



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5697

by Rep. Kelly M. Cassidy

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/1-114.2 new	
210 ILCS 45/3-109	from Ch. 111 1/2, par. 4153-109
210 ILCS 45/3-117	from Ch. 111 1/2, par. 4153-117
210 ILCS 45/3-119	from Ch. 111 1/2, par. 4153-119
210 ILCS 45/3-202.7 new	
210 ILCS 45/3-602	from Ch. 111 1/2, par. 4153-602

Amends the Nursing Home Care Act. Prohibits a person from establishing, operating, maintaining, offering, or advertising a facility within this State without providing to the Department of Public Health proof of liability insurance coverage in an amount not less than \$1,000,000 per occurrence. Defines "liability insurance". Authorizes the Department to suspend, revoke, or refuse to issue or renew a license if the facility fails to have or maintain liability insurance coverage. Provides that the failure to maintain liability insurance coverage during the term of a facility's license shall be a separate "Type B" violation for each resident of the facility for each month, or part of a month, in which the facility did not have the minimum required liability insurance. Provides that a licensee shall pay 3 times the actual damages (instead of paying the actual damages), and costs and attorney's fees, to a facility resident whose rights, as specified in certain provisions of the Act, are violated.

LRB099 17103 MJP 41461 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Nursing Home Care Act is amended by changing  
5 Sections 3-109, 3-117, 3-119, and 3-602 and by adding Sections  
6 1-114.2 and 3-202.7 as follows:

7 (210 ILCS 45/1-114.2 new)

8 Sec. 1-114.2. Liability insurance. "Liability insurance"  
9 means insurance on risks based upon neglect of a resident for  
10 which a licensee is or may be responsible.

11 (210 ILCS 45/3-109) (from Ch. 111 1/2, par. 4153-109)

12 Sec. 3-109. Upon receipt and review of an application for a  
13 license made under this Article and inspection of the applicant  
14 facility under this Article, the Director shall issue a license  
15 if he finds:

16 (1) that the individual applicant, or the corporation,  
17 partnership or other entity if the applicant is not an  
18 individual, is a person responsible and suitable to operate  
19 or to direct or participate in the operation of a facility  
20 by virtue of financial capacity, appropriate business or  
21 professional experience, a record of compliance with  
22 lawful orders of the Department and lack of revocation of a

1 license during the previous 5 years;

2 (2) that the facility is under the supervision of an  
3 administrator who is licensed, if required, under the  
4 Nursing Home Administrators Licensing and Disciplinary  
5 Act, as now or hereafter amended; ~~and~~

6 (3) that the facility is covered by liability insurance  
7 as required by this Act; and

8 (4) ~~(3)~~ that the facility is in substantial compliance  
9 with this Act, and such other requirements for a license as  
10 the Department by rule may establish under this Act.

11 (Source: P.A. 95-331, eff. 8-21-07.)

12 (210 ILCS 45/3-117) (from Ch. 111 1/2, par. 4153-117)

13 Sec. 3-117. An application for a license may be denied for  
14 any of the following reasons:

15 (1) Failure to meet any of the minimum standards set  
16 forth by this Act or by rules and regulations promulgated  
17 by the Department under this Act.

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

1           (3) Personnel insufficient in number or unqualified by  
2 training or experience to properly care for the proposed  
3 number and type of residents.

4           (4) Insufficient financial or other resources to  
5 operate and conduct the facility in accordance with  
6 standards promulgated by the Department under this Act,  
7 including failure to have or maintain liability insurance  
8 as required by this Act, and in accordance with contractual  
9 obligations assumed by a recipient of a grant under the  
10 Equity in Long-term Care Quality Act and the plan (if  
11 applicable) submitted by a grantee for continuing and  
12 increasing adherence to best practices in providing  
13 high-quality nursing home care.

14           (5) Revocation of a facility license during the  
15 previous 5 years, if such prior license was issued to the  
16 individual applicant, a controlling owner or controlling  
17 combination of owners of the applicant; or any affiliate of  
18 the individual applicant or controlling owner of the  
19 applicant and such individual applicant, controlling owner  
20 of the applicant or affiliate of the applicant was a  
21 controlling owner of the prior license; provided, however,  
22 that the denial of an application for a license pursuant to  
23 this subsection must be supported by evidence that such  
24 prior revocation renders the applicant unqualified or  
25 incapable of meeting or maintaining a facility in  
26 accordance with the standards and rules promulgated by the

1 Department under this Act.

2 (6) That the facility is not under the direct  
3 supervision of a full-time administrator, as defined by  
4 regulation, who is licensed, if required, under the Nursing  
5 Home Administrators Licensing and Disciplinary Act.

6 (7) That the facility is in receivership and the  
7 proposed licensee has not submitted a specific detailed  
8 plan to bring the facility into compliance with the  
9 requirements of this Act and with federal certification  
10 requirements, if the facility is certified, and to keep the  
11 facility in such compliance.

12 (Source: P.A. 95-331, eff. 8-21-07; 96-1372, eff. 7-29-10.)

13 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

14 Sec. 3-119. (a) The Department, after notice to the  
15 applicant or licensee, may suspend, revoke or refuse to renew a  
16 license in any case in which the Department finds any of the  
17 following:

18 (1) There has been a substantial failure to comply with  
19 this Act or the rules and regulations promulgated by the  
20 Department under this Act. A substantial failure by a  
21 facility shall include, but not be limited to, any of the  
22 following:

23 (A) termination of Medicare or Medicaid  
24 certification by the Centers for Medicare and Medicaid  
25 Services; or

1 (B) a failure by the facility to pay any fine  
2 assessed under this Act after the Department has sent  
3 to the facility at least 2 notices of assessment that  
4 include a schedule of payments as determined by the  
5 Department, taking into account extenuating  
6 circumstances and financial hardships of the facility.

7 (2) Conviction of the licensee, or of the person  
8 designated to manage or supervise the facility, of a  
9 felony, or of 2 or more misdemeanors involving moral  
10 turpitude, during the previous 5 years as shown by a  
11 certified copy of the record of the court of conviction.

12 (3) Personnel is insufficient in number or unqualified  
13 by training or experience to properly care for the number  
14 and type of residents served by the facility.

15 (4) Financial or other resources are insufficient to  
16 conduct and operate the facility in accordance with  
17 standards promulgated by the Department under this Act,  
18 including that the facility failed to maintain liability  
19 insurance coverage as required by this Act at some time  
20 during the term of its license.

21 (5) The facility is not under the direct supervision of  
22 a full-time administrator, as defined by regulation, who is  
23 licensed, if required, under the Nursing Home  
24 Administrators Licensing and Disciplinary Act.

25 (6) The facility has committed 2 Type "AA" violations  
26 within a 2-year period.

1           (b) Notice under this Section shall include a clear and  
2 concise statement of the violations on which the nonrenewal or  
3 revocation is based, the statute or rule violated and notice of  
4 the opportunity for a hearing under Section 3-703.

5           (c) If a facility desires to contest the nonrenewal or  
6 revocation of a license, the facility shall, within 10 days  
7 after receipt of notice under subsection (b) of this Section,  
8 notify the Department in writing of its request for a hearing  
9 under Section 3-703. Upon receipt of the request the Department  
10 shall send notice to the facility and hold a hearing as  
11 provided under Section 3-703.

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

14           (1) Until otherwise ordered by the circuit court,  
15 revocation is effective on the date set by the Department  
16 in the notice of revocation, or upon final action after  
17 hearing under Section 3-703, whichever is later.

18           (2) Until otherwise ordered by the circuit court,  
19 nonrenewal is effective on the date of expiration of any  
20 existing license, or upon final action after hearing under  
21 Section 3-703, whichever is later; however, a license shall  
22 not be deemed to have expired if the Department fails to  
23 timely respond to a timely request for renewal under this  
24 Act or for a hearing to contest nonrenewal under paragraph  
25 (c).

26           (3) The Department may extend the effective date of

1 license revocation or expiration in any case in order to  
2 permit orderly removal and relocation of residents.

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

10 (Source: P.A. 95-331, eff. 8-21-07; 96-1372, eff. 7-29-10.)

11 (210 ILCS 45/3-202.7 new)

12 Sec. 3-202.7. Liability insurance coverage required. No  
13 person may establish, operate, maintain, offer, or advertise a  
14 facility within this State without providing to the Department  
15 proof of liability insurance coverage in an amount not less  
16 than \$1,000,000 per occurrence. This requirement may not be  
17 waived. Failure to maintain such liability insurance coverage  
18 during the term of a facility's license shall be a separate  
19 Type "B" violation for each resident of the facility for each  
20 month, or part of a month, in which the facility did not have  
21 the minimum required liability insurance.

22 (210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

23 Sec. 3-602. The licensee shall pay 3 times the actual  
24 damages, and costs and attorney's fees, to a facility resident



1 whose rights, as specified in Part 1 of Article II of this Act,  
2 are violated.

3 (Source: P.A. 89-197, eff. 7-21-95.)