



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5163

Introduced 1/29/2010, by Rep. Karen A. Yarbrough

SYNOPSIS AS INTRODUCED:

210 ILCS 9/20
210 ILCS 9/35
210 ILCS 9/55
210 ILCS 9/65
210 ILCS 9/75

Amends the Assisted Living and Shared Housing Act. Requires the construction and operation of assisted living establishments to comply with specified requirements of the federal Fair Housing Act and the Illinois Human Rights Act, and permits the Department of Public Health to deny, revoke, suspend, or refuse to renew the license of an assisted living establishment for non-compliance.

LRB096 18734 KTG 34119 b

1 AN ACT concerning regulation.

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 20, 35, 55, 65, and 75 as follows:

6 (210 ILCS 9/20)

7 Sec. 20. Construction and operating standards. The
8 Department, in consultation with the Advisory Board, shall
9 prescribe minimum standards for establishments. These
10 standards shall include:

11 (1) the location and construction of the
12 establishment, including plumbing, heating, lighting,
13 ventilation, and other physical conditions which shall
14 ensure the health, safety, and comfort of residents and
15 their protection from fire hazards; these standards shall
16 include, at a minimum, compliance with the residential
17 board and care occupancies chapter of the National Fire
18 Protection Association's Life Safety Code, local and State
19 building codes for the building type, ~~and~~ accessibility
20 standards of the Americans with Disabilities Act, the
21 requirements of the federal Fair Housing Act as set forth
22 in 42 USC 3604(f)(3), and the requirements set forth in
23 paragraph (3) of subsection (C) of Section 3-102.1 of the

1 Illinois Human Rights Act;

2 (2) the number and qualifications of all personnel
3 having responsibility for any part of the services provided
4 for residents;

5 (3) all sanitary conditions within the establishment
6 and its surroundings, including water supply, sewage
7 disposal, food handling, infection control, and general
8 hygiene, which shall ensure the health and comfort of
9 residents;

10 (4) a program for adequate maintenance of physical
11 plant and equipment;

12 (5) adequate accommodations, staff, and services for
13 the number and types of residents for whom the
14 establishment is licensed;

15 (6) the development of evacuation and other
16 appropriate safety plans for use during weather, health,
17 fire, physical plant, environmental, and national defense
18 emergencies; and

19 (7) the maintenance of minimum financial and other
20 resources necessary to meet the standards established
21 under this Section and to operate the establishment in
22 accordance with this Act.

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

24 (210 ILCS 9/35)

25 (Text of Section after amendment by P.A. 96-339)

1 Sec. 35. Issuance of license.

2 (a) Upon receipt and review of an application for a license
3 and review of the applicant establishment, the Director may
4 issue a license if he or she finds:

5 (1) that the individual applicant, or the corporation,
6 partnership, or other entity if the applicant is not an
7 individual, is a person responsible and suitable to operate
8 or to direct or participate in the operation of an
9 establishment by virtue of financial capacity, appropriate
10 business or professional experience, a record of lawful
11 compliance with lawful orders of the Department and lack of
12 revocation of a license issued under this Act, the Nursing
13 Home Care Act, or the MR/DD Community Care Act during the
14 previous 5 years;

15 (2) that the establishment is under the supervision of
16 a full-time director who is at least 21 years of age and
17 has a high school diploma or equivalent plus either:

18 (A) 2 years of management experience or 2 years of
19 experience in positions of progressive responsibility
20 in health care, housing with services, or adult day
21 care or providing similar services to the elderly; or

22 (B) 2 years of management experience or 2 years of
23 experience in positions of progressive responsibility
24 in hospitality and training in health care and housing
25 with services management as defined by rule;

26 (3) that the establishment has staff sufficient in

1 number with qualifications, adequate skills, education,
2 and experience to meet the 24 hour scheduled and
3 unscheduled needs of residents and who participate in
4 ongoing training to serve the resident population;

5 (4) that all employees who are subject to the Health
6 Care Worker Background Check Act meet the requirements of
7 that Act;

8 (5) that the applicant is in substantial compliance
9 with this Act, the federal Fair Housing Act (42 U.S.C. 3601
10 et seq.), Sections 3-101 through 3-106 and Section 6-101 of
11 the Illinois Human Rights Act, and such other requirements
12 for a license as the Department by rule may establish under
13 this Act;

14 (6) that the applicant pays all required fees;

15 (7) that the applicant has provided to the Department
16 an accurate disclosure document in accordance with the
17 Alzheimer's Special Care Disclosure Act and in substantial
18 compliance with Section 150 of this Act.

19 In addition to any other requirements set forth in this
20 Act, as a condition of licensure under this Act, the director
21 of an establishment must participate in at least 20 hours of
22 training every 2 years to assist him or her in better meeting
23 the needs of the residents of the establishment and managing
24 the operation of the establishment.

25 Any license issued by the Director shall state the physical
26 location of the establishment, the date the license was issued,

1 and the expiration date. All licenses shall be valid for one
2 year, except as provided in Sections 40 and 45. Each license
3 shall be issued only for the premises and persons named in the
4 application, and shall not be transferable or assignable.

5 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;
6 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.
7 7-1-10.)

8 (210 ILCS 9/55)

9 (Text of Section after amendment by P.A. 96-339)

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

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

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

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

25 (4) insufficient financial or other resources to

1 operate and conduct the establishment in accordance with
2 standards adopted by the Department under this Act;

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

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

19 -

20 (7) the establishment is found by the United States
21 Department of Housing and Urban Development, by a court of
22 competent jurisdiction, or by the Illinois Human Rights
23 Commission to be in violation of the federal Fair Housing
24 Act (42 U.S.C. 3601 et seq.) or Sections 3-101 through
25 3-106 and Section 6-101 of the Illinois Human Rights Act.
26 The Department may not issue a license to such an

1 establishment until the establishment has complied with
2 all relief ordered by the United States Department of
3 Housing and Urban Development, a court of competent
4 jurisdiction, or the Illinois Human Rights Commission and
5 has remedied the violation.

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

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 9/65)

16 Sec. 65. Revocation, suspension, or refusal to renew
17 license.

18 (a) The Department, after notice to the applicant or
19 licensee, may suspend, revoke, or refuse to renew a license in
20 any case in which the Department finds any of the following:

21 (1) that there has been a substantial failure to comply
22 with this Act or the rules promulgated by the Department
23 under this Act, or with the federal Fair Housing Act (42
24 U.S.C. 3601 et seq.) or with Sections 3-101 through 3-106
25 and Section 6-101 of the Illinois Human Rights Act;

1 (2) that there has been a conviction of the licensee,
2 or of the person designated to manage or supervise the
3 establishment, of a felony or of 2 or more misdemeanors
4 involving moral turpitude during the previous 5 years as
5 shown by a certified copy of the record of the court of
6 conviction;

7 (3) that the personnel is insufficient in number or
8 unqualified by training or experience to properly care for
9 the number and type of residents served by the
10 establishment;

11 (4) that the financial or other resources are
12 insufficient to conduct and operate the establishment in
13 accordance with standards promulgated by the Department
14 under this Act; ~~or~~

15 (5) that the establishment is not under the direct
16 supervision of a full-time director, as defined by rule; or

17 -

18 (6) that the establishment is found by the United
19 States Department of Housing and Urban Development, by a
20 court of competent jurisdiction, or by the Illinois Human
21 Rights Commission to be in violation of the federal Fair
22 Housing Act (42 U.S.C. 3601 et seq.) or Sections 3-101
23 through 3-106 and Section 6-101 of the Illinois Human
24 Rights Act. The Department may not restore or renew a
25 license to such an establishment until the establishment
26 has complied with all relief ordered by the United States

1 Department of Housing and Urban Development, a court of
2 competent jurisdiction, or the Illinois Human Rights
3 Commission and has remedied the violation.

4 (b) Notice under this Section shall include a clear and
5 concise statement of the violations on which the nonrenewal or
6 revocation is based, the statute or rule violated, and notice
7 of the opportunity for a hearing under Section 60.

8 (c) If an establishment desires to contest the nonrenewal
9 or revocation of a license, the establishment shall, within 10
10 days after receipt of notice under subsection (b) of this
11 Section, notify the Department in writing of its request for a
12 hearing under Section 60. Upon receipt of the request the
13 Department shall send notice to the establishment and hold a
14 hearing as provided under Section 60.

15 (d) The effective date of nonrenewal or revocation of a
16 license by the Department shall be any of the following:

17 (1) until otherwise ordered by the circuit court,
18 revocation is effective on the date set by the Department
19 in the notice of revocation, or upon final action after
20 hearing under Section 60, whichever is later;

21 (2) until otherwise ordered by the circuit court,
22 nonrenewal is effective on the date of expiration of any
23 existing license, or upon final action after hearing under
24 Section 60, whichever is later; however, a license shall
25 not be deemed to have expired if the Department fails to
26 timely respond to a timely request for renewal under this

1 Act or for a hearing to contest nonrenewal; or

2 (3) the Department may extend the effective date of
3 license revocation or expiration in any case in order to
4 permit orderly removal and relocation of residents.

5 (e) The Department may refuse to issue or may suspend the
6 license of any person who fails to file a return, or to pay the
7 tax, penalty or interest shown in a filed return, or to pay any
8 final assessment of tax, penalty or interest, as required by
9 any tax Act administered by the Illinois Department of Revenue,
10 until such time as the requirements of any such tax Act are
11 satisfied.

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

13 (210 ILCS 9/75)

14 Sec. 75. Residency Requirements.

15 (a) No individual shall be accepted for residency or remain
16 in residence if the establishment cannot provide or secure
17 appropriate services, if the individual requires a level of
18 service or type of service for which the establishment is not
19 licensed or which the establishment does not provide, or if the
20 establishment does not have the staff appropriate in numbers
21 and with appropriate skill to provide such services.

22 (b) Only adults may be accepted for residency.

23 (c) A person shall not be accepted for residency if:

24 (1) the person poses a serious threat to himself or
25 herself or to others;

1 (2) the person is not able to communicate his or her
2 needs and no resident representative residing in the
3 establishment, and with a prior relationship to the person,
4 has been appointed to direct the provision of services;

5 (3) the person requires total assistance with 2 or more
6 activities of daily living;

7 (4) the person requires the assistance of more than one
8 paid caregiver at any given time with an activity of daily
9 living;

10 (5) the person requires more than minimal assistance in
11 moving to a safe area in an emergency;

12 (6) the person has a severe mental illness, which for
13 the purposes of this Section means a condition that is
14 characterized by the presence of a major mental disorder as
15 classified in the Diagnostic and Statistical Manual of
16 Mental Disorders, Fourth Edition (DSM-IV) (American
17 Psychiatric Association, 1994), where the individual is
18 substantially disabled due to mental illness in the areas
19 of self-maintenance, social functioning, activities of
20 community living and work skills, and the disability
21 specified is expected to be present for a period of not
22 less than one year, but does not mean Alzheimer's disease
23 and other forms of dementia based on organic or physical
24 disorders;

25 (7) the person requires intravenous therapy or
26 intravenous feedings unless self-administered or

1 administered by a qualified, licensed health care
2 professional;

3 (8) the person requires gastrostomy feedings unless
4 self-administered or administered by a licensed health
5 care professional;

6 (9) the person requires insertion, sterile irrigation,
7 and replacement of catheter, except for routine
8 maintenance of urinary catheters, unless the catheter care
9 is self-administered or administered by a licensed health
10 care professional;

11 (10) the person requires sterile wound care unless care
12 is self-administered or administered by a licensed health
13 care professional;

14 (11) the person requires sliding scale insulin
15 administration unless self-performed or administered by a
16 licensed health care professional;

17 (12) the person is a diabetic requiring routine insulin
18 injections unless the injections are self-administered or
19 administered by a licensed health care professional;

20 (13) the person requires treatment of stage 3 or stage
21 4 decubitus ulcers or exfoliative dermatitis;

22 (14) the person requires 5 or more skilled nursing
23 visits per week for conditions other than those listed in
24 items (13) and (15) of this subsection for a period of 3
25 consecutive weeks or more except when the course of
26 treatment is expected to extend beyond a 3 week period for

1 rehabilitative purposes and is certified as temporary by a
2 physician; or

3 (15) other reasons prescribed by the Department by
4 rule.

5 (d) A resident with a condition listed in items (1) through
6 (15) of subsection (c) shall have his or her residency
7 terminated, except as provided in subsection (j).

8 (e) Residency shall be terminated when services available
9 to the resident in the establishment are no longer adequate to
10 meet the needs of the resident. This provision shall not be
11 interpreted as limiting the authority of the Department to
12 require the residency termination of individuals.

13 (f) Subsection (d) of this Section shall not apply to
14 terminally ill residents who receive or would qualify for
15 hospice care and such care is coordinated by a hospice program
16 licensed under the Hospice Program Licensing Act or other
17 licensed health care professional employed by a licensed home
18 health agency and the establishment and all parties agree to
19 the continued residency.

20 (g) Items (3), (4), (5), and (9) of subsection (c) shall
21 not apply to a quadriplegic, paraplegic, or individual with
22 neuro-muscular diseases, such as muscular dystrophy and
23 multiple sclerosis, or other chronic diseases and conditions as
24 defined by rule if the individual is able to communicate his or
25 her needs and does not require assistance with complex medical
26 problems, and the establishment is able to accommodate the

1 individual's needs. The Department shall prescribe rules
2 pursuant to this Section that address special safety and
3 service needs of these individuals.

4 (h) For the purposes of items (7) through (10) of
5 subsection (c), a licensed health care professional may not be
6 employed by the owner or operator of the establishment, its
7 parent entity, or any other entity with ownership common to
8 either the owner or operator of the establishment or parent
9 entity, including but not limited to an affiliate of the owner
10 or operator of the establishment. Nothing in this Section is
11 meant to limit a resident's right to choose his or her health
12 care provider.

13 (i) Subsection (h) is not applicable to residents admitted
14 to an assisted living establishment under a life care contract
15 as defined in the Life Care Facilities Act if the life care
16 facility has both an assisted living establishment and a
17 skilled nursing facility. A licensed health care professional
18 providing health-related or supportive services at a life care
19 assisted living or shared housing establishment must be
20 employed by an entity licensed by the Department under the
21 Nursing Home Care Act or the Home Health, Home Services, and
22 Home Nursing Agency Licensing Act.

23 (j) Notwithstanding any provisions of this Section, a
24 licensee shall at all times act in conformance with the federal
25 Fair Housing Act (42 U.S.C. 3601 et seq.) and with Sections
26 3-101 through 3-106 and Section 6-101 of the Illinois Human

1 Rights Act.

2 (Source: P.A. 94-256, eff. 7-19-05; 94-570, eff. 8-12-05;

3 95-216, eff. 8-16-07; 95-331, eff. 8-21-07.)