

190.01 Nursing Home Care Act – Statutory Provisions

There was in force in the State of Illinois at the time of the occurrence a statute known as the Nursing Home Care Act which provided that the owner and licensee of facilities that provide personal care, sheltered care or nursing care to residents are liable to any resident for [any intentional act or omission] [and] [or] [any negligent act or omission] [of their agent or employee] that injures the resident.

Instruction, Notes and Comment approved May 2014.

Notes on Use

The bracketed language should be selected to fit the allegations of the specific case. For example, in cases involving abuse, the bracketed language referencing intentional acts or omissions should be utilized. Cases of neglect involving the failure to provide adequate care should use the bracketed language referencing negligent acts or omissions. Cases involving negligent acts or omissions should be accompanied by IPI 10.01. Cases involving intentional or willful conduct should be accompanied by IPI 14.01. If agency is an issue in the case, IPI 190.08 and IPI 190.09 should be submitted.

Comment

This instruction paraphrases the pertinent portions of 210 ILCS 45/3-601. Unlike professional negligence cases in which doctors and nurses are liable for violations of the standard of care, in a Nursing Home Care Act case owners and licensees are liable for intentional or negligent acts. Because a cause of action under the Act is distinct from a cause of action for medical malpractice, no report under 735 ILCS 5/2-622 is required. *Eads v. Heritage Enters., Inc.*, 204 Ill.2d 92, 787 N.E.2d 771, 272 Ill. Dec. 585 (2003). Negligence and neglect under the Act have been defined as the failure to provide adequate care which has been found to be synonymous with ordinary care, due care, and reasonable care. *Harris v. Manor Health Care Corp.*, 111 Ill.2d 350, 489 N.E.2d 1374, 95 Ill. Dec. 510 (1986). For this reason, IPI 10.01 defining negligence should be utilized instead of IPI 105.01 for negligence allegations made under the Act. If the claim alleges willful conduct, IPI 14.01 should be submitted. If a claim for professional negligence is made under a separate count, IPI 105.01 should also be submitted.