**Section 330.170 Denial of Initial License**

a) A determination by the Director or his or her designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 330.165 or the following criteria are met:

1) *Conviction of the applicant, or if the applicant is a firm, partnership or association, or any of its members or if a corporation, the conviction of the corporation or any of its officers and stockholders, or of the person designated to manage or supervise the facility* of any of the following crimes *during the previous 5 years.* Such convictions shall be verified by *a certified copy of the record of the court of conviction.*

A) *A felony; or*

B) *Two or more misdemeanors involving moral turpitude.* (Section 3-117(2) of the Act)

2) Prior license revocation. Both of the following conditions shall be met:

A) *Revocation of a facility license during the previous 5 years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license.* Operation for the purposes of this provision shall include individuals with responsibility for the overall management, direction, or supervision of the facility.

B) *The denial of an application for a license pursuant to this subsection* (a)(2) *must be supported by evidence that such prior revocation renders the applicant unqualified or incapable of meeting or maintaining a facility in accordance with* the Act and this Part*.* This determination will be based on the applicant's qualifications and ability to meet the criteria outlined in Section 330.165(b) as evidenced by the application and the applicant's prior history. (Section 3-117(5) of the Act)

3) *Personnel insufficient in number or unqualified by training or experience to properly care for the proposed number and type of residents.* (Section 3-117(3) of the Act)

4) *Insufficient financial or other resources to operate and conduct the facility in accordance with* this Part *and with contractual obligations assumed by a recipient of a grant under the Equity in Long-Term Care Quality Act and the plan (if applicable) submitted by a grantee for continuing and increasing adherence to best practices in providing high-quality nursing home care*. (Section 3-117(4) of the Act)

5) *That the facility is not under the direct supervision of a full-time administrator, as defined by* this Part*, who is licensed, if required, under the Nursing Home Administrators Licensing and Disciplinary Act.*  (Section 3-117(6) of the Act)

6) *That the facility is in receivership and the proposed licensee has not submitted a specific detailed plan to bring the facility into compliance with the requirements of* the *Act* and this Part*, and with federal certification requirements, if the facility is certified, and to keep the facility in such compliance.* (Section 3-117(7) of the Act)

b) The Department shall notify an applicant *immediately upon denial of any application.* Such notice shall be *in writing* and shall include:

1) *A clear and concise statement* of the basis of the denial. The statement shall include a citation to the provisions of Section 3-117 of the Act and the provisions of these rules under which the application is being denied.

2) A *notice of the opportunity for a hearing under Section 3-103* of the Act. *If the applicant desires to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within 10 days after receipt of the notice of denial*. (Section 3-118 of the Act)

(Source: Amended at 35 Ill. Reg. 11513, effective June 29, 2011)