

STATEMENT

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION (APCIA)

S.B. No. 1029 – AN ACT CONCERNING CAUSES OF ACTION AGAINST LICENSED NURSING HOME FACILITIES FOR FAILURE TO MEET STANDARDS OF CARE RELATED TO COVID-19

JUDICIARY COMMITTEE

March 22, 2021

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to comment on Senate Bill No. 1029, An Act Concerning Causes of Action Against Licensed Nursing Home Facilities for Failure to Meet Standards of Care Related to COVID-19. With members comprising nearly 60 percent of the U.S. property casualty insurance market, APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association.

The American Property Casualty Insurance Association (APCIA) strongly opposes SB1029. APCIA has worked closely with many sectors impacted by COVID-19. Among them are, of course, nursing homes. Nursing homes have had an incredible challenge addressing the health and safety needs of our most vulnerable communities of the aged and the infirmed.

SB1029 would be an unprecedented law passed amidst a pandemic. Not only does it not recognize the incredible challenges nursing homes have and continue to face with their highly at-risk communities, it would bring an entirely new form of litigation, one that allows anyone to pursue private litigation for any harm, even if they are unharmed themselves. Thus, a lawyer or even a private citizen or a company could bring litigation in its own name alone for the harms allegedly suffered by others. As the operative language states:

“any person may bring a civil action in the superior court for the judicial district where such person resides for any loss, damage, injury or death arising from exposure to or transmission of COVID-19 at a nursing home, as defined in section 19a-490 of the general statutes, due to the failure of such nursing home to comply with, or negligence of such nursing home in complying with, any standard of care specified in guidance issued by the Department of Public Health or the National Centers for Disease Control and Prevention applicable to such nursing home at the relevant time, to recover damages and other appropriate relief.”

¹ Effective January 1, 2019, the American Insurance Association (AIA) and the Property Casualty Insurers Association of America (PCIAA) merged to form the American Property Casualty Insurance Association (APCIA). Representing nearly 60 percent of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

Any person may sue on any loss, not matter how unrelated to them. Furthermore, as its language suggests, this legislation would vest private litigants with regulatory authority of the government to oversee nursing homes.

Now is simply not the time to add new, unbounded statutory based litigation against first responder entities. Lawsuits have already been filed against airlines, software companies, cruise lines, shopping centers, manufacturers, hotels, nursing homes, medical providers, universities, schools, drug companies, and even the federal and governments themselves. According to one leading law firm's COVID Complaint Tracker², over 9500 pandemic related lawsuits have already been filed, over 100 of them in Connecticut. This is even as the Courts have been closed, and with statutes of limitation which permit years in which litigation can be brought.

For the foregoing reasons, APCIA urges your Committee NOT to favorably advance this bill.

Kristina Baldwin
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American Property Casualty Insurance Association

² <https://www.huntonak.com/en/covid-19-tracker.html>