

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 2824

By: Kendrix of the House

and

Bergstrom of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to long-term care; creating the Long-
11 Term Care Administrator Licensing Act; providing
12 short title; directing transfer of employees, powers,
13 duties, monies, and contractual rights from the
14 Oklahoma State Board of Examiners for Long-Term Care
15 Administrators to the State Department of Health;
16 requiring the Director of the Office of Management
17 and Enterprise Services to coordinate certain
18 transfers; directing transfer of certain
19 administrative rules from the Board to the State
20 Commissioner of Health; abolishing the Board upon
21 completion of transfers; amending 63 O.S. 2021,
22 Section 330.51, which relates to definitions;
23 removing and modifying certain definitions; amending
24 63 O.S. 2021, Section 330.52, which relates to the
Oklahoma State Board of Examiners for Long-Term Care
Administrators; extending termination date;
abolishing the Board when certain conditions are met;
amending 63 O.S. 2021, Section 330.53, which relates
to licensure of long-term care administrators;
transferring duties to the Department and the
Commissioner; granting certain authority to the
Commissioner; requiring promulgation of certain
rules; modifying applicability of certain provisions;
stipulating certain licensure and certification
qualifications; requiring and authorizing certain
fees; directing deposit of fees; prohibiting certain
unlicensed activity; amending 63 O.S. 2021, Section
330.58, which relates to duties; transferring duties

1 to the Department and the Commissioner; adding,
2 modifying, and removing certain duties; modifying
3 applicability of certain provisions; amending 63 O.S.
4 2021, Section 330.62, which relates to the Oklahoma
5 State Board of Examiners for Long-Term Care
6 Administrators Revolving Fund; renaming and
7 transferring fund; modifying applicability of certain
8 provisions; amending 63 O.S. 2021, Section 330.64,
9 which relates to complaints; providing complaint
10 procedures; transferring duties to the Department and
11 the Commissioner; requiring certain notice to be
12 provided to administrator found to be in violation of
13 act; providing for certain appeals; authorizing the
14 Department to order summary suspension under certain
15 conditions; requiring certain notice; granting
16 certain right to suspended licensee; providing for
17 confidentiality; excluding certain information from
18 specified definition and certain proceedings;
19 authorizing certain disclosures; establishing and
20 requiring the Department to offer independent
21 informal dispute resolution process; allowing the
22 Department to contract with a third-party vendor for
23 specified purpose; stipulating procedures for request
24 for and conduct of informal dispute resolution;
specifying composition of impartial decision-making
panel; providing for submission of evidence and
presentation of arguments; limiting length of
arguments; specifying certain procedures for
production of evidence; prohibiting and authorizing
certain recording of informal dispute resolution;
specifying allowed participants; prohibiting legal
representation; limiting inclusion of evidence in
certain written statement; requiring panel to issue
and provide written statement of findings;
stipulating contents of statement; requiring the
Department to consider findings when making certain
determination; directing promulgation of rules;
amending 51 O.S. 2021, Section 24A.3, as amended by
Section 1, Chapter 402, O.S.L. 2022 (51 O.S. Supp.
2022, Section 24A.3), which relates to the Oklahoma
Open Records Act; modifying certain definition;
updating statutory references and language;
renumbering 63 O.S. 2021, Sections 330.51, 330.53,
330.58, 330.62, and 330.64, as amended by Sections 3,
5, 6, 7, and 8 of this act, which relate to the
Oklahoma State Board of Examiners for Long-Term Care
Administrators; repealing 63 O.S. 2021, Sections

1 330.54, 330.56, 330.57, 330.59, 330.60, 330.61, and
2 330.65, which relate to the Oklahoma State Board of
3 Examiners for Long-Term Care Administrators;
4 providing for codification; providing for
5 recodification; providing effective dates; and
6 declaring an emergency.

7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

8 SECTION 1. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-1949.1 of Title 63, unless
10 there is created a duplication in numbering, reads as follows:

11 This act shall be known and may be cited as the "Long-Term Care
12 Administrator Licensing Act".

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 330.52a of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. On November 1, 2023, all employees, powers, duties,
17 functions, and responsibilities of the Oklahoma State Board of
18 Examiners for Long-Term Care Administrators shall be transferred to
19 the State Department of Health. The transfer shall include all
20 equipment, supplies, records, assets, current and future
21 liabilities, fund balances, encumbrances, obligations, and
22 indebtedness associated with the Oklahoma State Board of Examiners
23 for Long-Term Care Administrators.

24 B. Any monies accruing to or in the name of the Oklahoma State
Board of Examiners for Long-Term Care Administrators on and after

1 November 1, 2023, or any monies that accrue in any funds or accounts
2 or are maintained for the benefit of the Oklahoma State Board of
3 Examiners for Long-Term Care Administrators on and after November 1,
4 2023, shall be transferred to the State Department of Health.

5 C. The State Department of Health shall succeed to any
6 contractual rights and responsibilities incurred by the Oklahoma
7 State Board of Examiners for Long-Term Care Administrators.

8 D. The Director of the Office of Management and Enterprise
9 Services is hereby directed to coordinate the transfer of funds,
10 allotments, purchase orders, and outstanding financial obligations
11 or encumbrances as provided for in this section.

12 E. On November 1, 2023, all administrative rules promulgated by
13 the Oklahoma State Board of Examiners for Long-Term Care
14 Administrators shall be transferred to and become a part of the
15 administrative rules of the State Department of Health. The Office
16 of Administrative Rules in the Secretary of State's office shall
17 provide adequate notice in the Oklahoma Register of the transfer of
18 such rules and shall place the transferred rules under the Oklahoma
19 Administrative Code title of the State Department of Health. Such
20 rules shall continue in force and effect as rules of the State
21 Department of Health from and after November 1, 2023, and any
22 amendment, repeal, or addition to the transferred rules shall be
23 under the jurisdiction of the State Commissioner of Health.

24

1 F. The state agency known as the Oklahoma State Board of
2 Examiners for Long-Term Care Administrators shall be abolished after
3 all the transfers described in this section have been completed.

4 SECTION 3. AMENDATORY 63 O.S. 2021, Section 330.51, is
5 amended to read as follows:

6 Section 330.51 For the purposes of ~~Section 330.51 et seq. of~~
7 ~~this title, and as used herein~~ this act:

8 1. ~~"Board" means the Oklahoma State Board of Examiners for~~
9 ~~Long-Term Care Administrators;~~

10 2. ~~"Long-term care administrator" means a person licensed or~~
11 ~~certified as a nursing facility administrator, an assisted living~~
12 ~~facility administrator, a residential care facility administrator,~~
13 ~~or an adult day care center administrator pursuant to Section 330.51~~
14 ~~et seq. of this title~~ this act. A long-term care administrator must
15 devote at least one-half (1/2) of such person's working time to on-
16 the-job supervision of a long-term care facility; provided that this
17 requirement shall not apply to an administrator of an intermediate
18 care facility for individuals with intellectual disabilities with
19 sixteen or fewer beds (ICF/IID-16), in which case the person
20 licensed by the state may be in charge of more than one ICF/IID-16,
21 if such facilities are located within a circle that has a radius ~~of~~
22 not more than fifteen (15) miles, and the total number of facilities
23 and beds does not exceed six facilities and sixty-four beds. The
24 facilities may be free-standing in a community or may be on campus

1 with a parent institution. The ICF/IID-16 may be independently
2 owned and operated or may be part of a larger institutional
3 ownership and operation;

4 ~~3.~~ 2. "Nursing facility administrator" means a person licensed
5 by ~~the State of Oklahoma~~ this state to perform the duties of an
6 administrator serving in a skilled nursing or nursing or ICF/IID
7 facility;

8 ~~4.~~ 3. "Assisted living facility administrator" means a person
9 licensed or certified by ~~the State of Oklahoma~~ this state to perform
10 the duties of an administrator serving in an assisted living
11 facility;

12 ~~5.~~ 4. "Residential care facility administrator" means a person
13 licensed or certified by ~~the State of Oklahoma~~ this state to perform
14 the duties of an administrator serving in a residential care
15 facility;

16 ~~6.~~ 5. "Adult day care center administrator" means a person
17 licensed or certified by ~~the State of Oklahoma~~ this state to perform
18 the duties of an administrator serving in an adult day care center;
19 and

20 ~~7.~~ 6. "Nursing home", "rest home" and "specialized home" shall
21 have the same meaning as the term "nursing facility" as such term is
22 defined in the Nursing Home Care Act; "assisted living center" and
23 "continuum of care facility" shall have the same meaning as such
24 terms are defined in the Continuum of Care and Assisted Living Act;

1 "home" and "residential care home" shall have the same meaning as
2 the terms are used in the Residential Care Act; and "adult day care
3 center" and "center" shall have the same meaning as such terms are
4 used in the Adult Day Care Act.

5 SECTION 4. AMENDATORY 63 O.S. 2021, Section 330.52, is
6 amended to read as follows:

7 Section 330.52 A. There is hereby re-created, to continue
8 until ~~July 1, 2022, in accordance with the provisions of the~~
9 ~~Oklahoma Sunset Law~~ November 1, 2023, the Oklahoma State Board of
10 Examiners for Long-Term Care Administrators. The Oklahoma State
11 Board of Examiners for Long-Term Care Administrators shall be
12 abolished when the conditions of subsection F of Section 2 of this
13 act have been met.

14 B. The Oklahoma State Board of Examiners for Long-Term Care
15 Administrators shall consist of fifteen (15) members, eight of whom
16 shall be representatives of the professions and institutions of
17 long-term care, with representation from each type of administrator
18 defined in Section 330.51 of this title. In order to be eligible to
19 serve as a member, such administrators shall be licensed or
20 certified in their defined facility type, and be in good standing
21 and have at least three (3) years of experience as an administrator
22 in the facility type they represent, except a nursing facility
23 administrator as defined in Section 330.51 of this title, who shall
24 have at least five (5) years of experience as a nursing facility

1 administrator. Four members shall represent the general public, of
2 which at least two shall be licensed medical professionals concerned
3 with the care and treatment of critically ill or infirm elderly
4 patients. The preceding twelve members shall be appointed by the
5 Governor, with the advice and consent of the Senate. The final
6 three members shall constitute the State Commissioner of Health, the
7 Director of the Department of Human Services, and the Director of
8 the Department of Mental Health and Substance Abuse Services, or
9 their designees.

10 ~~B.~~ C. No members other than the eight licensed or certified
11 administrators shall have a direct or indirect financial interest in
12 long-term care facilities.

13 ~~C.~~ D. Effective November 1, 2011, all appointed positions of
14 the current Board shall be deemed vacant. The Governor shall make
15 initial appointments pursuant to the provisions of this subsection.
16 Initial appointments shall become effective on November 1, 2011.
17 The new members of the Board shall be initially appointed as
18 follows:

19 1. Four of the members representing each administrator type,
20 two members representing the general public and two other members
21 shall be appointed for a term of two (2) years to expire on October
22 31, 2013; and

23 2. Four of the members representing each administrator type,
24 two members representing the general public and one other member

1 shall be appointed for a term of three (3) years to expire on
2 October 31, 2014.

3 ~~D.~~ E. After the initial terms, the terms of all appointive
4 members shall be three (3) years. Any vacancy occurring in the
5 position of an appointive member shall be filled by the Governor,
6 with the advice and consent of the Senate, for the unexpired term.

7 ~~E.~~ F. Any member of the Board shall recuse himself or herself
8 from voting on any matter that originated from or involves an entity
9 with which the Board member is affiliated.

10 SECTION 5. AMENDATORY 63 O.S. 2021, Section 330.53, is
11 amended to read as follows:

12 Section 330.53 A. ~~The Oklahoma State Board of Examiners for~~
13 ~~Long-Term Care Administrators~~ State Department of Health shall have
14 authority to issue licenses or certifications to qualified persons
15 as long-term care administrators, ~~and shall establish~~ in accordance
16 with qualification criteria for each type of long-term care
17 administrator established by the State Commissioner of Health.

18 B. No license or certification shall be issued to a person as a
19 long-term care administrator unless:

20 1. The person shall have submitted evidence satisfactory to the
21 ~~Board~~ Department that the person is:

- 22 a. not less than twenty-one (21) years of age, and
23 b. of reputable and responsible character; and
24

1 2. The person shall have submitted evidence satisfactory to the
2 ~~Board~~ Department of the person's ability to supervise the defined
3 facility type in which he or she is licensed or certified to serve
4 as a long-term care administrator.

5 C. The Commissioner shall have the authority to determine the
6 qualifications, skill, and fitness of any person to serve as a long-
7 term care administrator under the applicable provisions of the
8 Nursing Home Care Act, the Continuum of Care and Assisted Living
9 Act, the Residential Care Act, and the Adult Day Care Act. The
10 Commissioner shall promulgate rules to determine the qualifications
11 for licensure or certification for each of the long-term care
12 administrator types as defined in Section 330.51 of this title.
13 Such rules may, at the discretion of the Commissioner, include a
14 requirement for licensure instead of certification for one or more
15 long-term care administrator types.

16 D. 1. All persons ~~currently~~ licensed or certified or lawfully
17 serving as an administrator in their defined facility type shall be
18 permitted to continue to serve in their current capacity under their
19 current terms of authorization. The ~~Board~~ Commissioner may
20 promulgate rules ~~pursuant to Section 330.57 of this title~~ to address
21 future certification and licensure requirements for all long-term
22 care administrator types without effect on the licensure or
23 certification status of those currently certified or licensed.
24

1 Until such rules are promulgated, current licensure and
2 certification processes and standards shall remain in place.

3 2. To be eligible for licensure or certification as any type of
4 long-term care administrator, the applicant shall have successfully
5 completed a training and education program approved by the
6 Commissioner.

7 3. The ~~Board~~ Commissioner shall not include a requirement for a
8 four-year degree in any future licensing or certification
9 requirements for assisted living, residential care or adult day care
10 administrators. ~~Until such rules are promulgated, current licensure~~
11 ~~and certification processes and standards shall remain in place.~~

12 4. In addition to the requirement provided by paragraph 2 of
13 this subsection, to be eligible for licensure or certification as a
14 nursing facility administrator, the applicant shall:

- 15 a. hold a baccalaureate degree from an institution of
16 higher education,
- 17 b. hold an associate degree in a health- or business-
18 related field or other relevant field as determined by
19 the Commissioner,
- 20 c. have not less than five (5) years of experience in
21 upper-level management of a long-term care facility as
22 determined by the Commissioner,
- 23 d. be currently licensed as an assisted living facility
24 administrator or residential care facility

1 administrator and have not less than three (3) years
2 of experience acting in such capacity, or
3 e. have not less than five (5) years of experience
4 working in a long-term care setting.

5 ~~D. The Oklahoma State Board of Examiners for Long-Term Care~~
6 ~~Administrators shall, on or before July 1, 2017, promulgate rules~~
7 ~~permitting eligible applicants to~~

8 E. Eligible applicants may sit for the state standards
9 examination at a testing facility using procedures approved by the
10 National Association of Long-Term Care Administrator Board, Boards
11 including, but not limited to, the use of electronic or online
12 methods for examination.

13 ~~E. The Oklahoma State Board of Examiners for Long-Term Care~~
14 ~~Administrators shall promulgate rules to implement the provisions of~~
15 ~~this section.~~

16 F. 1. Each person licensed or certified as a long-term care
17 administrator under the provisions of this act shall pay an annual
18 license or certification fee which shall be deposited in the Long-
19 Term Care Administrator Revolving Fund created in Section 330.62 of
20 this title. Such fee shall be determined by the Commissioner. Each
21 such license or certification shall expire on the thirty-first day
22 of December following its issuance, and shall be renewable for a
23 calendar year, upon meeting the renewal requirements and upon
24 payment of the annual licensure or certification fee.

1 2. In addition to licensure and certification fees, the
2 Commissioner may impose fees for training and education programs
3 approved by the Commissioner.

4 3. All revenues collected as a result of fees authorized in
5 this section and imposed by the Commissioner shall be deposited into
6 the Long-Term Care Administrator Revolving Fund created in Section
7 330.62 of this title.

8 G. It shall be unlawful for any person to act or serve in the
9 capacity of a long-term care administrator unless the person is the
10 holder of a license or certificate as a long-term care
11 administrator, issued in accordance with the provisions of this act.
12 A person found guilty of a violation of this subsection shall, upon
13 conviction, be guilty of a misdemeanor.

14 SECTION 6. AMENDATORY 63 O.S. 2021, Section 330.58, is
15 amended to read as follows:

16 Section 330.58 ~~The Oklahoma State Board of Examiners for Long-~~
17 ~~Term Care Administrators shall~~ State Department of Health or, as
18 appropriate, the State Commissioner of Health shall:

19 1. Develop and apply standards for approval of training and
20 education programs for long-term care administrators that meet the
21 accreditation standards of the National Association of Long-Term
22 Care Administrator Boards;

23 2. Develop, impose, and enforce standards which must be met by
24 individuals in order to receive a license or certification as a

1 long-term care administrator, which standards shall be designed to
2 ensure that long-term care administrators will be individuals who
3 are of good character and are otherwise suitable, and who, by
4 training or experience in the field of institutional administration,
5 are qualified to serve as long-term care administrators;

6 ~~2.~~ 3. Develop and apply appropriate techniques, including
7 examinations and investigations, for determining whether an
8 individual meets such standards;

9 ~~3.~~ 4. Issue licenses or certifications to individuals
10 determined, after the application of such techniques, to meet such
11 standards. The ~~Board~~ Department may deny an initial application,
12 deny a renewal application, and revoke or suspend licenses or
13 certifications previously issued by the ~~Board~~ Department in any case
14 where the individual holding any such license or certification is
15 determined substantially to have failed to conform to the
16 requirements of such standards. The ~~Board~~ Department may also warn,
17 censure, impose administrative fines or use other remedies that may
18 be considered to be less than revocation and suspension.
19 Administrative fines imposed pursuant to this section shall not
20 exceed One Thousand Dollars (\$1,000.00) per violation. The ~~Board~~
21 Department shall consider the scope, severity and repetition of the
22 violation and any additional factors deemed appropriate by the ~~Board~~
23 Department when issuing a fine. The Department may utilize one or
24

1 more administrative law judges to conduct administrative
2 proceedings;

3 ~~4.~~ 5. Establish and carry out procedures designed to ensure
4 that individuals licensed or certified as long-term care
5 administrators will, during any period that they serve as such,
6 comply with the requirements of such standards;

7 ~~5.~~ 6. Receive, investigate, and take appropriate action with
8 respect to any charge or complaint filed with the ~~Board~~ Department
9 to the effect that any individual licensed as a long-term care
10 administrator has failed to comply with the requirements of such
11 standards. The long-term care ombudsman program of the Aging
12 Services Division of the Department of Human Services shall be
13 notified of all complaint investigations of the ~~Board~~ Department so
14 that they may be present at any such complaint investigation for the
15 purpose of representing long-term care facility consumers;

16 ~~6.~~ 7. Receive and take appropriate action on any complaint or
17 referral received by the ~~Board~~ Department from the Department of
18 Human Services or any other regulatory agency. ~~Complaints may also~~
19 ~~be generated by the Board or staff.~~ A complaint shall not be
20 published on the ~~web site~~ website of the ~~Oklahoma State Board of~~
21 ~~Examiners for Long-Term Care Administrators~~ Department unless there
22 is a finding by the ~~Board~~ Department that the complaint has merit.
23 The ~~Board~~ Commissioner shall promulgate rules that include, but are
24 not limited to, provisions for:

- a. establishing a complaint review process,
- b. creating a formal complaint file, ~~and~~
- c. establishing a protocol for investigation of complaints, and
- d. establishing an independent informal dispute resolution process in accordance with Section 9 of this act;

~~7. 8.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65 of this title~~ this act against all persons who are in violation thereof including, but not limited to, individuals who are practicing or attempting to practice as long-term care administrators without proper authorization from the ~~Board~~ Department;

~~8. 9.~~ 9. Conduct a continuing study and investigation of long-term care facilities and administrators of long-term care facilities within the state with a view toward the improvement of the standards imposed for the licensing or certifying of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of long-term care facilities who have been licensed or certified;

~~9. 10.~~ 10. Cooperate with and provide assistance when necessary to state regulatory agencies in investigations of complaints;

~~10. 11.~~ 11. Develop a code of ethics for long-term care administrators which includes, but is not limited to, a statement

1 that administrators have a fiduciary duty to the facility and cannot
2 serve as guardian of the person or of the estate, or hold a durable
3 power of attorney or power of attorney for any resident of a
4 facility of which they are an administrator;

5 ~~11.~~ 12. Report a final adverse action against a long-term care
6 administrator to the Healthcare Integrity and Protection Data Bank
7 pursuant to federal regulatory requirements;

8 ~~12.~~ 13. Refer completed investigations to the proper law
9 enforcement authorities for prosecution of criminal activities;

10 ~~13.~~ 14. Impose administrative fines, in an amount to be
11 determined by the ~~Board~~ Commissioner, against persons who do not
12 comply with the provisions of this act or the rules adopted by the
13 ~~Board~~ Commissioner. Administrative fines imposed pursuant to this
14 section shall not exceed One Thousand Dollars (\$1,000.00) per
15 violation. The ~~Board~~ Department shall consider the scope, severity
16 and repetition of the violation and any additional factors deemed
17 appropriate by the ~~Board~~ Department when issuing a fine;

18 ~~14.~~ 15. Assess the costs of the hearing process, including
19 attorney fees;

20 ~~15.~~ 16. Grant short-term provisional licenses to individuals
21 who do not meet all of the licensing requirements, provided the
22 individual obtains the services of a currently licensed
23 administrator to act as a consultant and meets any additional
24

1 criteria for a provisional license established by the ~~Board~~
2 Commissioner;

3 ~~16. Order a summary suspension of an administrator's license or~~
4 ~~certification or an Administrator in Training (AIT) permit, if, in~~
5 ~~the course of an investigation, it is determined that a licensee,~~
6 ~~certificate holder or AIT candidate for licensure has engaged in~~
7 ~~conduct of a nature that is detrimental to the health, safety or~~
8 ~~welfare of the public, and which conduct necessitates immediate~~
9 ~~action to prevent further harm; and~~

10 17. Promulgate rules governing the employment of assistant
11 administrators for nursing and skilled nursing facilities including,
12 but not limited to, minimum qualifications.

13 SECTION 7. AMENDATORY 63 O.S. 2021, Section 330.62, is
14 amended to read as follows:

15 Section 330.62 There is hereby created in the State Treasury a
16 revolving fund for the ~~Oklahoma State Board of Examiners for Long-~~
17 ~~Term Care Administrators~~ State Department of Health to be designated
18 the "~~Oklahoma State Board of Examiners for Long-Term Care~~
19 ~~Administrators~~ Administrator Revolving Fund". The fund shall be a
20 continuing fund, not subject to fiscal year limitations, and shall
21 consist of such sources of income as are provided by law. All
22 monies accruing to the credit of ~~said~~ the fund are hereby
23 appropriated and may be budgeted and expended by the ~~Oklahoma State~~
24 ~~Board of Examiners for Long-Term Care Administrators~~ Department to

1 carry out the duties established by ~~law~~ this act. Expenditures from
2 ~~said the~~ fund shall be made upon warrants issued by the State
3 Treasurer against claims filed as prescribed by law with the
4 Director of the Office of Management and Enterprise Services for
5 approval and payment.

6 SECTION 8. AMENDATORY 63 O.S. 2021, Section 330.64, is
7 amended to read as follows:

8 Section 330.64 A. Any person or agency may submit to the State
9 Department of Health a complaint against a long-term care
10 administrator. Complaints may also be generated by the Department.
11 Each investigation of a complaint received by the ~~Oklahoma State~~
12 ~~Board of Examiners for Long Term Care Administrators~~ Department
13 shall be initiated within ninety (90) days from the date the
14 complaint is received by the ~~Board~~ Department. Each complaint
15 investigation shall be completed within twelve (12) months of
16 initiation. The time period may be extended by the ~~Board~~ Department
17 for good cause.

18 B. Upon conclusion of an investigation, if the Department
19 determines that an administrator has violated this act, the
20 Department shall promptly serve a notice of violation upon the
21 administrator. The notice of violation shall be prepared in writing
22 and shall specify the nature of the violation or violations and the
23 provision or provisions of state law or rule alleged to have been
24 violated. The notice of violation shall inform the administrator of

1 his or her right to an independent informal dispute resolution
2 process conducted in accordance with Section 9 of this act or a
3 hearing conducted under subsection C of this section, or both.

4 C. If the case is not resolved through the independent informal
5 dispute resolution process prescribed by Section 9 of this act, the
6 administrator shall be afforded notice and a hearing in accordance
7 with the provisions of Article II of the Administrative Procedures
8 Act. Any party aggrieved by a decision of the Department following
9 a hearing may appeal directly to district court under Section 318 of
10 Title 75 of the Oklahoma Statutes.

11 D. Notwithstanding any other provision of this section, the
12 Department may order a summary suspension of an administrator's
13 license or certification or an Administrator in Training (AIT)
14 permit if, in the course of an investigation, it is determined that
15 a licensee, certificate holder, or AIT candidate for licensure has
16 engaged in conduct of a nature that is detrimental to the health,
17 safety, or welfare of the public, and which conduct necessitates
18 immediate action to prevent further harm. The Department shall
19 immediately notify the licensee, certificate holder, or AIT
20 candidate upon issuance of the order. The licensee, certificate
21 holder, or AIT candidate shall have the right to contest the order
22 at a hearing as provided by subsection C of this section.

23 E. To ensure the confidentiality of an investigative file
24 obtained during the investigation, the information in the

1 investigative file shall not be deemed to be a record as that term
2 is defined in the Oklahoma Open Records Act nor shall the
3 information be subject to subpoena or discovery in any civil or
4 criminal proceeding, except that the Department may give the
5 information to law enforcement and other state licensing agencies as
6 necessary and appropriate in the discharge of the duties of that
7 agency and only under circumstances that will ensure against
8 unauthorized access to the information. The respondent may acquire
9 information obtained during an investigation, unless the disclosure
10 of the information is otherwise prohibited, except for the
11 investigative report, if the respondent signs a protective order
12 whereby the respondent agrees to use the information solely for the
13 purpose of defense in the proceedings of the Department and in any
14 appeal therefrom and agrees not to otherwise disclose the
15 information.

16 F. ~~Effective May 13, 2005, the Board~~ The Department shall
17 create and maintain a registry of all complaints or referrals, found
18 by the ~~Board~~ Department to have merit, complaining of acts or
19 omissions of licensed administrators. The registry shall be
20 maintained in both electronic and paper formats and shall be
21 available for inspection by the public. Such registry shall be
22 organized both in chronological order by the date of the complaint
23 and by the name of the licensed administrator. The registry shall
24 contain information about the nature of the complaint and the

1 action, if any, taken by the ~~Board~~ Department. The registry shall
2 also contain the number of complaints made against an individual
3 administrator.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-1949.7 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. The Department shall give an administrator who the
8 Department has determined, upon investigation, has violated the
9 Long-Term Care Administrator Licensing Act an opportunity to
10 participate in an independent informal dispute resolution process of
11 the case in accordance with this section. The Department may
12 contract with a third-party vendor to provide the independent
13 informal dispute resolution.

14 B. The administrator shall make a written request to the
15 Department to participate in an informal dispute resolution. Upon
16 receipt of such request, the Department shall:

17 1. Refer the case to the informal dispute resolution provider,
18 if the Department contracts with a third-party vendor as described
19 in subsection A of this section, and the informal dispute resolution
20 provider shall:

21 a. schedule a time and date for an informal dispute
22 resolution meeting and inform the parties of such time
23 and date, and
24

1 b. appoint an impartial decision-making panel to conduct
2 the informal dispute resolution as provided by
3 subsection C of this section; or

4 2. If the Department does not contract with a third-party
5 vendor as described in subsection A of this section, the Department
6 shall:

7 a. schedule a time and date for an informal dispute
8 resolution meeting and inform the parties of such time
9 and date, and

10 b. appoint an impartial decision-making panel to conduct
11 the informal dispute resolution as provided by
12 subsection C of this section.

13 C. The impartial decision-making panel shall be a group of five
14 (5) individuals who meet the following criteria:

15 1. Two members shall be impartial volunteers who have
16 experience in the operation of the same type of long-term facility
17 as the administrator who is the subject of the complaint. Such
18 volunteers may include, but not be limited to, an administrator,
19 owner, operator, or director of nursing of an appropriate long-term
20 care facility, but shall not include any person with a direct
21 financial interest in any facility that employs or contracts with
22 the administrator who is the subject of the complaint;

23 2. One member shall be an employee of the Department who has no
24 current involvement in the long-term care facility survey process;

1 3. One member shall be a person representing the aging or
2 disabled community; and

3 4. One member shall be an impartial person who is not employed
4 by the State Department of Health.

5 D. Each party shall submit to the impartial decision-making
6 panel all documentary evidence that the party believes has a bearing
7 on or relevance to the violation or violations alleged by the
8 Department in the complaint.

9 E. The Department shall present initial arguments. The
10 administrator shall then present his or her arguments. The informal
11 dispute resolution shall be limited to no more than two (2) hours in
12 length, with each party being permitted one (1) hour to present its
13 arguments; however, the impartial decision-making panel may grant
14 each party additional equal time for good cause as determined by the
15 impartial decision making-panel.

16 F. Rules of evidence or procedure shall not apply to the
17 informal dispute resolution except as provided in this section. The
18 impartial decision-making panel may:

19 1. Accept any information that the impartial decision-making
20 panel deems material to the issue being presented; and

21 2. Reject any information that the impartial decision-making
22 panel deems immaterial to the issue being presented.

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1 G. The informal dispute resolution may not be recorded;
2 however, the impartial decision-making panel may make written or
3 recorded notes of the arguments.

4 H. Only employees of or health care providers contracted by the
5 facility where the administrator who is the subject of the complaint
6 is employed may appear or participate in the informal dispute
7 resolution on behalf of the administrator. Only employees of the
8 Department may appear or participate at the meeting for, or on
9 behalf of, the Department. The State Long-Term Care Ombudsman or
10 designee may appear at or participate in the meeting. No party may
11 be represented by an attorney.

12 I. The informal dispute resolution process is limited to
13 violations alleged by the Department in the complaint. If the
14 impartial decision-making panel finds that matters not subject to
15 the informal dispute resolution are presented, the impartial
16 decision-making panel shall strike all documentary evidence related
17 to or presented for the purpose of disputing the matter not subject
18 to the informal dispute resolution. The impartial decision-making
19 panel may not include in the statement of findings described in
20 subsection J of this section any matter not subject to the informal
21 dispute resolution.

22 J. Upon the conclusion of all arguments by the parties at the
23 informal dispute resolution, the impartial decision-making panel
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1 shall issue a written statement of findings, which shall be provided
2 to all parties and which shall include:

3 1. A summary of any alleged violations;

4 2. A statement of whether the impartial decision-making panel
5 agrees that the alleged violation or violations occurred;

6 3. The facts and persuasive arguments that support the finding
7 of the impartial decision-making panel for each alleged violation;
8 and

9 4. A recommendation on appropriate disciplinary action against
10 the administrator, if any.

11 K. The Department shall review the findings of the impartial
12 decision-making panel and shall take such findings into
13 consideration when determining whether to pursue further
14 disciplinary action against the administrator.

15 SECTION 10. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-1949.8 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 The State Commissioner of Health shall promulgate rules to
19 implement the provisions of the Long-Term Care Administrator
20 Licensing Act.

21 SECTION 11. AMENDATORY 51 O.S. 2021, Section 24A.3, as
22 amended by Section 1, Chapter 402, O.S.L. 2022 (51 O.S. Supp. 2022,
23 Section 24A.3), is amended to read as follows:

24 Section 24A.3 As used in the Oklahoma Open Records Act:

1 1. "Record" means all documents including, but not limited to,
2 any book, paper, photograph, microfilm, data files created by or
3 used with computer software, computer tape, disk, record, sound
4 recording, film recording, video record or other material regardless
5 of physical form or characteristic, created by, received by, under
6 the authority of, or coming into the custody, control or possession
7 of public officials, public bodies or their representatives in
8 connection with the transaction of public business, the expenditure
9 of public funds or the administering of public property. ~~"Record"~~

10 Record does not mean:

- 11 a. computer software,
- 12 b. nongovernment personal effects,
- 13 c. unless public disclosure is required by other laws or
14 regulations, vehicle movement records of the Oklahoma
15 Transportation Authority obtained in connection with
16 the Authority's electronic toll collection system,
- 17 d. personal financial information, credit reports or
18 other financial data obtained by or submitted to a
19 public body for the purpose of evaluating credit
20 worthiness, obtaining a license, permit or for the
21 purpose of becoming qualified to contract with a
22 public body,

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- 1 e. any digital audio/video recordings of the toll
2 collection and safeguarding activities of the Oklahoma
3 Transportation Authority,
- 4 f. any personal information provided by a guest at any
5 facility owned or operated by the Oklahoma Tourism and
6 Recreation Department to obtain any service at the
7 facility or by a purchaser of a product sold by or
8 through the Oklahoma Tourism and Recreation
9 Department,
- 10 g. a Department of Defense Form 214 (DD Form 214) filed
11 with a county clerk including any DD Form 214 filed
12 before July 1, 2002,
- 13 h. except as provided for in Section 2-110 of Title 47 of
14 the Oklahoma Statutes⁷:
- 15 (1) any record in connection with a Motor Vehicle
16 Report issued by the Department of Public Safety,
17 as prescribed in Section 6-117 of Title 47 of the
18 Oklahoma Statutes, or
- 19 (2) personal information within driver records, as
20 defined by the Driver's Privacy Protection Act,
21 18 United States Code, Sections 2721 through
22 2725, which are stored and maintained by the
23 Department of Public Safety, ~~or~~
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- 1 i. any portion of any document or information provided to
2 an agency or entity of the state or a political
3 subdivision to obtain licensure under the laws of this
4 state or a political subdivision that contains an
5 applicant's personal address, personal phone number,
6 personal electronic mail address or other contact
7 information. Provided, however, lists of persons
8 licensed, the existence of a license of a person, or a
9 business or commercial address, or other business or
10 commercial information disclosable under state law
11 submitted with an application for licensure shall be
12 public record, or
13 j. an investigative file obtained during an investigation
14 conducted by the State Department of Health under this
15 act;

16 2. "Public body" shall include, but not be limited to, any
17 office, department, board, bureau, commission, agency, trusteeship,
18 authority, council, committee, trust or any entity created by a
19 trust, county, city, village, town, township, district, school
20 district, fair board, court, executive office, advisory group, task
21 force, study group or any subdivision thereof, supported in whole or
22 in part by public funds or entrusted with the expenditure of public
23 funds or administering or operating public property, and all
24 committees, or subcommittees thereof. Except for the records

1 required by Section 24A.4 of this title, ~~"public body"~~ public body
2 does not mean judges, justices, the Council on Judicial Complaints,
3 the Legislature or legislators. ~~"Public body"~~ Public body shall not
4 include an organization that is exempt from federal income tax under
5 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
6 and whose sole beneficiary is a college or university, or an
7 affiliated entity of the college or university, that is a member of
8 The Oklahoma State System of Higher Education. Such organization
9 shall not receive direct appropriations from the Oklahoma
10 Legislature. The following persons shall not be eligible to serve
11 as a voting member of the governing board of the organization:

- 12 a. a member, officer, or employee of the Oklahoma State
13 Regents for Higher Education,
- 14 b. a member of the board of regents or other governing
15 board of the college or university that is the sole
16 beneficiary of the organization, or
- 17 c. an officer or employee of the college or university
18 that is the sole beneficiary of the organization;

19 3. "Public office" means the physical location where public
20 bodies conduct business or keep records;

21 4. "Public official" means any official or employee of any
22 public body as defined herein; and

23 5. "Law enforcement agency" means any public body charged with
24 enforcing state or local criminal laws and initiating criminal

1 prosecutions including, but not limited to, police departments,
2 county sheriffs, the Department of Public Safety, the Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
4 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
5 of Investigation.

6 SECTION 12. RECODIFICATION 63 O.S. 2021, Section 330.51,
7 as amended by Section 3 of this act, shall be recodified as Section
8 1-1949.2 of Title 63 of the Oklahoma Statutes, unless there is
9 created a duplication in numbering.

10 SECTION 13. RECODIFICATION 63 O.S. 2021, Section 330.53,
11 as amended by Section 5 of this act, shall be recodified as Section
12 1-1949.3 of Title 63 of the Oklahoma Statutes, unless there is
13 created a duplication in numbering.

14 SECTION 14. RECODIFICATION 63 O.S. 2021, Section 330.58,
15 as amended by Section 6 of this act, shall be recodified as Section
16 1-1949.4 of Title 63 of the Oklahoma Statutes, unless there is
17 created a duplication in numbering.

18 SECTION 15. RECODIFICATION 63 O.S. 2021, Section 330.62,
19 as amended by Section 7 of this act, shall be recodified as Section
20 1-1949.5 of Title 63 of the Oklahoma Statutes, unless there is
21 created a duplication in numbering.

22 SECTION 16. RECODIFICATION 63 O.S. 2021, Section 330.64,
23 as amended by Section 8 of this act, shall be recodified as Section
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1 1-1949.6 of Title 63 of the Oklahoma Statutes, unless there is
2 created a duplication in numbering.

3 SECTION 17. REPEALER 63 O.S. 2021, Sections 330.54,
4 330.56, 330.57, 330.59, 330.60, 330.61, and 330.65, are hereby
5 repealed.

6 SECTION 18. Sections 1, 2, and 4 of this act shall become
7 effective June 1, 2023.

8 SECTION 19. Sections 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
9 16, and 17 of this act shall become effective November 1, 2023.

10 SECTION 20. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist for Sections 1, 2, and 4 of this act, by reason
13 whereof such sections shall take effect and be in full force from
14 and after its passage and approval.

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