

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to long-term care; directing transfer
12 of employees, powers, duties, monies and contractual
13 rights from the Oklahoma State Board of Examiners for
14 Long-Term Care Administrators to the State Department
15 of Health; requiring the Director of the Office of
16 Management and Enterprise Services to coordinate
17 certain transfers; directing transfer of certain
18 administrative rules from the Board to the State
19 Commissioner of Health; abolishing the Board upon
20 completion of transfers; amending 63 O.S. 2021,
21 Section 1-1923, which relates to the Long-Term Care
22 Facility Advisory Board; extending termination date;
23 changing name; decreasing and modifying membership;
24 removing certain duty of the Department; modifying
 and adding powers and duties of the Long-Term Care
 Advisory Council; requiring certain recusal; amending
 63 O.S. 2021, Section 330.51, which relates to
 definitions; removing and adding definitions;
 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; requiring input of the Advisory
 Council; modifying applicability of certain
 provisions; requiring and authorizing certain fees;
 directing deposit of fees; requiring the Commissioner
 to determine certain qualifications; prohibiting
 certain unlicensed activity; amending 63 O.S. 2021,

1 Section 330.58, which relates to duties; transferring
2 duties to the Department and the Commissioner;
3 requiring input of the Advisory Council; adding and
4 removing certain duties; amending 63 O.S. 2021,
5 Section 330.62, which relates to the Oklahoma State
6 Board of Examiners for Long-Term Care Administrators
7 Revolving Fund; renaming and transferring fund;
8 amending 63 O.S. 2021, Section 330.64, which relates
9 to complaints; providing complaint procedures;
10 transferring duties to the Department and the
11 Commissioner; requiring input of the Advisory
12 Council; requiring certain notice; prohibiting
13 adverse action by the Department except under certain
14 conditions; requiring the Advisory Council to review
15 complaints; authorizing certain investigation and
16 interviews; directing certain recommendation;
17 requiring certain vote; authorizing the Department to
18 order summary suspension under certain conditions;
19 requiring certain notice; granting certain right to
20 suspended licensee; providing for confidentiality;
21 excluding certain information from specified
22 definition and certain proceedings; authorizing
23 certain disclosures; authorizing informal resolution
24 process; providing for certain appeals; directing
promulgation of rules; renumbering 63 O.S. 2021,
Sections 330.51, 330.53, 330.58, 330.62, and 330.64,
as amended by Sections 3, 4, 5, 6, and 7 of this act,
which relate to the Oklahoma State Board of Examiners
for Long-Term Care Administrators; repealing 63 O.S.
2021, Sections 330.52, 330.54, 330.56, 330.57,
330.59, 330.60, 330.61 and 330.65, which relate to
the Oklahoma State Board of Examiners for Long-Term
Care Administrators; providing for codification;
providing for recodification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 330.66 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 A. On the effective date of this act, all employees, powers,
2 duties, functions and responsibilities of the Oklahoma State Board
3 of Examiners for Long-Term Care Administrators shall be transferred
4 to the State Department of Health. The transfer shall include all
5 equipment, supplies, records, assets, current and future
6 liabilities, fund balances, encumbrances, obligations and
7 indebtedness associated with the Oklahoma State Board of Examiners
8 for Long-Term Care Administrators.

9 B. Any monies accruing to or in the name of the Oklahoma State
10 Board of Examiners for Long-Term Care Administrators on and after
11 the effective date of this act, or any monies that accrue in any
12 funds or accounts or are maintained for the benefit of the Oklahoma
13 State Board of Examiners for Long-Term Care Administrators on and
14 after the effective date of this act shall be transferred to the
15 State Department of Health.

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

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

23 E. On the effective date of this act, all administrative rules
24 promulgated by the Oklahoma State Board of Examiners for Long-Term

1 Care Administrators shall be transferred to and become a part of the
2 administrative rules of the State Department of Health. The Office
3 of Administrative Rules in the Secretary of State's office shall
4 provide adequate notice in the Oklahoma Register of the transfer of
5 such rules and shall place the transferred rules under the
6 Administrative Code section of the State Department of Health. Such
7 rules shall continue in force and effect as rules of the State
8 Department of Health from and after the effective date of this act,
9 and any amendment, repeal or addition to the transferred rules shall
10 be under the jurisdiction of the State Commissioner of Health.

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

14 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-1923, is
15 amended to read as follows:

16 Section 1-1923. A. There is hereby re-created, to continue
17 until ~~July 1, 2023~~ July 1, 2025, in accordance with the provisions
18 of the Oklahoma Sunset Law, a Long-Term Care ~~Facility~~ Advisory Board
19 Council of fifteen (15) members, each of whom shall serve at the
20 pleasure of the member's appointing authority, which shall be
21 composed as follows:

22 1. ~~The Governor shall appoint a twenty-seven member Long Term~~
23 ~~Care Facility Advisory Board which shall advise the State~~

24

1 ~~Commissioner of Health. The Advisory Board shall be comprised of~~
2 ~~the following persons:~~

- 3 a. ~~one representative from the Office of the State Fire~~
4 ~~Marshal, designated by the State Fire Marshal,~~
- 5 b. ~~one representative from the Oklahoma Health Care~~
6 ~~Authority, designated by the Administrator,~~
- 7 c. ~~one representative from the Department of Mental~~
8 ~~Health and Substance Abuse Services, designated by the~~
9 ~~Commissioner of Mental Health and Substance Abuse~~
10 ~~Services,~~
- 11 d. ~~one representative from the Department of Human~~
12 ~~Services, designated by the Director of Human~~
13 ~~Services,~~
- 14 e. ~~one member who shall be a licensed general~~
15 ~~practitioner of the medical profession,~~
- 16 f. ~~one member who shall be a general practitioner of the~~
17 ~~osteopathic profession,~~
- 18 g. ~~one member who shall be a registered pharmacist,~~
- 19 h. ~~one member who shall be a licensed registered nurse,~~
- 20 i. ~~one member who shall be a licensed practical nurse,~~
- 21 j. ~~three members who shall be of reputable and~~
22 ~~responsible character and sound physical and mental~~
23 ~~health and shall be operator-administrators of nursing~~
24 ~~homes which have current licenses issued pursuant to~~

1 ~~the Nursing Home Care Act and who shall have had five~~
2 ~~(5) years' experience in the nursing home profession~~
3 ~~as operator administrators,~~

4 k. ~~three members who shall be residential care home~~
5 ~~operator administrators licensed pursuant to the~~
6 ~~provisions of the Residential Care Act,~~

7 l. ~~three members who shall be adult day care facility~~
8 ~~owner operators licensed pursuant to the provisions of~~
9 ~~the Adult Day Care Act,~~

10 m. ~~three members who shall be continuum of care facility~~
11 ~~or assisted living center owner operators licensed~~
12 ~~pursuant to the provisions of the Continuum of Care~~
13 ~~and Assisted Living Act, and~~

14 n. ~~six members who shall be over the age of sixty-five~~
15 ~~(65) who shall represent the general public;~~

16 ~~2. The designated representative from the Office of the State~~
17 ~~Fire Marshal, the designated representative from the Department of~~
18 ~~Mental Health and Substance Abuse Services, the designated~~
19 ~~representative from the Department of Human Services, and the~~
20 ~~designated representative from the State Department of Health shall~~
21 ~~serve at the pleasure of their designators;~~

22 ~~3. The initial appointments of the Governor shall be for the~~
23 ~~following terms:~~

- 1 a. ~~the initial term of the member of the medical~~
2 ~~profession shall be for a three-year term,~~
- 3 b. ~~the initial term of the member of the osteopathic~~
4 ~~profession shall be for a three-year term,~~
- 5 c. ~~the initial term of the registered pharmacist shall be~~
6 ~~for a two-year term,~~
- 7 d. ~~the initial term of the licensed registered nurse~~
8 ~~shall be for a two-year term,~~
- 9 e. ~~the initial term of the licensed practical nurse shall~~
10 ~~be for a one-year term,~~
- 11 f. ~~of the initial terms for the twelve members who are~~
12 ~~licensed operator-administrators for facilities~~
13 ~~pursuant to the Nursing Home Care Act, residential~~
14 ~~care homes pursuant to the Residential Care Act, adult~~
15 ~~day care facilities pursuant to the Adult Day Care~~
16 ~~Act, and continuum of care facilities and assisted~~
17 ~~living centers pursuant to the Continuum of Care and~~
18 ~~Assisted Living Act, four shall be for one-year terms,~~
19 ~~four shall be for two-year terms, and four shall be~~
20 ~~for three-year terms; provided that representatives~~
21 ~~for each of the terms shall include one individual~~
22 ~~representing facilities subject to the provisions of~~
23 ~~the Nursing Home Care Act, one individual representing~~
24 ~~residential care homes subject to the Residential Care~~

1 ~~Act, one individual representing facilities subject to~~
2 ~~the provisions of the Adult Day Care Act, and one~~
3 ~~individual representing continuum of care facilities~~
4 ~~and assisted living centers subject to the provisions~~
5 ~~of the Continuum of Care and Assisted Living Act, and~~
6 g. ~~the initial terms for the six members of the general~~
7 ~~public over the age of sixty-five (65) shall be for~~
8 ~~one, two, three, four, five and six-year terms~~
9 ~~respectively; and~~

10 ~~4. After the initial designations or appointments, the~~
11 ~~designated representative from the Office of the State Fire Marshal,~~
12 ~~the designated representative of the Oklahoma Health Care Authority,~~
13 ~~the designated representative of the Department of Human Services~~
14 ~~and the designated representative of the Department of Mental Health~~
15 ~~and Substance Abuse Services shall each serve at the pleasure of~~
16 ~~their designators. All other terms shall be for a three-year~~
17 ~~period. In case of a vacancy, the Governor shall appoint~~
18 ~~individuals to fill the remainder of the term~~

19 The State Long-Term Care Ombudsman or designee. Such designee
20 must be a current employee of the Department of Human Services;

21 2. One medical doctor or doctor of osteopathy who practices in
22 general practice or who specializes in geriatrics, appointed by the
23 Governor;

1 3. One pharmacist who works in a long-term care facility or in
2 the long-term care industry, appointed by the Governor;

3 4. One Registered Nurse, appointed by the President Pro Tempore
4 of the Oklahoma State Senate;

5 5. One Licensed Practical Nurse, appointed by the Speaker of
6 the Oklahoma House of Representatives;

7 6. Three representatives of nursing facilities, each of whom
8 shall be an executive, owner-operator or administrator of the
9 facility and shall have not less than three (3) years of experience
10 as an executive, owner-operator, or administrator of one or more
11 nursing facilities. One of the representatives shall be appointed
12 by the President Pro Tempore of the Senate, one shall be appointed
13 by the Speaker of the House of Representatives, and one shall be
14 appointed by the Governor;

15 7. Two individuals, one appointed by the President Pro Tempore
16 of the Senate and one appointed by the Speaker of the House, both of
17 whom shall be an executive, owner-operator, or administrator of an
18 assisted living center or continuum of care facility and shall have
19 not less than three (3) years of experience as an executive, owner-
20 operator, or administrator of one or more assisted living centers or
21 continuum of care facilities;

22 8. One representative of an adult day care center or
23 residential care home, appointed by the Governor, who shall be an
24 executive, owner-operator, or administrator of the center or home

1 and shall have not less than three (3) years of experience as an
2 executive, owner-operator, or administrator of one or more adult day
3 care centers or residential care homes;

4 9. One representative of an intermediate care facility for
5 individuals with intellectual disabilities (ICF/IID), appointed by
6 the President Pro Tempore of the Senate, who shall be an executive,
7 owner-operator, or administrator of the ICF/IID and shall have not
8 less than three (3) years of experience as an executive, owner-
9 operator, or administrator of one or more ICFs/IID;

10 10. One representative of a veterans center operated by the
11 state, appointed by the Speaker of the House, who shall be an
12 administrator of the center and shall have not less than three (3)
13 years of experience as an administrator of one or more veterans
14 centers operated by the state; and

15 11. Two members of the general public, both appointed by the
16 Governor, at least one of whom shall be sixty-five (65) years of age
17 or older. Neither such member shall be a current or former employee
18 of the State Department of Health or the Department of Human
19 Services, be currently registered as a lobbyist, or be affiliated
20 with any organization that represents the long-term care industry or
21 advocates for senior citizens.

22 B. The State Department of Health shall provide ~~a clerical~~
23 ~~staff worker to perform designated duties of the Advisory Board.~~

1 ~~The Department shall also provide~~ space for meetings of the Advisory
2 ~~Board~~ Council.

3 C. The Advisory ~~Board~~ Council shall annually elect a chair,
4 vice-chair and secretary-treasurer, shall meet ~~at least quarterly~~
5 monthly, and may hold such special meetings as may be necessary.
6 The members of the Advisory ~~Board~~ Council shall be reimbursed as
7 provided for by the State Travel Reimbursement Act.

8 D. The Advisory ~~Board~~ Council shall have the power and duty to:

9 1. Serve as an advisory body to the Department for the
10 development and improvement of services to and care and treatment of
11 residents of facilities subject to the provisions of the Nursing
12 Home Care Act, homes subject to the provisions of the Residential
13 Care Act and facilities subject to the provisions of the Adult Day
14 Care Act;

15 2. Review, make recommendations regarding, and approve in its
16 advisory capacity the system of standards developed by the
17 Department;

18 3. Evaluate and review the standards, practices, and procedures
19 of the Department regarding the administration and enforcement of
20 the provisions of the Nursing Home Care Act, the Residential Care
21 Act and the Adult Day Care Act, and the quality of services and care
22 and treatment provided to residents of facilities and residential
23 care homes and participants in adult day care centers. The ~~Board~~

24

1 Advisory Council may make recommendations to the Department as
2 necessary and appropriate;

3 4. Evaluate and review financial accountability standards,
4 policies and practices of ~~residential care~~ long-term care facilities
5 regarding residents' funds for which the facility is the payee, and
6 evaluate and review expenditures made on behalf of the resident by
7 the facility to ensure that such funds are managed appropriately and
8 in the best interests of the resident; ~~and~~

9 5. Publish and distribute an annual report of its activities
10 and any recommendations for the improvement of services and care and
11 treatment to residents of facilities and residential care homes and
12 participants in adult day care centers on or before January 1 of
13 each year to the Governor, the State Commissioner of Health, the
14 State Board of Health, the Speaker of the House of Representatives,
15 the President Pro Tempore of the Senate, and the chief
16 administrative officer of each agency affected by the report; and

17 6. Perform the duties prescribed by Sections 4, 5, 6, and 7 of
18 this act.

19 E. Any member of the Advisory Council shall recuse himself or
20 herself from voting on any matter that originated from or involves
21 an entity with which the Advisory Council member is affiliated or
22 has a direct financial interest.

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

1 Section 330.51 For the purposes of Section 330.51 et seq. of
2 this title, and as used herein:

3 1. ~~"Board" means the Oklahoma State Board of Examiners for~~
4 ~~Long-Term Care Administrators~~ "Advisory Council" means the Long-Term
5 Care Advisory Council;

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

1 3. "Nursing facility administrator" means a person licensed by
2 the State of Oklahoma to perform the duties of an administrator
3 serving in a skilled nursing or nursing or ICF/IID facility;

4 4. "Assisted living facility administrator" means a person
5 licensed or certified by the State of Oklahoma to perform the duties
6 of an administrator serving in an assisted living facility;

7 5. "Residential care facility administrator" means a person
8 licensed or certified by the State of Oklahoma to perform the duties
9 of an administrator serving in a residential care facility;

10 6. "Adult day care center administrator" means a person
11 licensed or certified by the State of Oklahoma to perform the duties
12 of an administrator serving in an adult day care center; and

13 7. "Nursing home", "rest home" and "specialized home" shall
14 have the same meaning as the term "nursing facility" as such term is
15 defined in the Nursing Home Care Act; "assisted living center" and
16 "continuum of care facility" shall have the same meaning as such
17 terms are defined in the Continuum of Care and Assisted Living Act;
18 "home" and "residential care home" shall have the same meaning as
19 the terms are used in the Residential Care Act; and "adult day care
20 center" and "center" shall have the same meaning as such terms are
21 used in the Adult Day Care Act.

22 SECTION 4. AMENDATORY 63 O.S. 2021, Section 330.53, is
23 amended to read as follows:

1 Section 330.53 A. ~~The Oklahoma State Board of Examiners for~~
2 ~~Long-Term Care Administrators~~ State Department of Health, with the
3 input and assistance of the Long-Term Care Advisory Council, shall
4 have authority to issue licenses or certifications to qualified
5 persons as long-term care administrators, and shall establish
6 qualification criteria for each type of long-term care
7 administrator.

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

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

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

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

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

1 or certification status of those currently certified or licensed.
2 The ~~Board~~ Commissioner shall not include a requirement for a four-
3 year degree in any ~~future~~ licensing or certification requirements
4 for ~~assisted living, residential care or adult day care~~
5 ~~administrators. Until such rules are promulgated, current licensure~~
6 ~~and certification processes and standards shall remain in place~~
7 long-term care administrators.

8 D. ~~The Oklahoma State Board of Examiners for Long-Term Care~~
9 ~~Administrators shall, on or before July 1, 2017, promulgate rules~~
10 ~~permitting eligible applicants to~~ Eligible applicants may sit for
11 the state standards examination at a testing facility using
12 procedures approved by the National Association of Long-Term Care
13 Administrator ~~Board,~~ Boards including, but not limited to, the use
14 of electronic or online methods for examination.

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

18 1. Each person licensed or certified as a long-term care
19 administrator under the provisions of this act shall pay an annual
20 license or certification fee which shall be deposited in the Long-
21 Term Care Revolving Fund created in Section 6 of this act. Such fee
22 shall be determined by the Commissioner with the input of the
23 Advisory Council. Each such license or certification shall expire
24 on the 31st day of December following its issuance, and shall be

1 renewable for a calendar year, upon meeting the renewal requirements
2 and upon payment of the annual license fee.

3 2. In addition to licensure and certification fees, the
4 Commissioner may, with the input of the Advisory Council, impose
5 fees for training and education programs approved by the Department.

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

9 F. The Commissioner, with the input and assistance of the
10 Advisory Council, shall have sole and exclusive authority to
11 determine the qualifications, skill, and fitness of any person to
12 serve as a long-term care administrator under the applicable
13 provisions of the Nursing Home Care Act, the Continuum of Care and
14 Assisted Living Act, the Residential Care Act, and the Adult Day
15 Care Act. The Commissioner shall, with the input and assistance of
16 the Advisory Council, promulgate rules to determine the
17 qualifications for licensure or certification for the long-term care
18 administrator categories as defined in Section 330.51 of this title.
19 Such rules may include a requirement for licensure instead of
20 certification for certain long-term care administrator categories.

21 G. It shall be unlawful for any person to act or serve in the
22 capacity as a long-term care administrator unless the person is the
23 holder of a license or certification as a long-term care
24 administrator, issued in accordance with the provisions of this act.

1 A person found guilty of a violation of this subsection shall, upon
2 conviction, be guilty of a misdemeanor.

3 SECTION 5. AMENDATORY 63 O.S. 2021, Section 330.58, is
4 amended to read as follows:

5 Section 330.58 ~~The Oklahoma State Board of Examiners for Long-~~
6 ~~Term Care Administrators shall~~ State Department of Health or, as
7 appropriate, the State Commissioner of Health shall, with the input
8 and assistance of the Long-Term Care Advisory Council:

9 1. Develop and apply standards for approval of training and
10 education programs for long-term care administrators that meet the
11 accreditation standards of the National Association of Long-Term
12 Care Administrator Boards;

13 2. Develop, impose, and enforce standards which must be met by
14 individuals in order to receive a license or certification as a
15 long-term care administrator, which standards shall be designed to
16 ensure that long-term care administrators will be individuals who
17 are of good character and are otherwise suitable, and who, by
18 training or experience in the field of institutional administration,
19 are qualified to serve as long-term care administrators;

20 ~~2.~~ 3. Develop and apply appropriate techniques, including
21 examinations and investigations, for determining whether an
22 individual meets such standards;

23 ~~3.~~ 4. Issue licenses or certifications to individuals
24 determined, after the application of such techniques, to meet such

1 standards. The ~~Board~~ Department may, with the input and assistance
2 of the Advisory Council, deny an initial application, deny a renewal
3 application, and revoke or suspend licenses or certifications
4 previously issued by the ~~Board~~ Department in any case where the
5 individual holding any such license or certification is determined
6 substantially to have failed to conform to the requirements of such
7 standards. The ~~Board~~ Department may, with the input and assistance
8 of the Advisory Council, also warn, censure, impose administrative
9 fines or use other remedies that may be considered to be less than
10 revocation and suspension. Administrative fines imposed pursuant to
11 this section shall not exceed One Thousand Dollars (\$1,000.00) per
12 violation. The ~~Board~~ Department shall, with the input and
13 assistance of the Advisory Council, consider the scope, severity and
14 repetition of the violation and any additional factors deemed
15 appropriate by the ~~Board~~ Department when issuing a fine;

16 4. 5. Establish and carry out procedures designed to ensure
17 that individuals licensed or certified as long-term care
18 administrators will, during any period that they serve as such,
19 comply with the requirements of such standards;

20 ~~5.~~ 6. Receive, investigate, and take appropriate action with
21 respect to any charge or complaint filed with the ~~Board~~ Department
22 to the effect that any individual licensed as a long-term care
23 administrator has failed to comply with the requirements of such
24 standards. The long-term care ombudsman program of the Aging

1 Services Division of the Department of Human Services shall be
2 notified of all complaint investigations of the ~~Board~~ Department so
3 that they may be present at any such complaint investigation for the
4 purpose of representing long-term care facility consumers;

5 ~~6.~~ 7. Receive and take appropriate action on any complaint or
6 referral received by the ~~Board~~ Department from the Department of
7 Human Services or any other regulatory agency. Complaints may also
8 be generated by the ~~Board or staff~~ Department. A complaint shall
9 not be published on the ~~web site~~ website of the ~~Oklahoma State Board~~
10 ~~of Examiners for Long-Term Care Administrators~~ Department unless
11 there is a finding by the ~~Board~~ Department that the complaint has
12 merit. The ~~Board~~ State Commissioner of Health shall, with the input
13 and assistance of the Advisory Council, promulgate rules that
14 include, but are not limited to, provisions for:

- 15 a. establishing a complaint review process,
16 b. creating a formal complaint file, and
17 c. establishing a protocol for investigation of
18 complaints

19 as provided by Section 330.64 of this title;

20 ~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65~~
21 ~~of this title~~ Section 330.51 et seq. against all persons who are in
22 violation thereof including, but not limited to, individuals who are
23 practicing or attempting to practice as long-term care
24

1 administrators without proper authorization from the ~~Board~~
2 Department;

3 ~~8.~~ 9. Conduct a continuing study and investigation of long-term
4 care facilities and administrators of long-term care facilities
5 within the state with a view toward the improvement of the standards
6 imposed for the licensing or certifying of such administrators and
7 of procedures and methods for the enforcement of such standards with
8 respect to administrators of long-term care facilities who have been
9 licensed or certified;

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

12 ~~10.~~ 11. Develop a code of ethics for long-term care
13 administrators which includes, but is not limited to, a statement
14 that administrators have a fiduciary duty to the facility and cannot
15 serve as guardian of the person or of the estate, or hold a durable
16 power of attorney or power of attorney for any resident of a
17 facility of which they are an administrator;

18 ~~11.~~ 12. Report a final adverse action against a long-term care
19 administrator to the Healthcare Integrity and Protection Data Bank
20 pursuant to federal regulatory requirements;

21 ~~12.~~ 13. Refer completed investigations to the proper law
22 enforcement authorities for prosecution of criminal activities;

23 ~~13.~~ 14. Impose administrative fines, in an amount to be
24 determined by the ~~Board~~ Commissioner, against persons who do not

1 comply with ~~the provisions of this act~~ Section 350.51, et seq. of
2 this title or the rules adopted by the ~~Board~~ Commissioner.

3 Administrative fines imposed pursuant to this section shall not
4 exceed One Thousand Dollars (\$1,000.00) per violation. The ~~Board~~
5 Department shall, with the input and assistance of the Advisory
6 Council, consider the scope, severity and repetition of the
7 violation and any additional factors deemed appropriate by the ~~Board~~
8 Department when issuing a fine;

9 ~~14.~~ 15. Assess the costs of the hearing process, including
10 attorney fees;

11 ~~15.~~ 16. Grant short-term provisional licenses to individuals
12 who do not meet all of the licensing requirements, provided the
13 individual obtains the services of a currently licensed
14 administrator to act as a consultant and meets any additional
15 criteria for a provisional license established by the ~~Board~~
16 Commissioner;

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

24

1 17. Promulgate rules governing the employment of assistant
2 administrators for nursing and skilled nursing facilities including,
3 but not limited to, minimum qualifications.

4 SECTION 6. AMENDATORY 63 O.S. 2021, Section 330.62, is
5 amended to read as follows:

6 Section 330.62 There is hereby created in the State Treasury a
7 revolving fund for the ~~Oklahoma State Board of Examiners for Long-~~
8 ~~Term Care Administrators~~ State Department of Health to be designated
9 the "~~Oklahoma State Board of Examiners for Long-Term Care~~
10 ~~Administrators~~ Revolving Fund". The fund shall be a continuing
11 fund, not subject to fiscal year limitations, and shall consist of
12 such sources of income as are provided by law. All monies accruing
13 to the credit of ~~said~~ the fund are hereby appropriated and may be
14 budgeted and expended by the ~~Oklahoma State Board of Examiners for~~
15 ~~Long-Term Care Administrators~~ Department to carry out the duties
16 established by ~~law~~ this act. Expenditures from ~~said~~ the fund shall
17 be made upon warrants issued by the State Treasurer against claims
18 filed as prescribed by law with the Director of the Office of
19 Management and Enterprise Services for approval and payment.

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

22 Section 330.64 A. Any person or agency may submit to the State
23 Department of Health a complaint against a long-term care
24 administrator. Complaints may also be generated by the Department.

1 Each investigation of a complaint received by the ~~Oklahoma State~~
2 ~~Board of Examiners for Long Term Care Administrators~~ Department
3 shall be initiated within ninety (90) days from the date the
4 complaint is received by the ~~Board~~ Department. Each complaint
5 investigation shall be completed within twelve (12) months of
6 initiation. The time period may be extended by the ~~Board~~ Department
7 for good cause. When the Department completes an investigation, the
8 Department shall immediately notify the Advisory Council and shall
9 share the investigative file with the Advisory Council.

10 B. ~~Effective May 13, 2005, the Board~~ The Department shall, with
11 the input and assistance of the Advisory Council, create and
12 maintain a registry of all complaints or referrals, found by the
13 ~~Board~~ Department to have merit, complaining of acts or omissions of
14 licensed administrators. The registry shall be maintained in both
15 electronic and paper formats and shall be available for inspection
16 by the public. Such registry shall be organized both in
17 chronological order by the date of the complaint and by the name of
18 the licensed administrator. The registry shall contain information
19 about the nature of the complaint and the action, if any, taken by
20 the ~~Board~~ Department. The registry shall also contain the number of
21 complaints made against an individual administrator.

22 C. The Department shall not take any adverse action against an
23 administrator for a violation of this act or the rules promulgated
24 by the State Commissioner of Health before the Advisory Council has

1 issued a recommendation to the Department regarding the complaint
2 and before the Department has taken such recommendation into
3 consideration, except:

4 1. As provided by subsection E of this section, or

5 2. If the Advisory Council does not issue a recommendation
6 within forty-five (45) calendar days following the date the
7 investigation is completed.

8 D. The Advisory Council shall review the complaint and the
9 investigative materials provided by the Department, may cause the
10 allegations to be investigated, and may interview witnesses
11 including but not limited to the administrator who is the subject of
12 the complaint. The Advisory Council shall make a recommendation to
13 the Department to set the case for hearing, or for dismissal or
14 other action including but not limited to informal resolution. Any
15 recommendation of the Advisory Council to the Department under this
16 subsection shall be voted upon by a quorum of the Advisory Council
17 in an open meeting.

18 E. Notwithstanding any other provision of this section, the
19 Department may order a summary suspension of an administrator's
20 license or certification or an Administrator in Training (AIT)
21 permit if, in the course of an investigation, it is determined that
22 a licensee, certificate holder or AIT candidate for licensure has
23 engaged in conduct of a nature that is detrimental to the health,
24 safety or welfare of the public, and which conduct necessitates

1 immediate action to prevent further harm. The Department shall
2 immediately notify the licensee, certificate holder, or AIT
3 candidate upon issuance of the order. The licensee, certificate
4 holder, or AIT candidate shall have the right to contest the order
5 at a hearing as provided by subsection H of this section.

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

23 G. The Department may give the respondent an opportunity to
24 participate in an informal resolution of the case. Discussions to

1 resolve the case without a hearing shall be conducted in
2 consultation with the Advisory Council.

3 H. If the case is not resolved, the respondent shall be
4 afforded notice and a hearing in accordance with the provisions of
5 Article II of the Administrative Procedures Act. The Advisory
6 Council may assist and advise the Department in all hearings and may
7 recommend to the Department disciplinary action against the
8 respondent. Any party aggrieved by a decision of the Department
9 following a hearing may appeal directly to district court under
10 Section 318 of Title 75 of the Oklahoma Statutes.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-1923F of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 The State Commissioner of Health shall promulgate rules to
15 implement the provisions of this act.

16 SECTION 9. RECODIFICATION 63 O.S. 2021, Section 330.51,
17 as amended by Section 3 of this act, shall be recodified as Section
18 1-1923A of Title 63 of the Oklahoma Statutes, unless there is
19 created a duplication in numbering.

20 SECTION 10. RECODIFICATION 63 O.S. 2021, Section 330.53,
21 as amended by Section 4 of this act, shall be recodified as Section
22 1-1923B of Title 63 of the Oklahoma Statutes, unless there is
23 created a duplication in numbering.

24

1 SECTION 11. RECODIFICATION 63 O.S. 2021, Section 330.58,
2 as amended by Section 5 of this act, shall be recodified as Section
3 1-1923C of Title 63 of the Oklahoma Statutes, unless there is
4 created a duplication in numbering.

5 SECTION 12. RECODIFICATION 63 O.S. 2021, Section 330.62,
6 as amended by Section 6 of this act, shall be recodified as Section
7 1-1923D of Title 63 of the Oklahoma Statutes, unless there is
8 created a duplication in numbering.

9 SECTION 13. RECODIFICATION 63 O.S. 2021, Section 330.64,
10 as amended by Section 7 of this act, shall be recodified as Section
11 1-1923E of Title 63 of the Oklahoma Statutes, unless there is
12 created a duplication in numbering.

13 SECTION 14. REPEALER 63 O.S. 2021, Sections 330.52,
14 330.54, 330.56, 330.57, 330.59, 330.60, 330.61 and 330.65, are
15 hereby repealed.

16 SECTION 15. This act shall become effective November 1, 2023.

17
18 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated
19 03/02/2023 - DO PASS, As Amended and Coauthored.

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