 the Director to act as a hearing officer shall conduct a
2 hearing to review the decision.

3 (2) Before the hearing is held notice of the hearing
4 shall be sent by the Department to the person making the
5 request for the hearing and to the person making the
6 decision which is being reviewed. In the notice the
7 Department shall specify the date, time, and place of the
8 hearing, which shall be held not less than 10 days after
9 the notice is mailed or delivered. The notice shall
10 designate the decision being reviewed. The notice may be
11 served by delivering it personally to the parties or their
12 representatives or by mailing it by certified mail to the
13 parties' addresses.

14 (3) The Department shall commence the hearing within 30
15 days after the receipt of request for hearing. The hearing
16 shall proceed as expeditiously as practicable, but in all
17 cases shall conclude within 90 days after commencement.

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

22 (c) The Director or hearing officer shall permit any party
23 to appear in person and to be represented by counsel at the
24 hearing, at which time the applicant or licensee shall be
25 afforded an opportunity to present all relevant matter in
26 support of his or her position. In the event of the inability
27 of any party or the Department to procure the attendance of
28 witnesses to give testimony or produce books and papers, any
29 party or the Department may take the deposition of witnesses in
30 accordance with the provisions of the laws of this State. All
31 testimony shall be reduced to writing, and all testimony and
32 other evidence introduced at the hearing shall be a part of the
33 record of the hearing.

34 (d) The Director or hearing officer shall make findings of

1 fact in the hearing, and the Director shall render his or her
2 decision within 30 days after the termination of the hearing,
3 unless additional time not to exceed 90 days is required by him
4 or her for a proper disposition of the matter. When the hearing
5 has been conducted by a hearing officer, the Director shall
6 review the record and findings of fact before rendering a
7 decision. All decisions rendered by the Director shall be
8 binding upon and complied with by the Department, the
9 establishment, or the persons involved in the hearing, as
10 appropriate to each case.

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

12 (210 ILCS 9/76)

13 Sec. 76. Vaccinations. ~~Pneumonia shots.~~

14 (a) Before a prospective resident's admission to an
15 assisted living establishment or ~~a~~ shared housing
16 establishment that does not provide medication administration
17 as an optional service, the establishment shall advise the
18 prospective resident to consult a physician to determine
19 whether the prospective resident should obtain a vaccination
20 against pneumococcal pneumonia or influenza, or both.

21 (b) An assisted living establishment or shared housing
22 establishment that provides medication administration as an
23 optional service shall annually administer a vaccination
24 against influenza to each resident, in accordance with the
25 recommendations of the Advisory Committee on Immunization
26 Practices of the Centers for Disease Control and Prevention
27 that are most recent to the time of vaccination, unless the
28 vaccination is medically contraindicated or the resident has
29 refused the vaccine. Influenza vaccinations for all residents
30 age 65 or over shall be completed by November 30 of each year
31 or as soon as practicable if vaccine supplies are not available
32 before November 1. Residents admitted after November 30, during
33 the flu season, and until February 1 shall, as medically

1 appropriate, receive an influenza vaccination prior to or upon
2 admission or as soon as practicable if vaccine supplies are not
3 available at the time of the admission, unless the vaccine is
4 medically contraindicated or the resident has refused the
5 vaccine. In the event that the Advisory Committee on
6 Immunization Practices of the Centers for Disease Control and
7 Prevention determines that dates of administration other than
8 those stated in this Section are optimal to protect the health
9 of residents, the Department is authorized to adopt rules to
10 require vaccinations at those times rather than the times
11 stated in this Section. An establishment shall document in the
12 resident's medication record that an annual vaccination
13 against influenza was administered, refused, or medically
14 contraindicated.

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

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

30 (210 ILCS 9/110)

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

32 (a) The Department shall conduct an annual unannounced
33 on-site visit at each assisted living and shared housing

1 establishment to determine compliance with applicable
2 licensure requirements and standards. Additional visits may be
3 conducted without prior notice to the assisted living or shared
4 housing establishment.

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

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

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

27 (e) The Department shall by rule establish penalties and
28 sanctions, which shall include, but need not be limited to, the
29 creation of a schedule of graduated penalties and sanctions to
30 include closure.

31 (f) The Department shall by rule establish procedures for
32 disclosure of information to the public, which shall include,
33 but not be limited to, ownership, licensure status, frequency
34 of complaints, disposition of substantiated complaints, and

1 disciplinary actions.

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

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

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

16 (210 ILCS 9/125)

17 Sec. 125. Assisted Living and Shared Housing Standards and
18 Quality of Life Advisory Board.

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

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

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

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

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

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

8 (5) one representative of the Association of Area
9 Agencies on Aging;

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

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

16 (8) two residents of assisted living or shared housing
17 establishments;

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

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

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

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

28 (13) two members representing providers of community
29 care services; and

30 (14) one member representing agencies providing case
31 coordination services.

32 (c) Members of the Board appointed under paragraphs (5)
33 through (14) of subsection (b) created by this Act shall be
34 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."