

AN ACT concerning health facilities.

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

Section 5. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 40, 55, 76, 110, and 125 as follows:

(210 ILCS 9/10)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Licensure and Certification Act.

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

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

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

(11) A shared housing establishment.

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

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

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

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

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

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

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

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

"Mandatory services" include the following:

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

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

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

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

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

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

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

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

imposed on an owner under this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) An assisted living establishment.

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

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

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

(210 ILCS 9/40)

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

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

(210 ILCS 9/55)

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

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

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

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

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

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

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

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

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

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

(210 ILCS 9/76)

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

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

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

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

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

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

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

(210 ILCS 9/110)

Sec. 110. Powers and duties of the Department.

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

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

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

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

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

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

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

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

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

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

(210 ILCS 9/125)

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) one member who shall be a physician;

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

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

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

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

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

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

Public Act 093-1003

SB2768 Enrolled

LRB093 17922 DRJ 46808 b

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

(210 ILCS 9/130 rep.)

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

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