



Rep. Kevin Joyce

**Filed: 5/12/2004**

09300SB2768ham002

LRB093 17922 DRJ 50865 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, 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

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 9/76)

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

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

27 (b) An assisted living establishment or shared housing  
28 establishment that provides medication administration as an  
29 optional service shall annually administer a vaccination  
30 against influenza to each resident, in accordance with the  
31 recommendations of the Advisory Committee on Immunization  
32 Practices of the Centers for Disease Control and Prevention  
33 that are most recent to the time of vaccination, unless the

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

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

1 creation of a schedule of graduated penalties and sanctions to  
2 include closure.

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

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

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

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

22 (210 ILCS 9/125)

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

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

1 affecting the quality of life of residents.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (13) two members representing providers of community

1       care services; and

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

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

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

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

1 (210 ILCS 9/130 rep.)

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

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