

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 719

By: McCortney

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5
6 AS INTRODUCED

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 on certain date; directing the Director of
12 the Office of Management and Enterprise Services to
13 coordinate certain transfer; directing transfer of
14 certain administrative rules from the Oklahoma State
15 Board of Examiners for Long-Term Care Administrators
16 to the State Commissioner of Health; amending 63 O.S.
17 2011, Section 1-1923, as last amended by Section 18,
18 Chapter 116, O.S.L. 2020 (63 O.S. Supp. 2020, Section
19 1-1923), which relates to the Long-Term Care Facility
20 Advisory Board; modifying membership; adding certain
21 duties; requiring certain recusal; amending 63 O.S.
22 2011, Section 330.51, as amended by Section 57,
23 Chapter 475, O.S.L. 2019 (63 O.S. Supp. 2020, Section
24 330.51), which relates to definitions; modifying
statutory reference; removing definition; amending 63
O.S. 2011, Section 330.53, as amended by Section 1,
Chapter 241, O.S.L. 2016 (63 O.S. Supp. 2020, Section
330.53), which relates to licensure of long-term care
administrators; transferring duties to Department and
Commissioner; requiring input of Advisory Board;
requiring and authorizing certain fees; providing for
deposit of fees; directing Department to determine
certain qualifications; prohibiting certain
unlicensed activity; amending 63 O.S. 2011, Section
330.58, which relates to duties; transferring duties
to Department and Commissioner; requiring input of
Advisory Board; amending 63 O.S. 2011, Section
330.62, as amended by Section 503, Chapter 304,
O.S.L. 2012 (63 O.S. Supp. 2020, Section 330.62),
which relates to Oklahoma State Board of Examiners
for Long-Term Care Administrators Revolving Fund;

1 renaming and transferring fund; amending 63 O.S.
2 2011, Section 330.64, which relates to complaints;
3 transferring duties to Department and Commissioner;
4 requiring input of Advisory Board; providing
5 complaint procedures; requiring certain vote;
6 providing for confidentiality; providing for
7 recommendations and informal resolution; providing
8 for certain appeals; directing promulgation of rules;
9 renumbering 63 O.S. 2011, Sections 330.51, 330.53,
10 330.62, as last amended by Sections 4, 5 and 7 of
11 this act, 330.58 and 330.64, as amended by Sections 6
12 and 8 of this act (63 O.S. Supp. 2020, Sections
13 330.51, 330.53, 330.58, 330.62 and 330.64), which
14 relate to the Oklahoma State Board of Examiners for
15 Long-Term Care Administrators; repealing 63 O.S.
16 2011, Sections 330.52, as last amended by Section 1,
17 Chapter 343, O.S.L. 2019 (63 O.S. Supp. 2020, Section
18 330.52), 330.54, 330.56, 330.57, 330.59, 330.60,
19 330.61 and 330.65, which relate to the Oklahoma State
20 Board of Examiners for Long-Term Care Administrators;
21 providing for codification; providing for
22 recodification; and providing an effective date.
23
24

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

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

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 and designated for the Long-Term
Care Facility Advisory Board. The transfer shall include all
equipment, supplies, records, assets, current and future
liabilities, fund balances, encumbrances, obligations and

1 indebtedness associated with the Oklahoma State Board of Examiners
2 for Long-Term Care Administrators.

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

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

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

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 330.67 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. On the effective date of this act, all administrative rules
22 promulgated by the Oklahoma State Board of Examiners for Long-Term
23 Care Administrators shall be transferred to and become a part of the
24 administrative rules of the State Commissioner of Health. The

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

9 B. The State Commissioner of Health shall promulgate rules and
10 standards for the Long-Term Care Facility Advisory Board to
11 implement the provisions of this act.

12 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1923, as
13 last amended by Section 18, Chapter 116, O.S.L. 2020 (63 O.S. Supp.
14 2020, Section 1-1923), is amended to read as follows:

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

21 ~~1. The Governor shall appoint a twenty-seven member Long-Term~~
22 ~~Care Facility Advisory Board which shall advise the State~~
23 ~~Commissioner of Health. The Advisory Board shall be comprised of~~
24 ~~the following persons:~~

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

1 ~~(5) years' experience in the nursing home profession~~
2 ~~as operator administrators,~~

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

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

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

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

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

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

23 ~~a. the initial term of the member of the medical~~
24 ~~profession shall be for a three-year term,~~

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

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

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

17 One representative of the Long-Term Care Service within the
18 State Department of Health, appointed by the State Commissioner of
19 Health;

20 2. The State Long-Term Care Ombudsman or designee;

21 3. One medical doctor or doctor of osteopathy who practices in
22 general practice or who specializes in geriatrics, appointed by the
23 President Pro Tempore of the Senate;

1 4. One pharmacist who works in a long-term care facility or in
2 the long-term care industry, appointed by the Speaker of the House
3 of Representatives;

4 5. Two individuals, one appointed by the President Pro Tempore
5 of the Senate and one appointed by the Speaker of the House of
6 Representatives, each of whom is a Registered Nurse or Licensed
7 Practical Nurse;

8 6. Three representatives of nursing facilities, each of whom
9 shall be an executive, owner-operator or administrator of the
10 facility and shall have not less than five (5) years of experience
11 as an executive, owner-operator or administrator of one or more
12 nursing facilities. One of the representatives shall be appointed
13 by the President Pro Tempore of the Senate, one shall be appointed
14 by the Speaker of the House of Representatives and one shall be
15 appointed by the Governor;

16 7. Two individuals, one appointed by the President Pro Tempore
17 of the Senate and one appointed by the Governor, both of whom shall
18 be an executive, owner-operator or administrator of an assisted
19 living center or continuum of care facility and shall have not less
20 than five (5) years of experience as an executive, owner-operator or
21 administrator of one or more assisted living centers or continuum of
22 care facilities.

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

1 administrator of the center and shall have not less than five (5)
2 years of experience as an executive, owner-operator or administrator
3 of one or more adult day care centers;

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

10 10. One representative of a residential care home, appointed by
11 the Governor, who shall be an executive, owner-operator or
12 administrator of the home and shall have not less than five (5)
13 years of experience as an executive, owner-operator or administrator
14 of one or more residential care homes;

15 11. One representative of a veterans center operated by the
16 state, appointed by the Governor, who shall be an administrator of
17 the center and shall have not less than five (5) years of experience
18 as an administrator of one or more veterans centers operated by the
19 state; and

20 12. Two members of the general public, one appointed by the
21 Speaker of the House of Representatives and one appointed by the
22 Governor, at least one of whom shall be sixty-five (65) years of age
23 or older.

1 B. ~~The~~ In addition to the employees transferred to the State
2 Department of Health from the Oklahoma State Board of Examiners for
3 Long-Term Care Administrators, the Department shall provide a
4 clerical staff worker to perform designated duties of the Advisory
5 Board. The Department shall also provide space for meetings of the
6 Advisory Board.

7 C. The Advisory Board shall annually elect a chair, vice-chair
8 and secretary-treasurer, shall meet at least quarterly, and may hold
9 such special meetings as may be necessary. The members of the
10 Advisory Board shall be reimbursed as provided for by the State
11 Travel Reimbursement Act.

12 D. The Advisory Board shall have the power and duty to:

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

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

22 3. Evaluate and review the standards, practices, and procedures
23 of the Department regarding the administration and enforcement of
24 the provisions of the Nursing Home Care Act, the Residential Care

1 Act and the Adult Day Care Act, and the quality of services and care
2 and treatment provided to residents of facilities and residential
3 care homes and participants in adult day care centers. The Board
4 may make recommendations to the Department as necessary and
5 appropriate;

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

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

20 6. Perform the duties prescribed by Sections 5, 6, 7 and 8 of
21 this act.

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

1 SECTION 4. AMENDATORY 63 O.S. 2011, Section 330.51, as
2 amended by Section 57, Chapter 475, O.S.L. 2019 (63 O.S. Supp. 2020,
3 Section 330.51), is amended to read as follows:

4 Section 330.51. For the purposes of ~~Section 330.51 et seq. of~~
5 ~~this title, and as used herein~~ this act and Section 1-1923 of this
6 title:

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

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

1 owned and operated or may be part of a larger institutional
2 ownership and operation;

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

6 ~~4.~~ 3. "Assisted living facility administrator" means a person
7 licensed or certified by the State of Oklahoma to perform the duties
8 of an administrator serving in an assisted living facility;

9 ~~5.~~ 4. "Residential care facility administrator" means a person
10 licensed or certified by the State of Oklahoma to perform the duties
11 of an administrator serving in a residential care facility;

12 ~~6.~~ 5. "Adult day care center administrator" means a person
13 licensed or certified by the State of Oklahoma to perform the duties
14 of an administrator serving in an adult day care center; and

15 ~~7.~~ 6. "Nursing home", "rest home" and "specialized home" shall
16 have the same meaning as the term "nursing facility" as such term is
17 defined in the Nursing Home Care Act; "assisted living center" and
18 "continuum of care facility" shall have the same meaning as such
19 terms are defined in the Continuum of Care and Assisted Living Act;
20 "home" and "residential care home" shall have the same meaning as
21 the terms are used in the Residential Care Act; and "adult day care
22 center" and "center" shall have the same meaning as such terms are
23 used in the Adult Day Care Act.

1 SECTION 5. AMENDATORY 63 O.S. 2011, Section 330.53, as
2 amended by Section 1, Chapter 241, O.S.L. 2016 (63 O.S. Supp. 2020,
3 Section 330.53), is amended to read as follows:

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

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

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

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

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

21 C. All persons currently licensed or certified or lawfully
22 serving as an administrator in their defined facility type shall be
23 permitted to continue to serve in their current capacity under their
24 current terms of authorization. The ~~Board~~ State Commissioner of

1 Health may promulgate rules ~~pursuant to Section 330.57 of this title~~
2 to address future certification and licensure requirements for all
3 long-term care administrator types without effect on the licensure
4 or certification status of those currently certified or licensed.
5 The ~~Board~~ Commissioner shall not include a requirement for a four-
6 year degree in any future licensing or certification requirements
7 for assisted living, residential care or adult day care
8 administrators. Until such rules are promulgated, current licensure
9 and certification processes and standards shall remain in place.

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

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

20 1. Each person licensed or certified as a long-term care
21 administrator pursuant to the provisions of this act shall be
22 required to pay an annual license or certification fee which shall
23 be deposited in the Long-Term Care Revolving Fund. Such fee shall
24 be determined by the Department with the input of the Advisory

1 Board. Each such license or certification shall expire on the 31st
2 day of December following its issuance, and shall be renewable for a
3 calendar year, upon meeting the renewal requirements and upon
4 payment of the annual license fee.

5 2. In addition to fees necessary to implement the provisions of
6 this act, the Department may, with the input of the Advisory Board,
7 impose fees for:

8 a. training programs conducted or approved by the
9 Department, and

10 b. education programs conducted or approved by the
11 Department.

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

15 F. The Department, with the input and assistance of the
16 Advisory Board, shall have sole and exclusive authority to determine
17 the qualifications, skill and fitness of any person to serve as a
18 long-term care administrator under the applicable provisions of the
19 Nursing Home Care Act, the Continuum of Care and Assisted Living
20 Act, the Residential Care Act, and the Adult Day Care Act. The
21 Department shall, with the input and assistance of the Advisory
22 Board determine the qualifications for licensure or certification
23 for the long-term care administrator categories as defined in
24 Section 4 of this act including a requirement for licensure instead

1 of certification for certain long-term care administrator
2 categories.

3 G. It shall be unlawful and a misdemeanor for any person to act
4 or serve in the capacity as a long-term care administrator unless
5 the person is the holder of a license or certification as a long-
6 term care administrator, issued in accordance with the provisions of
7 this act.

8 SECTION 6. AMENDATORY 63 O.S. 2011, Section 330.58, is
9 amended to read as follows:

10 Section 330.58. ~~The Oklahoma State Board of Examiners for Long~~
11 ~~Term Care Administrators~~ State Department of Health shall, with the
12 input and assistance of the Long-Term Care Facility Advisory Board:

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

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

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

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

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

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

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

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

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

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

23 8. Conduct a continuing study and investigation of long-term
24 care facilities and administrators of long-term care facilities

1 within the state with a view toward the improvement of the standards
2 imposed for the licensing or certifying of such administrators and
3 of procedures and methods for the enforcement of such standards with
4 respect to administrators of long-term care facilities who have been
5 licensed or certified;

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

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

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

17 12. Refer completed investigations to the proper law
18 enforcement authorities for prosecution of criminal activities;

19 13. Impose administrative fines, in an amount to be determined
20 by the ~~Board~~ Department, against persons who do not comply with the
21 provisions of this act or the rules adopted by the ~~Board~~
22 Commissioner. Administrative fines imposed pursuant to this section
23 shall not exceed One Thousand Dollars (\$1,000.00) per violation.

24 The ~~Board~~ Department shall, with the input and assistance of the

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

4 14. Assess the costs of the hearing process, including attorney
5 fees;

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

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

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

22 SECTION 7. AMENDATORY 63 O.S. 2011, Section 330.62, as
23 amended by Section 503, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
24 2020, Section 330.62), is amended to read as follows:

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

15 SECTION 8. AMENDATORY 63 O.S. 2011, Section 330.64, is
16 amended to read as follows:

17 Section 330.64. A. Each investigation of a complaint received
18 by the ~~Oklahoma State Board of Examiners for Long-Term Care~~
19 ~~Administrators~~ State Department of Health shall be initiated by the
20 Department with the input and assistance of of the Long-Term Care
21 Advisory Board within ninety (90) days from the date the complaint
22 is received by the ~~Board~~ Department. Each complaint investigation
23 shall be completed within twelve (12) months of initiation. The
24 time period may be extended by the ~~Board~~ Department for good cause.

1 B. ~~Effective May 13, 2005, the Board~~ The Department shall, with
2 the input and assistance of the Advisory Committee, create and
3 maintain a registry of all complaints or referrals, found by the
4 ~~Board~~ Department to have merit, complaining of acts or omissions of
5 licensed administrators. The registry shall be maintained in both
6 electronic and paper formats and shall be available for inspection
7 by the public. Such registry shall be organized both in
8 chronological order by the date of the complaint and by the name of
9 the licensed administrator. The registry shall contain information
10 about the nature of the complaint and the action, if any, taken by
11 the ~~Board~~ Department. The registry shall also contain the number of
12 complaints made against an individual administrator.

13 C. Any recommendation of the Advisory Board regarding a
14 decision by the Department pursuant to a complaint received against
15 an individual administrator shall be voted upon by a quorum of the
16 Advisory Board in an open meeting.

17 D. Any person or agency may submit to the Department a
18 complaint against a long-term care administrator. Complaints may
19 also be generated by the Department.

20 E. A committee or committees of three (3) persons appointed by
21 the chair of the Advisory Board shall review complaints to determine
22 if probable cause exists that a violation of this act or the rules
23 of the State Commissioner of Health has occurred. No committee
24 shall be composed of a majority of members who are long-term care

1 administrators or owners. The committee may cause the allegations
2 to be investigated, and, if this committee determines that such
3 probable cause exists, this committee shall file a formal complaint
4 against the long-term care administrator alleged to have committed
5 the violation.

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

1 G. Upon completion of an investigation, the probable cause
2 committee may make a recommendation to the Advisory Board to set the
3 case for hearing, or for dismissal or other action.

4 H. The respondent may be given an opportunity to participate in
5 an informal resolution of the case. Discussions to resolve the case
6 without a hearing may be conducted by the chair of the Advisory
7 Board, the prosecutor of the Department, or both the Director and
8 the prosecutor, in consultation with the probable cause committee.
9 Any recommendation for informal resolution shall be presented to the
10 Advisory Board for its consideration and approval. The power to
11 make a final decision on information resolution shall rest with the
12 Department.

13 I. If the case is not resolved, the respondent shall be
14 afforded notice and a hearing in accordance with the provisions of
15 Article II of the Administrative Procedures Act. The members of the
16 probable cause committee that reviewed the complaint shall recuse
17 themselves from any participation in a hearing. Any party aggrieved
18 by a decision of the Department following a hearing may appeal
19 directly to district court pursuant to the provisions of Section 318
20 of Title 75 of the Oklahoma Statutes.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-1923F of Title 63, unless
23 there is created a duplication in numbering, reads as follows:
24

1 The State Commissioner of Health shall promulgate rules to
2 implement the provisions of this act.

3 SECTION 10. RECODIFICATION 63 O.S. 2011, Section 330.51,
4 as last amended by Section 4 of this act, shall be recodified as
5 Section 1-1923A of Title 63 of the Oklahoma Statutes, unless there
6 is created a duplication in numbering.

7 SECTION 11. RECODIFICATION 63 O.S. 2011, Section 330.53,
8 as last amended by Section 5 of this act, shall be recodified as
9 Section 1-1923B of Title 63 of the Oklahoma Statutes, unless there
10 is created a duplication in numbering.

11 SECTION 12. RECODIFICATION 63 O.S. 2011, Section 330.58,
12 as amended by Section 6 of this act, shall be recodified as Section
13 1-1923C of Title 63 of the Oklahoma Statutes, unless there is
14 created a duplication in numbering.

15 SECTION 13. RECODIFICATION 63 O.S. 2011, Section 330.62,
16 as last amended by Section 7 of this act, shall be recodified as
17 Section 1-1923D of Title 63 of the Oklahoma Statutes, unless there
18 is created a duplication in numbering.

19 SECTION 14. RECODIFICATION 63 O.S. 2011, Section 330.64,
20 as amended by Section 8 of this act, shall be recodified as Section
21 1-1923E of Title 63 of the Oklahoma Statutes, unless there is
22 created a duplication in numbering.

23 SECTION 15. REPEALER 63 O.S. 2011, Sections 330.52, as
24 last amended by Section 1, Chapter 343, O.S.L. 2019 (63 O.S. Supp.

1 2020, Section 330.52), 330.54, 330.56, 330.57, 330.59, 330.60,
2 330.61 and 330.65, are hereby repealed.

3 SECTION 16. This act shall become effective January 1, 2022.
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