

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

4
5
6
7 An Act relating to long-term care; directing transfer
8 of employees, powers, duties, monies and contractual
9 rights from the Oklahoma State Board of Examiners***
10 meetings; directing the State Department of Health
11 to; amending 63 O.S. 2021, Section 330.53, which
12 relates to licensure of long-term care
13 administrators; transferring duties to the Department
14 and the Commissioner; requiring input of the Advisory
15 Council; modifying applicability of certain
16 provisions; *** authorizing certain disclosures;
17 authorizing informal resolution process; providing
18 for certain appeals; providing for recodification;
19 providing for codification; and providing an
20 effective date.

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22
23 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
24 entire bill and insert

25
26 "An Act relating to long-term care; creating the
27 Long-Term Care Administrator Licensing Act; providing
28 short title; directing transfer of employees, powers,
29 duties, monies, and contractual rights from the
30 Oklahoma State Board of Examiners for Long-Term Care
31 Administrators to the State Department of Health;
32 requiring the Director of the Office of Management
33 and Enterprise Services to coordinate certain
34 transfers; directing transfer of certain
35 administrative rules from the Board to the State
36 Commissioner of Health; abolishing the Board upon
37 completion of transfers; amending 63 O.S. 2021,
38 Section 330.51, which relates to definitions;

1 removing, adding, and modifying certain definitions;
2 amending 63 O.S. 2021, Section 330.52, which relates
3 to the Oklahoma State Board of Examiners for Long-
4 Term Care Administrators; modifying termination date;
5 abolishing the Board when certain conditions are met;
6 amending 63 O.S. 2021, Section 330.53, which relates
7 to licensure of long-term care administrators;
8 transferring duties to the Department and the
9 Commissioner; modifying terminology; granting certain
10 authority to the Commissioner; requiring promulgation
11 of certain rules; modifying applicability of certain
12 provisions; stipulating certain licensure and
13 certification qualifications; imposing certain duties
14 on the Department regarding training and education
15 programs; requiring and authorizing certain fees;
16 directing deposit of fees; providing for licensure by
17 endorsement; prohibiting certain unlicensed activity;
18 amending 63 O.S. 2021, Section 330.58, which relates
19 to duties; transferring duties to the Department and
20 the Commissioner; adding, modifying, and removing
21 certain duties; modifying applicability of certain
22 provisions; amending 63 O.S. 2021, Section 330.62,
23 which relates to the Oklahoma State Board of
24 Examiners for Long-Term Care Administrators Revolving
Fund; renaming and transferring fund; amending 63
O.S. 2021, Section 330.64, which relates to
complaints; providing complaint procedures;
transferring duties to the Department and the
Commissioner; requiring certain notice to be provided
to administrator found to be in violation of act;
providing for certain appeals; authorizing the
Department to order summary suspension under certain
conditions; requiring certain notice; granting
certain right to suspended licensee; providing for
confidentiality; excluding certain information from
specified definition and certain proceedings;
authorizing certain disclosures; establishing and
requiring the Department to offer independent
informal dispute resolution process; allowing the
Department to contract with a third-party vendor for
specified purpose; stipulating procedures for request
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

1 certain recording of informal dispute resolution;
2 specifying allowed participants; prohibiting legal
3 representation; limiting inclusion of evidence in
4 certain written statement; requiring panel to issue
5 and provide written statement of findings;
6 stipulating contents of statement; allowing the
7 Commissioner to intervene for certain purpose;
8 requiring the Department to consider findings when
9 making certain determination; directing promulgation
10 of rules; amending 51 O.S. 2021, Section 24A.3, as
11 amended by Section 1, Chapter 402, O.S.L. 2022 (51
12 O.S. Supp. 2022, Section 24A.3), which relates to the
13 Oklahoma Open Records Act; modifying certain
14 definition; updating statutory references and
15 language; renumbering 63 O.S. 2021, Sections 330.51,
16 330.53, 330.58, 330.62, and 330.64, as amended by
17 Sections 3, 5, 6, 7, and 8 of this act, which relate
18 to the Oklahoma State Board of Examiners for Long-
19 Term Care Administrators; repealing 63 O.S. 2021,
20 Sections 330.54, 330.56, 330.57, 330.59, 330.60,
21 330.61, and 330.65, which relate to the Oklahoma
22 State Board of Examiners for Long-Term Care
23 Administrators; providing for codification; providing
24 for recodification; providing a conditional effective
clause; and declaring an emergency.

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 1-1949.1 of Title 63, unless
there is created a duplication in numbering, reads as follows:

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

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

1 A. On November 1, 2023, all employees, powers, duties,
2 functions, and responsibilities of the Oklahoma State Board of
3 Examiners for Long-Term Care Administrators shall be transferred to
4 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 November 1, 2023, or any monies that accrue in any funds or accounts
12 or are maintained for the benefit of the Oklahoma State Board of
13 Examiners for Long-Term Care Administrators on and after November 1,
14 2023, shall be transferred to the State Department of Health.

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

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

22 E. On November 1, 2023, all administrative rules promulgated by
23 the Oklahoma State Board of Examiners for Long-Term Care
24 Administrators shall be transferred to and become a part of the

1 administrative rules of the State Department of Health. The Office
2 of Administrative Rules in the Secretary of State's office shall
3 provide adequate notice in the Oklahoma Register of the transfer of
4 such rules and shall place the transferred rules under the Oklahoma
5 Administrative Code title of the State Department of Health. Such
6 rules shall continue in force and effect as rules of the State
7 Department of Health from and after November 1, 2023, and any
8 amendment, repeal, or addition to the transferred rules shall be
9 under the jurisdiction of the State Commissioner of Health.

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

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

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

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

19 2. ~~"Long-term care administrator" means a person licensed or~~
20 ~~certified as a nursing facility administrator, an assisted living~~
21 ~~facility administrator, a residential care facility administrator,~~
22 ~~or an adult day care center administrator pursuant to Section 330.51~~
23 ~~et seq. of this title~~ Tier 1 long-term care administrator or Tier 2
24 long-term care administrator under this act. A long-term care

1 administrator must devote at least one-half (1/2) of such person's
2 working time to on-the-job supervision of a long-term care facility;
3 provided that this requirement shall not apply to an administrator
4 of an intermediate care facility for individuals with intellectual
5 disabilities with sixteen or fewer beds (ICF/IID-16), in which case
6 the person licensed by the state may be in charge of more than one
7 ICF/IID-16, if such facilities are located within a circle that has
8 a radius of not more than fifteen (15) miles, and the total number
9 of facilities and beds does not exceed six facilities and sixty-four
10 beds. The facilities may be free-standing in a community or may be
11 on campus with a parent institution. The ICF/IID-16 may be
12 independently owned and operated or may be part of a larger
13 institutional ownership and operation;

14 ~~3. "Nursing facility administrator"~~

15 2. "Tier 1 long-term care administrator" means a person
16 licensed by ~~the State of Oklahoma~~ this state to perform the duties
17 of an administrator serving in a skilled nursing or nursing facility
18 or ~~ICF/IID~~ an intermediate care facility for individuals with
19 intellectual disabilities with seventeen or greater beds (ICF/IID);

20 ~~4. "Assisted living facility administrator"~~

21 3. "Tier 2 long-term care administrator" means a person
22 licensed or certified by ~~the State of Oklahoma~~ this state to perform
23 the duties of an administrator serving in an assisted living
24 facility, residential care facility, adult day care center, or

1 intermediate care facility for individuals with intellectual
2 disabilities with sixteen or fewer beds (ICF/IID-16);

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

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

9 ~~7.~~ 4. "Nursing home", "rest home" and "specialized home" shall
10 have the same meaning as the term "nursing facility" as such term is
11 defined in the Nursing Home Care Act; "assisted living center" and
12 "continuum of care facility" shall have the same meaning as such
13 terms are defined in the Continuum of Care and Assisted Living Act;
14 "home" and "residential care home" shall have the same meaning as
15 the terms are used in the Residential Care Act; and "adult day care
16 center" and "center" shall have the same meaning as such terms are
17 used in the Adult Day Care Act.

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

20 Section 330.52 A. There is hereby re-created, ~~to continue~~
21 ~~until July 1, 2022, in accordance with the provisions of the~~
22 ~~Oklahoma Sunset Law,~~ the Oklahoma State Board of Examiners for Long-
23 Term Care Administrators, to continue until the conditions of
24 Section 2 of this act have been met. Upon satisfaction of such

1 conditions, the Oklahoma State Board of Examiners for Long-Term Care
2 Administrators shall be abolished.

3 B. The Oklahoma State Board of Examiners for Long-Term Care
4 Administrators shall consist of fifteen (15) members, eight of whom
5 shall be representatives of the professions and institutions of
6 long-term care, with representation from each type of administrator
7 defined in Section 330.51 of this title. In order to be eligible to
8 serve as a member, such administrators shall be licensed or
9 certified in their defined facility type, and be in good standing
10 and have at least three (3) years of experience as an administrator
11 in the facility type they represent, except a nursing facility
12 administrator as defined in Section 330.51 of this title, who shall
13 have at least five (5) years of experience as a nursing facility
14 administrator. Four members shall represent the general public, of
15 which at least two shall be licensed medical professionals concerned
16 with the care and treatment of critically ill or infirm elderly
17 patients. The preceding twelve members shall be appointed by the
18 Governor, with the advice and consent of the Senate. The final
19 three members shall constitute the State Commissioner of Health, the
20 Director of the Department of Human Services, and the Director of
21 the Department of Mental Health and Substance Abuse Services, or
22 their designees.

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

4 ~~C.~~ D. Effective November 1, 2011, all appointed positions of
5 the current Board shall be deemed vacant. The Governor shall make
6 initial appointments pursuant to the provisions of this subsection.
7 Initial appointments shall become effective on November 1, 2011.
8 The new members of the Board shall be initially appointed as
9 follows:

10 1. Four of the members representing each administrator type,
11 two members representing the general public and two other members
12 shall be appointed for a term of two (2) years to expire on October
13 31, 2013; and

14 2. Four of the members representing each administrator type,
15 two members representing the general public and one other member
16 shall be appointed for a term of three (3) years to expire on
17 October 31, 2014.

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

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

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

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

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

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

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

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

20 C. The Commissioner shall have the authority to determine the
21 qualifications, skill, and fitness of any person to serve as a long-
22 term care administrator under the applicable provisions of the
23 Nursing Home Care Act, the Continuum of Care and Assisted Living
24 Act, the Residential Care Act, and the Adult Day Care Act. The

1 Commissioner shall promulgate rules to determine the qualifications
2 for licensure or certification as a Tier 1 or Tier 2 long-term care
3 administrator. Such rules may, at the discretion of the
4 Commissioner, include a requirement for licensure instead of
5 certification for either or both of the tiers of long-term care
6 administrators.

7 D. 1. All persons currently licensed or certified or lawfully
8 serving as an administrator in their defined facility type shall be
9 permitted to continue to serve in their current capacity under their
10 current terms of authorization. The ~~Board~~ Commissioner may
11 promulgate rules pursuant to Section 330.57 of this title to address
12 future certification and licensure requirements for ~~all~~ both tiers
13 of long-term care ~~administrator types~~ administrators without effect
14 on the licensure or certification status of those currently
15 certified or licensed. Until such rules are promulgated, current
16 licensure and certification processes and standards shall remain in
17 place.

18 2. To be eligible for licensure or certification as either a
19 Tier 1 or Tier 2 long-term care administrator, the applicant shall
20 have successfully completed a training and education program
21 approved by the Commissioner.

22 3. The ~~Board~~ Commissioner shall not include a requirement for a
23 four-year degree in any future licensing or certification
24 requirements for ~~assisted living, residential care or adult day care~~

1 ~~administrators. Until such rules are promulgated, current licensure~~
2 ~~and certification processes and standards shall remain in place Tier~~
3 ~~2 long-term care administrators.~~

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

7 4. In addition to the requirement provided by paragraph 2 of
8 this subsection, to be eligible for licensure or certification as a
9 Tier 1 long-term care administrator, the applicant shall:

- 10 a. hold a baccalaureate degree from an institution of
11 higher education, or
12 b. hold an associate degree in a health- or business-
13 related field or other relevant field as determined by
14 the Commissioner and have not less than five (5) years
15 of experience in upper-level management of a long-term
16 care facility as determined by the Commissioner.

17 E. Eligible applicants may sit for the state standards
18 examination at a testing facility using procedures approved by the
19 National Association of Long-Term Care Administrator ~~Board,~~ Boards
20 including, but not limited to, the use of electronic or online
21 methods for examination.

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

1 F. The State Department of Health shall either:

2 1. Approve one or more organizations or agencies to provide
3 training and education programs for long-term care administrators.

4 Each such organization or agency shall meet such requirements as may
5 be prescribed by rules promulgated by the State Commissioner of
6 Health;

7 2. Offer a training and education program for long-term care
8 administrators conducted by the Department; or

9 3. Both approve one or more organizations to provide training
10 and education programs for long-term care administrators as
11 described in paragraph 1 of this subsection and offer a training and
12 education program for long-term care administrators conducted by the
13 Department as described in paragraph 2 of this subsection.

14 G. 1. Each person licensed or certified as a long-term care
15 administrator under the provisions of this act shall pay an annual
16 license or certification fee which shall be deposited in the Long-
17 Term Care Administrator Revolving Fund described in Section 7 of
18 this act. Such fee shall be determined by the Commissioner. Each
19 such license or certification shall expire on the thirty-first day
20 of December following its issuance, and shall be renewable for a
21 calendar year, upon meeting the renewal requirements and upon
22 payment of the annual licensure or certification fee.

1 2. In addition to licensure and certification fees, the
2 Commissioner may impose fees on agencies and organizations that
3 provide training and education programs.

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 described in Section
7 7 of this act.

8 H. The State Commissioner of Health shall promulgate rules to
9 provide for licensure or certification by endorsement of long-term
10 care administrators who are licensed or certified in other states
11 that have requirements for licensure or certification of long-term
12 care administrators that are substantially equivalent to or greater
13 than the requirements of this state, as determined by the
14 Commissioner.

15 I. It shall be unlawful for any person to act or serve in the
16 capacity of a long-term care administrator unless the person is the
17 holder of a license or certificate as a long-term care
18 administrator, issued in accordance with the provisions of this act.
19 A person found guilty of a violation of this subsection shall, upon
20 conviction, be guilty of a misdemeanor.

21 SECTION 6. AMENDATORY 63 O.S. 2021, Section 330.58, is
22 amended to read as follows:
23
24

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

4 1. Develop and apply standards for approval of training and
5 education programs for long-term care administrators that meet the
6 accreditation standards of the National Association of Long Term
7 Care Administrator Boards and approve or offer training and
8 education programs, or both, as described in subsection F of Section
9 330.53 of this title;

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

17 ~~2.~~ 3. Develop and apply appropriate techniques, including
18 examinations and investigations, for determining whether an
19 individual meets such standards;

20 ~~3.~~ 4. Issue licenses or certifications to individuals
21 determined, after the application of such techniques, to meet such
22 standards. The ~~Board~~ Department may deny an initial application,
23 deny a renewal application, and revoke or suspend licenses or
24 certifications previously issued by the ~~Board~~ Department in any case

1 where the individual holding any such license or certification is
2 determined substantially to have failed to conform to the
3 requirements of such standards. The ~~Board~~ Department may also warn,
4 censure, impose administrative fines or use other remedies that may
5 be considered to be less than revocation and suspension.
6 Administrative fines imposed pursuant to this section shall not
7 exceed One Thousand Dollars (\$1,000.00) per violation. The ~~Board~~
8 Department shall consider the scope, severity and repetition of the
9 violation and any additional factors deemed appropriate by the ~~Board~~
10 Department when issuing a fine. The Department may utilize one or
11 more administrative law judges to conduct administrative
12 proceedings;

13 ~~4.~~ 5. Establish and carry out procedures designed to ensure
14 that individuals licensed or certified as long-term care
15 administrators will, during any period that they serve as such,
16 comply with the requirements of such standards;

17 ~~5.~~ 6. Receive, investigate, and take appropriate action with
18 respect to any charge or complaint filed with the ~~Board~~ Department
19 to the effect that any individual licensed as a long-term care
20 administrator has failed to comply with the requirements of such
21 standards. The long-term care ombudsman program of the Aging
22 Services Division of the Department of Human Services shall be
23 notified of all complaint investigations of the ~~Board~~ Department so
24

1 that they may be present at any such complaint investigation for the
2 purpose of representing long-term care facility consumers;

3 ~~6.~~ 7. Receive and take appropriate action on any complaint or
4 referral received by the ~~Board~~ Department from the Department of
5 Human Services or any other regulatory agency. ~~Complaints may also~~
6 ~~be generated by the Board or staff.~~ A complaint shall not be
7 published on the ~~web site~~ website of the ~~Oklahoma State Board of~~
8 ~~Examiners for Long-Term Care Administrators~~ Department unless there
9 is a finding by the ~~Board~~ Department that the complaint has merit.
10 The ~~Board~~ Commissioner shall promulgate rules that include, but are
11 not limited to, provisions for:

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

19 ~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65~~
20 ~~of this title~~ this act against all persons who are in violation
21 thereof including, but not limited to, individuals who are
22 practicing or attempting to practice as long-term care
23 administrators without proper authorization from the ~~Board~~
24 Department;

1 ~~8.~~ 9. Conduct a continuing study and investigation of long-term
2 care facilities and administrators of long-term care facilities
3 within the state with a view toward the improvement of the standards
4 imposed for the licensing or certifying of such administrators and
5 of procedures and methods for the enforcement of such standards with
6 respect to administrators of long-term care facilities who have been
7 licensed or certified;

8 ~~9.~~ 10. Cooperate with and provide assistance when necessary to
9 state regulatory agencies in investigations of complaints;

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

16 ~~11.~~ 12. Report a final adverse action against a long-term care
17 administrator to the Healthcare Integrity and Protection Data Bank
18 pursuant to federal regulatory requirements;

19 ~~12.~~ 13. Refer completed investigations to the proper law
20 enforcement authorities for prosecution of criminal activities;

21 ~~13.~~ 14. Impose administrative fines, in an amount to be
22 determined by the ~~Board~~ Commissioner, against persons who do not
23 comply with the provisions of this act or the rules adopted by the
24 ~~Board~~ Commissioner. Administrative fines imposed pursuant to this

1 section shall not exceed One Thousand Dollars (\$1,000.00) per
2 violation. The ~~Board~~ Department shall consider the scope, severity
3 and repetition of the violation and any additional factors deemed
4 appropriate by the ~~Board~~ Department when issuing a fine;

5 ~~14.~~ 15. Assess the costs of the hearing process, including
6 attorney fees;

7 ~~15.~~ 16. Grant short-term provisional licenses to individuals
8 who do not meet all of the licensing requirements, provided the
9 individual obtains the services of a currently licensed
10 administrator to act as a consultant and meets any additional
11 criteria for a provisional license established by the ~~Board~~
12 Commissioner;

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

20 17. Promulgate rules governing the employment of assistant
21 administrators ~~for nursing and skilled nursing facilities including,~~
22 but not limited to, minimum qualifications; and

23 18. Employ such staff as may be necessary to carry out the
24 duties of this act.

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

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

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

20 Section 330.64 A. Any person or agency may submit to the State
21 Department of Health a complaint against a long-term care
22 administrator. Complaints may also be generated by the Department.
23 Each investigation of a complaint received by the ~~Oklahoma State~~
24 ~~Board of Examiners for Long-Term Care Administrators~~ Department

1 shall be initiated within ninety (90) days from the date the
2 complaint is received by the ~~Board~~ Department. Each complaint
3 investigation shall be completed within twelve (12) months of
4 initiation. The time period may be extended by the ~~Board~~ Department
5 for good cause.

6 B. ~~Effective May 13, 2005, the Board~~ Upon conclusion of an
7 investigation, if the Department determines that an administrator
8 has violated this act, the Department shall promptly serve a notice
9 of violation to the administrator. The notice of violation shall be
10 prepared in writing and shall specify the nature of the violation or
11 violations and the provision or provisions of state law or rule
12 alleged to have been violated. The notice of violation shall inform
13 the administrator of his or her right to an independent informal
14 dispute resolution conducted in accordance with Section 9 of this
15 act or a hearing conducted under subsection C of this section, or
16 both, and instruction on how to seek an informal dispute resolution
17 or hearing.

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

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

13 E. To ensure the confidentiality of an investigative file
14 obtained during the investigation, the information in the
15 investigative file shall not be deemed to be a record as that term
16 is defined in the Oklahoma Open Records Act nor shall the
17 information be subject to subpoena or discovery in any civil or
18 criminal proceeding, except that the Department may give the
19 information to law enforcement and other state licensing agencies as
20 necessary and appropriate in the discharge of the duties of that
21 agency and only under circumstances that will ensure against
22 unauthorized access to the information. The respondent may acquire
23 information obtained during an investigation, unless the disclosure
24 of the information is otherwise prohibited, if the respondent signs

1 a protective order whereby the respondent agrees to use the
2 information solely for the purpose of defense in the proceedings of
3 the Department and in any appeal therefrom and agrees not to
4 otherwise disclose the information.

5 F. The Department shall create and maintain a registry of all
6 complaints or referrals, found by the ~~Board~~ Department to have
7 merit, complaining of acts or omissions of licensed administrators.
8 The registry shall be maintained in both electronic and paper
9 formats and shall be available for inspection by the public. Such
10 registry shall be organized both in chronological order by the date
11 of the complaint and by the name of the licensed administrator. The
12 registry shall contain information about the nature of the complaint
13 and the action, if any, taken by the ~~Board~~ Department. The registry
14 shall also contain the number of complaints made against an
15 individual administrator.

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

19 A. The Department shall give a long-term care administrator who
20 the Department has determined, upon investigation, has violated the
21 provisions of this act an opportunity to participate in an
22 independent informal dispute resolution process of the case in
23 accordance with this section. The Department may contract with a
24

1 third-party vendor to provide the independent informal dispute
2 resolution.

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

6 1. Refer the case to the informal dispute resolution provider,
7 if the Department contracts with a third-party vendor as described
8 in subsection A of this section, and the informal dispute resolution
9 provider shall:

10 a. schedule a time and date for an informal dispute
11 resolution meeting and inform the parties of such time
12 and date, and

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

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

19 a. schedule a time and date for an informal dispute
20 resolution meeting and inform the parties of such time
21 and date, and

22 b. appoint an impartial decision-making panel to conduct
23 the informal dispute resolution as provided by
24 subsection C of this section.

1 C. The impartial decision-making panel shall be a group of six
2 (6) individuals who meet the following criteria:

3 1. Three members shall be impartial volunteers who have
4 experience in the operation of the same type of long-term facility
5 as the administrator who is the subject of the complaint. Such
6 volunteers may include, but not be limited to, an administrator,
7 assistant administrator, owner, operator, director of nursing, or
8 compliance executive of an appropriate long-term care facility, but
9 shall not include any person with a direct financial interest in any
10 facility that employs or contracts with the administrator who is the
11 subject of the complaint; and

12 2. Three members shall be persons representing the aging or
13 disabled community, as appropriate for the type of long-term
14 facility whose administrator is the subject of the complaint.

15 D. Each party shall submit to the impartial decision-making
16 panel all documentary evidence that the party believes has a bearing
17 on or relevance to the violation or violations alleged by the
18 Department in the complaint.

19 E. The Department shall present initial arguments. The
20 administrator shall then present his or her arguments. The informal
21 dispute resolution shall be limited to no more than two (2) hours in
22 length, with each party being permitted one (1) hour to present its
23 arguments; however, the impartial decision-making panel may grant
24

1 each party additional equal time for good cause as determined by the
2 impartial decision making-panel.

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

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

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

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

13 H. 1. Only employees of or health care providers contracted by
14 the facility where the administrator who is the subject of the
15 complaint is employed may appear or participate in the informal
16 dispute resolution on behalf of the administrator, except that the
17 administrator may call one character witness to appear and testify
18 on his or her behalf.

19 2. Only employees of the Department may appear or participate
20 at the meeting for, or on behalf of, the Department for the purpose
21 of presenting arguments. In addition to such employees, one or more
22 employees of the Department may provide technical assistance to the
23 impartial decision-making panel at the panel's request. Any
24 employee of the Department who participates in the informal dispute

1 resolution process as described in this paragraph shall have no
2 current involvement in long-term care facility surveys including but
3 not limited to the informal dispute resolution process described in
4 Section 1-1914.3 et seq. of Title 63 of the Oklahoma Statutes or the
5 alternative informal dispute resolution process described in Section
6 1-1914.11 et seq. of Title 63 of the Oklahoma Statutes for long-term
7 care facilities.

8 3. The State Long-Term Care Ombudsman or designee may appear at
9 or participate in the informal dispute resolution.

10 4. No party may be represented by an attorney in the informal
11 dispute resolution.

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
24

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. If the impartial decision-making panel cannot reach a
12 majority decision on the findings of the informal dispute resolution
13 as described in subsection J of this section, the State Commissioner
14 of Health may intervene for the purpose of breaking a tie.

15 L. The Department shall review the findings of the impartial
16 decision-making panel and shall take such findings into
17 consideration when determining whether to pursue further
18 disciplinary action against the administrator.

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

22 The State Commissioner of Health shall promulgate rules to
23 implement the provisions of this act.

24

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

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

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

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

1 purpose of becoming qualified to contract with a
2 public body,

3 e. any digital audio/video recordings of the toll
4 collection and safeguarding activities of the Oklahoma
5 Transportation Authority,

6 f. any personal information provided by a guest at any
7 facility owned or operated by the Oklahoma Tourism and
8 Recreation Department to obtain any service at the
9 facility or by a purchaser of a product sold by or
10 through the Oklahoma Tourism and Recreation
11 Department,

12 g. a Department of Defense Form 214 (DD Form 214) filed
13 with a county clerk including any DD Form 214 filed
14 before July 1, 2002,

15 h. except as provided for in Section 2-110 of Title 47 of
16 the Oklahoma Statutes⁷:

17 (1) any record in connection with a Motor Vehicle
18 Report issued by the Department of Public Safety,
19 as prescribed in Section 6-117 of Title 47 of the
20 Oklahoma Statutes, or

21 (2) personal information within driver records, as
22 defined by the Driver's Privacy Protection Act,
23 18 United States Code, Sections 2721 through
24

1 2725, which are stored and maintained by the
2 Department of Public Safety, ~~or~~

3 i. any portion of any document or information provided to
4 an agency or entity of the state or a political
5 subdivision to obtain licensure under the laws of this
6 state or a political subdivision that contains an
7 applicant's personal address, personal phone number,
8 personal electronic mail address or other contact
9 information. Provided, however, lists of persons
10 licensed, the existence of a license of a person, or a
11 business or commercial address, or other business or
12 commercial information disclosable under state law
13 submitted with an application for licensure shall be
14 public record, or

15 j. an investigative file obtained during an investigation
16 conducted by the State Department of Health under this
17 act;

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

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

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

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

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

1 5. "Law enforcement agency" means any public body charged with
2 enforcing state or local criminal laws and initiating criminal
3 prosecutions including, but not limited to, police departments,
4 county sheriffs, the Department of Public Safety, the Oklahoma State
5 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
6 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
7 of Investigation.

8 SECTION 12. RECODIFICATION 63 O.S. 2021, Section 330.51,
9 as amended by Section 3 of this act, shall be recodified as Section
10 1-1949.2 of Title 63 of the Oklahoma Statutes, unless there is
11 created a duplication in numbering.

12 SECTION 13. RECODIFICATION 63 O.S. 2021, Section 330.53,
13 as amended by Section 5 of this act, shall be recodified as Section
14 1-1949.3 of Title 63 of the Oklahoma Statutes, unless there is
15 created a duplication in numbering.

16 SECTION 14. RECODIFICATION 63 O.S. 2021, Section 330.58,
17 as amended by Section 6 of this act, shall be recodified as Section
18 1-1949.4 of Title 63 of the Oklahoma Statutes, unless there is
19 created a duplication in numbering.

20 SECTION 15. RECODIFICATION 63 O.S. 2021, Section 330.62,
21 as amended by Section 7 of this act, shall be recodified as Section
22 1-1949.5 of Title 63 of the Oklahoma Statutes, unless there is
23 created a duplication in numbering.

24

1 SECTION 16. RECODIFICATION 63 O.S. 2021, Section 330.64,
2 as amended by Section 8 of this act, shall be recodified as Section
3 1-1949.6 of Title 63 of the Oklahoma Statutes, unless there is
4 created a duplication in numbering.

5 SECTION 17. REPEALER 63 O.S. 2021, Sections 330.54,
6 330.56, 330.57, 330.59, 330.60, 330.61, and 330.65, are hereby
7 repealed.

8 SECTION 18. Sections 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
9 16, and 17 of this act shall become effective upon certification by
10 the State Commissioner of Health that the conditions of Section 2 of
11 this act have been met.

12 SECTION 19. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval."

16 Passed the Senate the 26th day of April, 2023.

17

18

Presiding Officer of the Senate

19

20 Passed the House of Representatives the ____ day of _____,
21 2023.

22

23

Presiding Officer of the House
of Representatives

24

1 ENGROSSED HOUSE
2 BILL NO. 2824

By: Kendrix of the House

3 and

4 Bergstrom of the Senate

5
6
7 An Act relating to long-term care; directing transfer
8 of employees, powers, duties, monies and contractual
9 rights from the Oklahoma State Board of Examiners for
10 Long-Term Care Administrators to the State Department
11 of Health; requiring the Director of the Office of
12 Management and Enterprise Services to coordinate
13 certain transfers; directing transfer of certain
14 administrative rules from the Board to the State
15 Commissioner of Health; abolishing the Board upon
16 completion of transfers; creating the Long-Term Care
17 Advisory Council; providing for appointments to the
18 Council; prescribing terms of office; providing for
19 the election of a chair and vice-chair; stating
20 powers and duties of the Council; providing for
21 reimbursement of expenses pursuant to the State
22 Travel Reimbursement Act; authorizing meetings;
23 prescribing minimum number of meetings; directing the
24 State Department of Health to provide space for
meetings; requiring certain recusal; directing
promulgation of rules; amending 63 O.S. 2021, Section
330.51, which relates to definitions; removing and
adding definitions; amending 63 O.S. 2021, Section
330.52, which relates to the State Board of
Examiners; extending termination date; 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, Section 330.54,
which relates to license fees; updating citation;
amending 63 O.S. 2021, Section 330.57, which relates

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

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

SECTION 20. 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:

A. On the effective date of this act, all employees, powers,
duties, functions, and responsibilities of the Oklahoma State Board
of Examiners for Long-Term Care Administrators shall be transferred
to the State Department of Health. The transfer shall include all

1 equipment, supplies, records, assets, current and future
2 liabilities, fund balances, encumbrances, obligations, and
3 indebtedness associated with the Oklahoma State Board of Examiners
4 for Long-Term Care Administrators.

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

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

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

19 E. On the effective date of this act, all administrative rules
20 promulgated by the Oklahoma State Board of Examiners for Long-Term
21 Care Administrators shall be transferred to and become a part of the
22 administrative rules of the State Department of Health. The Office
23 of Administrative Rules in the Secretary of State's office shall
24 provide adequate notice in the Oklahoma Register of the transfer of

1 such rules and shall place the transferred rules under the
2 Administrative Code section of the State Department of Health. Such
3 rules shall continue in force and effect as rules of the State
4 Department of Health from and after the effective date of this act,
5 and any amendment, repeal, or addition to the transferred rules
6 shall be under the jurisdiction of the State Commissioner of Health.

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

10 SECTION 21. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1923A of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

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

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

24

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 licensed administrator of
9 the facility and shall have not less than three (3) years of
10 experience as an executive, owner-operator, or licensed

11 administrator of one or more nursing facilities. One of the
12 representatives shall be appointed by the Governor, one of the
13 representatives shall be appointed by the President Pro Tempore of
14 the Oklahoma State Senate, and one of the representatives shall be
15 appointed by the Speaker of the Oklahoma House of Representatives.

16 At least one of the representatives shall be from a facility with
17 ninety-five (95) or fewer licensed beds, and at least one
18 representative shall be from a facility with ninety-six (96) or more
19 licensed beds;

20 7. Two representatives of an assisted living center or
21 continuum of care facility, each of whom shall be an executive,
22 owner-operator, or licensed administrator of the center or facility
23 and shall have not less than three (3) years of experience as an
24 executive, owner-operator, or licensed administrator of one or more

1 assisted living centers or continuum of care facilities. One of the
2 representatives shall be appointed by the President Pro Tempore of
3 the Oklahoma State Senate, and one shall be appointed by the Speaker
4 of the Oklahoma House of Representatives. One representative shall
5 be from a facility with sixty-four (64) or fewer licensed beds, and
6 one representative shall be from a facility with sixty-five (65) or
7 more licensed beds;

8 8. One representative of an adult day care center or
9 residential care home, appointed by the Governor, who shall be an
10 executive, owner-operator, or licensed administrator of the center
11 or home and shall have not less than three (3) years of experience
12 as an executive, owner-operator, or licensed administrator of one or
13 more adult day care centers or residential care homes;

14 9. One representative of an intermediate care facility for
15 individuals with intellectual disabilities (ICF/IID), appointed by
16 the President Pro Tempore of the Oklahoma State Senate, who shall be
17 an executive, owner-operator, or licensed administrator of the
18 ICF/IID and shall have not less than three (3) years of experience
19 as an executive owner-operator, or licensed administrator of one or
20 more ICFs/IID;

21 10. One representative of a veterans center operated by the
22 state, appointed by the Speaker of the Oklahoma House of
23 Representatives, who shall be a licensed administrator or executive-

24

1 level staff member of one or more veterans centers operated by the
2 state; and

3 11. Two members of the general public, both appointed by the
4 Governor, at least one of whom shall be sixty-five (65) years of age
5 or older. Neither member shall be a current or former employee of
6 the State Department of Health or the Department of Human Services,
7 be currently registered as a lobbyist, or be affiliated with any
8 organization that represents the long-term care industry or
9 advocates for senior citizens.

10 All members shall be in good standing.

11 B. The State Department of Health shall provide space for
12 meetings of the Advisory Council.

13 C. The Advisory Council shall annually elect a chair, vice-
14 chair, and secretary-treasurer, shall meet monthly, and may hold
15 such special meetings as may be necessary. The members of the
16 Advisory Council shall be reimbursed as provided for by the State
17 Travel Reimbursement Act.

18 D. The Advisory Council shall have the power and duty to:

19 1. Serve as an advisory body to the Department for the
20 development and improvement of services to and care and treatment of
21 residents of facilities subject to the provisions of the Nursing
22 Home Care Act, homes subject to the provisions of the Residential
23 Care Act, and facilities subject to the provisions of the Adult Day
24 Care Act;

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

4 3. Evaluate and review the standards, practices, and procedures
5 of the Department regarding the administration and enforcement of
6 the provisions of the Nursing Home Care Act, the Residential Care
7 Act, and the Adult Day Care Act, and the quality of services and
8 care and treatment provided to residents of facilities and
9 residential care homes and participants in adult day care centers.
10 The Advisory Council may make recommendations to the Department as
11 necessary and appropriate;

12 4. Evaluate and review financial accountability standards,
13 policies and practices of long-term care facilities regarding
14 residents' funds for which the facility is the payee, and evaluate
15 and review expenditures made on behalf of the resident by the
16 facility to ensure that such funds are managed appropriately and in
17 the best interests of the resident;

18 5. Publish and distribute an annual report of its activities
19 and any recommendations for the improvement of services and care and
20 treatment to residents of facilities and residential care homes and
21 participants in adult day care centers on or before January 1 of
22 each year to the Governor, the State Commissioner of Health, the
23 State Board of Health, the Speaker of the House of Representatives,
24 the President Pro Tempore of the Oklahoma State Senate, and the

1 chief administrative officer of each agency affected by the report;
2 and

3 6. Perform the duties prescribed by Sections 6, 9, 10, and 11
4 of this act.

5 E. Any member of the Advisory Council shall recuse himself or
6 herself from voting or involvement in proceedings on any matter that
7 originated from or involves an entity with which:

8 1. The member is related, by blood or marriage, to an owner-
9 operator, licensed administrator, or executive of an entity under
10 review or consideration;

11 2. The member has a direct monetary relationship with the
12 entity under review or consideration or a monetary relationship with
13 an individual associated with the entity under review or
14 consideration;

15 3. The member is an employee or an employer of an individual or
16 entity under review or consideration;

17 4. The member or his or her employer or employee is a direct
18 competitor of an individual or entity under review or consideration;
19 or

20 5. The member is employed by a subsidiary of the entity that is
21 under review or consideration, or the member is employed by an
22 entity that shares an owner with the entity that is under review or
23 consideration.

24

1 SECTION 22. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1923B of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 The State Commissioner of Health shall promulgate rules to
5 implement the provisions of this act.

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

8 Section 330.51 For the purposes of Section ~~330.51~~ 1-1923C et
9 seq. of this title, and as used herein:

10 1. ~~"Board" means the Oklahoma State Board of Examiners for~~
11 ~~Long-Term Care Administrators~~ "Advisory Council" means the Long-Term
12 Care Advisory Council;

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

1 not more than fifteen (15) miles, and the total number of facilities
2 and beds does not exceed six facilities and sixty-four beds. The
3 facilities may be free-standing in a community or may be on campus
4 with a parent institution. The ICF/IID-16 may be independently
5 owned and operated or may be part of a larger institutional
6 ownership and operation;

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

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

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

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

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

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

4 SECTION 24. AMENDATORY 63 O.S. 2021, Section 330.52, is
5 amended to read as follows:

6 Section 330.52 A. There is hereby re-created, to continue
7 until ~~July 1, 2022~~ November 1, 2023, in accordance with the
8 provisions of the Oklahoma Sunset Law, the Oklahoma State Board of
9 Examiners for Long-Term Care Administrators. The Oklahoma State
10 Board of Examiners for Long-Term Care Administrators shall consist
11 of fifteen (15) members, eight of whom shall be representatives of
12 the professions and institutions of long-term care, with
13 representation from each type of administrator defined in Section
14 ~~330.51~~ 1-1923C of this title. In order to be eligible to serve as a
15 member, such administrators shall be licensed or certified in their
16 defined facility type, and be in good standing and have at least
17 three (3) years of experience as an administrator in the facility
18 type they represent, except a nursing facility administrator as
19 defined in Section ~~330.51~~ 1-1923C of this title, who shall have at
20 least five (5) years of experience as a nursing facility
21 administrator. Four members shall represent the general public, of
22 which at least two shall be licensed medical professionals concerned
23 with the care and treatment of critically ill or infirm elderly
24 patients. The preceding twelve members shall be appointed by the

1 Governor, with the advice and consent of the Senate. The final
2 three members shall constitute the State Commissioner of Health, the
3 Director of the Department of Human Services, and the Director of
4 the Department of Mental Health and Substance Abuse Services, or
5 their designees.

6 B. No members other than the eight licensed or certified
7 administrators shall have a direct or indirect financial interest in
8 long-term care facilities.

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

15 1. Four of the members representing each administrator type,
16 two members representing the general public and two other members
17 shall be appointed for a term of two (2) years to expire on October
18 31, 2013; and

19 2. Four of the members representing each administrator type,
20 two members representing the general public and one other member
21 shall be appointed for a term of three (3) years to expire on
22 October 31, 2014.

23 D. After the initial terms, the terms of all appointive members
24 shall be three (3) years. Any vacancy occurring in the position of

1 an appointive member shall be filled by the Governor, with the
2 advice and consent of the Senate, for the unexpired term.

3 E. Any member of the Board shall recuse himself or herself from
4 voting on any matter that originated from or involves an entity with
5 which the Board member is affiliated.

6 SECTION 25. AMENDATORY 63 O.S. 2021, Section 330.53, is
7 amended to read as follows:

8 Section 330.53 A. ~~The Oklahoma State Board of Examiners for~~
9 ~~Long-Term Care Administrators~~ State Department of Health, with the
10 input and assistance of the Long-Term Care Advisory Council, shall
11 have authority to issue licenses or certifications to qualified
12 persons as long-term care administrators, and shall establish
13 qualification criteria for each ~~type~~ category of long-term care
14 administrator.

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

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

19 a. not less than twenty-one (21) years of age, and

20 b. of reputable and responsible character; and

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

1 C. All persons currently licensed or certified or lawfully
2 serving as an administrator in their defined facility type shall be
3 permitted to continue to serve in their current capacity under their
4 current terms of authorization. The ~~Board~~ State Commissioner of
5 Health may promulgate rules ~~pursuant to Section 330.57 of this title~~
6 to address future certification and licensure requirements for all
7 long-term care administrator types without effect on the licensure
8 or certification status of those currently certified or licensed.
9 The ~~Board~~ Commissioner shall not include a requirement for a four-
10 year degree in any ~~future~~ licensing or certification requirements
11 for ~~assisted living, residential care or adult day care~~
12 ~~administrators. Until such rules are promulgated, current licensure~~
13 ~~and certification processes and standards shall remain in place~~
14 long-term care administrators.

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

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

1 1. Each person licensed or certified as a long-term care
2 administrator under the provisions of this act shall pay an annual
3 license or certification fee which shall be deposited in the Long-
4 Term Care Revolving Fund created in Section 1-1923M of this title.
5 Such fee shall be determined by the Commissioner with the input of
6 the Advisory Council. Each such license or certification shall
7 expire on the thirty-first day of December following its issuance,
8 and shall be renewable for a calendar year, upon meeting the renewal
9 requirements and upon payment of the annual license or certification
10 fee.

11 2. In addition to license and certification fees, the
12 Commissioner and Advisory Council may impose fees for training and
13 education programs approved by the Department.

14 3. All revenues collected as a result of fees authorized in
15 this section and imposed by the Commissioner shall be deposited into
16 the Long-Term Care Revolving Fund created in Section 1-1923M of this
17 title.

18 F. The Commissioner, with the input and assistance of the
19 Advisory Council, shall have sole and exclusive authority to
20 determine the qualifications, skill, and fitness of any person to
21 serve as a long-term care administrator under the applicable
22 provisions of the Nursing Home Care Act, the Continuum of Care and
23 Assisted Living Act, the Residential Care Act, and the Adult Day
24 Care Act. The Commissioner shall, with the input and assistance of

1 the Advisory Council, promulgate rules to determine the
2 qualifications for licensure or certification for the long-term care
3 administrator categories as defined in Section 1-1923C of this
4 title. Such rules may include a requirement for licensure instead
5 of certification for certain long-term care administrator
6 categories.

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

13 SECTION 26. AMENDATORY 63 O.S. 2021, Section 330.54, is
14 amended to read as follows:

15 Section 330.54 Each person licensed or certified as a long-term
16 care administrator pursuant to the provisions of Section ~~330.53~~ 1-
17 1923E of this title shall be required to pay an annual license or
18 certification fee which shall be deposited in the Oklahoma State
19 Board of Examiners for Long-Term Care Administrators Revolving Fund.
20 Such fee shall be determined by the Oklahoma State Board of
21 Examiners for Long-Term Care Administrators. Each such license or
22 certification shall expire on the 31st day of December following its
23 issuance, and shall be renewable for a calendar year, upon meeting
24 the renewal requirements and upon payment of the annual license fee.

1 SECTION 27. AMENDATORY 63 O.S. 2021, Section 330.57, is
2 amended to read as follows:

3 Section 330.57 The Oklahoma State Board of Examiners for Long-
4 Term Care Administrators shall have sole and exclusive authority to
5 determine the qualifications, skill and fitness of any person to
6 serve as a long-term care administrator under the applicable
7 provisions of the Nursing Home Care Act, the Continuum of Care and
8 Assisted Living Act, the Residential Care Act, and the Adult Day
9 Care Act. The Board shall promulgate rules to determine the
10 qualifications for licensure or certification for the long-term care
11 administrator types as defined in Section ~~330.51~~ 1-1923C of this
12 title. Such rules may include a requirement for licensure instead
13 of certification for certain long-term care administrator types.

14 SECTION 28. 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, with the input
19 and assistance of the Long-Term Care Advisory Council:

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

24

1 2. Develop, impose, and enforce standards which must be met by
2 individuals in order to receive a license or certification as a
3 long-term care administrator, which standards shall be designed to
4 ensure that long-term care administrators will be individuals who
5 are of good character and are otherwise suitable, and who, by
6 training or experience in the field of institutional administration,
7 are qualified to serve as long-term care administrators;

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

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

1 assistance of the Advisory Council, consider the scope, severity and
2 repetition of the violation and any additional factors deemed
3 appropriate by the ~~Board~~ Department when issuing a fine;

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

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

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

1 ~~Board~~ State Commissioner of Health shall, with the input and
2 assistance of the Advisory Council, promulgate rules that include,
3 but are not limited to, provisions for:

- 4 a. establishing a complaint review process,
- 5 b. creating a formal complaint file, and
- 6 c. establishing a protocol for investigation of
7 complaints,

8 as provided by Section 1-1923N of this title;

9 ~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65~~
10 Section 1-1923C et seq. of this title against all persons who are in
11 violation thereof including, but not limited to, individuals who are
12 practicing or attempting to practice as long-term care
13 administrators without proper authorization from the ~~Board~~
14 Department;

15 ~~8.~~ 9. Conduct a continuing study and investigation of long-term
16 care facilities and administrators of long-term care facilities
17 within the state with a view toward the improvement of the standards
18 imposed for the licensing or certifying of such administrators and
19 of procedures and methods for the enforcement of such standards with
20 respect to administrators of long-term care facilities who have been
21 licensed or certified;

22 ~~9.~~ 10. Cooperate with and provide assistance when necessary to
23 state regulatory agencies in investigations of complaints;

24

1 ~~10.~~ 11. Develop a code of ethics for long-term care
2 administrators which includes, but is not limited to, a statement
3 that administrators have a fiduciary duty to the facility and cannot
4 serve as guardian of the person or of the estate, or hold a durable
5 power of attorney or power of attorney for any resident of a
6 facility of which they are an administrator;

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

10 ~~12.~~ 13. Refer completed investigations to the proper law
11 enforcement authorities for prosecution of criminal activities;

12 ~~13.~~ 14. Impose administrative fines, in an amount to be
13 determined by the ~~Board~~ Commissioner, against persons who do not
14 comply with ~~the provisions of this act~~ Section 1-1923C et seq. of
15 this title or the rules adopted by the ~~Board~~ Commissioner.

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

22 ~~14.~~ 15. Assess the costs of the hearing process, including
23 attorney fees;

24

1 ~~15.~~ 16. Grant short-term provisional licenses to individuals
2 who do not meet all of the licensing requirements, provided the
3 individual obtains the services of a currently licensed
4 administrator to act as a consultant and meets any additional
5 criteria for a provisional license established by the ~~Board~~
6 Commissioner;

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

14 17. Promulgate rules governing the employment of assistant
15 administrators for nursing and skilled nursing facilities including,
16 but not limited to, minimum qualifications.

17 SECTION 29. AMENDATORY 63 O.S. 2021, Section 330.62, is
18 amended to read as follows:

19 Section 330.62 There is hereby created in the State Treasury a
20 revolving fund for the ~~Oklahoma State Board of Examiners for Long-~~
21 ~~Term Care Administrators~~ State Department of Health to be designated
22 the "~~Oklahoma State Board of Examiners for Long-Term Care~~
23 ~~Administrators~~ Revolving Fund". The fund shall be a continuing
24 fund, not subject to fiscal year limitations, and shall consist of

1 such sources of income as are provided by law. All monies accruing
2 to the credit of ~~said~~ the fund are hereby appropriated and may be
3 budgeted and expended by the ~~Oklahoma State Board of Examiners for~~
4 ~~Long-Term Care Administrators~~ Department to carry out the duties
5 established by ~~law~~ this act. Expenditures from ~~said~~ the fund shall
6 be made upon warrants issued by the State Treasurer against claims
7 filed as prescribed by law with the Director of the Office of
8 Management and Enterprise Services for approval and payment.

9 SECTION 30. AMENDATORY 63 O.S. 2021, Section 330.64, is
10 amended to read as follows:

11 Section 330.64 A. Any person or agency may submit to the State
12 Department of Health a complaint against a long-term care
13 administrator. Complaints may also be generated by the Department.
14 Each investigation of a complaint received by the ~~Oklahoma State~~
15 ~~Board of Examiners for Long-Term Care Administrators~~ Department
16 shall be initiated within ninety (90) days from the date the
17 complaint is received by the ~~Board~~ Department. Each complaint
18 investigation shall be completed within twelve (12) months of
19 initiation. The time period may be extended by the ~~Board~~ Department
20 for good cause. When the Department completes an investigation, the
21 Department shall immediately notify the Advisory Council and shall
22 share the investigative file with the Advisory Council.

23 B. ~~Effective May 13, 2005, the Board~~ The Department shall, with
24 the input and assistance of the Advisory Council, create and

1 maintain a registry of all complaints or referrals, found by the
2 ~~Board~~ Department to have merit, complaining of acts or omissions of
3 licensed administrators. The registry shall be maintained in both
4 electronic and paper formats and shall be available for inspection
5 by the public. Such registry shall be organized both in
6 chronological order by the date of the complaint and by the name of
7 the licensed administrator. The registry shall contain information
8 about the nature of the complaint and the action, if any, taken by
9 the ~~Board~~ Department. The registry shall also contain the number of
10 complaints made against an individual administrator.

11 C. The Department shall not take any adverse action against an
12 administrator for a violation of this act or the rules promulgated
13 by the State Commissioner of Health before the Advisory Council has
14 issued a recommendation to the Department regarding the complaint
15 and before the Department has taken such recommendation into
16 consideration, except:

- 17 1. As provided by subsection E of this section; or
18 2. If the Advisory Council does not issue a recommendation
19 within forty-five (45) calendar days following the date the
20 investigation is completed.

21 D. The Advisory Council shall review the complaint and the
22 investigative materials provided by the Department, may cause the
23 allegations to be investigated, and may interview witnesses
24 including but not limited to the administrator who is the subject of

1 the complaint. The Advisory Council shall make a recommendation to
2 the Department to set the case for hearing, for dismissal, or other
3 action including but not limited to informal resolution. Any
4 recommendation of the Advisory Council to the Department under this
5 subsection shall be voted upon by a quorum of the Advisory Council
6 in an open meeting.

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

19 F. To ensure the confidentiality of an investigative file
20 obtained during the investigation, the information in the
21 investigative file shall not be deemed to be a record as that term
22 is defined in the Oklahoma Open Records Act nor shall the
23 information be subject to subpoena or discovery in any civil or
24 criminal proceeding, except that the Department may give the

1 information to law enforcement and other state licensing agencies as
2 necessary and appropriate in the discharge of the duties of that
3 agency and only under circumstances that will ensure against
4 unauthorized access to the information. The respondent may acquire
5 information obtained during an investigation, unless the disclosure
6 of the information is otherwise prohibited, except for the
7 investigative report, if the respondent signs a protective order
8 whereby the respondent agrees to use the information solely for the
9 purpose of defense in the proceedings of the Department or the
10 Advisory Council and in any appeal therefrom and agrees not to
11 otherwise disclose the information.

12 G. The Department may give the respondent an opportunity to
13 participate in an informal resolution of the case. Discussions to
14 resolve the case without a hearing shall be conducted in
15 consultation with the Advisory Council.

16 H. If the case is not resolved, the respondent shall be
17 afforded notice and a hearing in accordance with the provisions of
18 Article II of the Administrative Procedures Act. The Advisory
19 Council may assist and advise the Department in all hearings and may
20 recommend to the Department disciplinary action against the
21 respondent. Any party aggrieved by a decision of the Department
22 following a hearing may appeal directly to district court under
23 Section 318 of Title 75 of the Oklahoma Statutes.

24

1 SECTION 31. RECODIFICATION 63 O.S. 2021, Section 330.51,
2 as amended by Section 4 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 32. RECODIFICATION 63 O.S. 2021, Section 330.52,
6 as amended by Section 5 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 33. RECODIFICATION 63 O.S. 2021, Section 330.53,
10 as amended by Section 6 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 34. RECODIFICATION 63 O.S. 2021, Section 330.54,
14 as amended by Section 7 of this act, shall be recodified as Section
15 1-1923F of Title 63 of the Oklahoma Statutes, unless there is
16 created a duplication in numbering.

17 SECTION 35. RECODIFICATION 63 O.S. 2021, Section 330.56,
18 shall be recodified as Section 1-1923G of Title 63 of the Oklahoma
19 Statutes, unless there is created a duplication in numbering.

20 SECTION 36. RECODIFICATION 63 O.S. 2021, Section 330.57,
21 as amended by Section 8 of this act, shall be recodified as Section
22 1-1923H of Title 63 of the Oklahoma Statutes, unless there is
23 created a duplication in numbering.

24

1 SECTION 37. RECODIFICATION 63 O.S. 2021, Section 330.58,
2 as amended by Section 9 of this act, shall be recodified as Section
3 1-1923I of Title 63 of the Oklahoma Statutes, unless there is
4 created a duplication in numbering.

5 SECTION 38. RECODIFICATION 63 O.S. 2021, Section 330.59,
6 shall be recodified as Section 1-1923J of Title 63 of the Oklahoma
7 Statutes, unless there is created a duplication in numbering.

8 SECTION 39. RECODIFICATION 63 O.S. 2021, Section 330.60,
9 shall be recodified as Section 1-1923K of Title 63 of the Oklahoma
10 Statutes, unless there is created a duplication in numbering.

11 SECTION 40. RECODIFICATION 63 O.S. 2021, Section 330.61,
12 shall be recodified as Section 1-1923L of Title 63 of the Oklahoma
13 Statutes, unless there is created a duplication in numbering.

14 SECTION 41. RECODIFICATION 63 O.S. 2021, Section 330.62,
15 as amended by Section 10 of this act, shall be recodified as Section
16 1-1923M of Title 63 of the Oklahoma Statutes, unless there is
17 created a duplication in numbering.

18 SECTION 42. RECODIFICATION 63 O.S. 2021, Section 330.64,
19 as amended by Section 11 of this act, shall be recodified as Section
20 1-1923N of Title 63 of the Oklahoma Statutes, unless there is
21 created a duplication in numbering.

22 SECTION 43. RECODIFICATION 63 O.S. 2021, Section 330.65,
23 shall be recodified as Section 1-1923O of Title 63 of the Oklahoma
24 Statutes, unless there is created a duplication in numbering.

