

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2824

6 By: Kendrix

7 COMMITTEE SUBSTITUTE

8 An Act relating to long-term care; directing transfer
9 of employees, powers, duties, monies and contractual
10 rights from the Oklahoma State Board of Examiners for
11 Long-Term Care Administrators to the State Department
12 of Health; requiring the Director of the Office of
13 Management and Enterprise Services to coordinate
14 certain transfers; directing transfer of certain
15 administrative rules from the Board to the State
16 Commissioner of Health; abolishing the Board upon
17 completion of transfers; amending 63 O.S. 2021,
18 Section 1-1923, which relates to the Long-Term Care
19 Facility Advisory Board; extending termination date;
20 changing name; decreasing and modifying membership;
21 removing certain duty of the Department; modifying
22 and adding powers and duties of the Long-Term Care
23 Advisory Council; requiring certain recusal; amending
24 63 O.S. 2021, Section 330.51, which relates to
definitions; removing and adding definitions;
amending 63 O.S. 2021, Section 330.53, which relates
to licensure of long-term care administrators;
transferring duties to the Department and the
Commissioner; requiring input of the Advisory
Council; modifying applicability of certain
provisions; requiring and authorizing certain fees;
directing deposit of fees; requiring the Commissioner
to determine certain qualifications; prohibiting
certain unlicensed activity; amending 63 O.S. 2021,
Section 330.58, which relates to duties; transferring
duties to the Department and the Commissioner;
requiring input of the Advisory Council; adding and
removing certain duties; amending 63 O.S. 2021,
Section 330.62, which relates to the Oklahoma State
Board of Examiners for Long-Term Care Administrators

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

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

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

22 A. On the effective date of this act, all employees, powers,
23 duties, functions and responsibilities of the Oklahoma State Board
24 of Examiners for Long-Term Care Administrators shall be transferred

1 to the State Department of Health. The transfer shall include all
2 equipment, supplies, records, assets, current and future
3 liabilities, fund balances, encumbrances, obligations and
4 indebtedness associated with the Oklahoma State Board of Examiners
5 for Long-Term Care Administrators.

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

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

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

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

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

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

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

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

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

23 a. ~~one representative from the Office of the State Fire~~
24 ~~Marshal, designated by the State Fire Marshal,~~

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

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

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

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

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

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

19 3. ~~The initial appointments of the Governor shall be for the~~
20 ~~following terms:~~

21 a. ~~the initial term of the member of the medical~~
22 ~~profession shall be for a three year term,~~

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

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

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

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

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

18 2. One medical doctor or doctor of osteopathy who practices in
19 general practice or who specializes in geriatrics, appointed by the
20 Governor;

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

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

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

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

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

18 8. One representative of an adult day care center or
19 residential care home, appointed by the Governor, who shall be an
20 executive, owner-operator, or administrator of the center or home
21 and shall have not less than three (3) years of experience as an
22 executive, owner-operator, or administrator of one or more adult day
23 care centers or residential care homes;

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

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

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

19 B. The State Department of Health shall provide ~~a clerical~~
20 ~~staff worker to perform designated duties of the Advisory Board.~~
21 ~~The Department shall also provide~~ space for meetings of the Advisory
22 ~~Board Council.~~

23 C. The Advisory ~~Board~~ Council shall annually elect a chair,
24 vice-chair and secretary-treasurer, shall meet ~~at least quarterly~~

1 monthly, and may hold such special meetings as may be necessary.

2 The members of the Advisory ~~Board~~ Council shall be reimbursed as
3 provided for by the State Travel Reimbursement Act.

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

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

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

14 3. Evaluate and review the standards, practices, and procedures
15 of the Department regarding the administration and enforcement of
16 the provisions of the Nursing Home Care Act, the Residential Care
17 Act and the Adult Day Care Act, and the quality of services and care
18 and treatment provided to residents of facilities and residential
19 care homes and participants in adult day care centers. The ~~Board~~
20 Advisory Council may make recommendations to the Department as
21 necessary and appropriate;

22 4. Evaluate and review financial accountability standards,
23 policies and practices of ~~residential-care~~ long-term care facilities
24 regarding residents' funds for which the facility is the payee, and

1 evaluate and review expenditures made on behalf of the resident by
2 the facility to ensure that such funds are managed appropriately and
3 in the best interests of the resident; ~~and~~

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

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

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

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

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

22 1. ~~"Board" means the Oklahoma State Board of Examiners for~~
23 ~~Long-Term Care Administrators~~ "Advisory Council" means the Long-Term
24 Care Advisory Council;

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

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

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

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

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

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

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

18 Section 330.53 A. ~~The Oklahoma State Board of Examiners for~~
19 ~~Long-Term Care Administrators~~ State Department of Health, with the
20 input and assistance of the Long-Term Care Advisory Council, shall
21 have authority to issue licenses or certifications to qualified
22 persons as long-term care administrators, and shall establish
23 qualification criteria for each type of long-term care
24 administrator.

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

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

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

6 b. of reputable and responsible character; and

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

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

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

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

11 1. Each person licensed or certified as a long-term care
12 administrator under the provisions of this act shall pay an annual
13 license or certification fee which shall be deposited in the Long-
14 Term Care Revolving Fund created in Section 6 of this act. Such fee
15 shall be determined by the Commissioner with the input of the
16 Advisory Council. Each such license or certification shall expire
17 on the 31st day of December following its issuance, and shall be
18 renewable for a calendar year, upon meeting the renewal requirements
19 and upon payment of the annual license fee.

20 2. In addition to licensure and certification fees, the
21 Commissioner may, with the input of the Advisory Council, impose
22 fees for training and education programs approved by the Department.
23
24

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

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

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

22 SECTION 5. AMENDATORY 63 O.S. 2021, Section 330.58, is
23 amended to read as follows:
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, with the input
4 and assistance of the Long-Term Care Advisory Council:

5 1. Develop and apply standards for approval of training and
6 education programs for long-term care administrators that meet the
7 accreditation standards of the National Association of Long-Term
8 Care Administrator Boards;

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

16 ~~2.~~ 3. Develop and apply appropriate techniques, including
17 examinations and investigations, for determining whether an
18 individual meets such standards;

19 ~~3.~~ 4. Issue licenses or certifications to individuals
20 determined, after the application of such techniques, to meet such
21 standards. ~~The Board~~ Department may, with the input and assistance
22 of the Advisory Council, deny an initial application, deny a renewal
23 application, and revoke or suspend licenses or certifications
24 previously issued by the ~~Board~~ Department in any case where the

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

12 ~~4.~~ 5. Establish and carry out procedures designed to ensure
13 that individuals licensed or certified as long-term care
14 administrators will, during any period that they serve as such,
15 comply with the requirements of such standards;

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

1 ~~6.~~ 7. Receive and take appropriate action on any complaint or
2 referral received by the ~~Board~~ Department from the Department of
3 Human Services or any other regulatory agency. Complaints may also
4 be generated by the ~~Board or staff~~ Department. A complaint shall
5 not be published on the ~~web site~~ website of the ~~Oklahoma State Board~~
6 ~~of Examiners for Long-Term Care Administrators~~ Department unless
7 there is a finding by the ~~Board~~ Department that the complaint has
8 merit. The ~~Board~~ State Commissioner of Health shall, with the input
9 and assistance of the Advisory Council, promulgate rules that
10 include, but are not limited to, provisions for:

- 11 a. establishing a complaint review process,
- 12 b. creating a formal complaint file, and
- 13 c. establishing a protocol for investigation of
14 complaints

15 as provided by Section 330.64 of this title;

16 ~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65~~
17 ~~of this title~~ Section 330.51 et seq. against all persons who are in
18 violation thereof including, but not limited to, individuals who are
19 practicing or attempting to practice as long-term care
20 administrators without proper authorization from the ~~Board~~
21 Department;

22 ~~8.~~ 9. Conduct a continuing study and investigation of long-term
23 care facilities and administrators of long-term care facilities
24 within the state with a view toward the improvement of the standards

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

5 ~~9.~~ 10. Cooperate with and provide assistance when necessary to
6 state regulatory agencies in investigations of complaints;

7 ~~10.~~ 11. Develop a code of ethics for long-term care
8 administrators which includes, but is not limited to, a statement
9 that administrators have a fiduciary duty to the facility and cannot
10 serve as guardian of the person or of the estate, or hold a durable
11 power of attorney or power of attorney for any resident of a
12 facility of which they are an administrator;

13 ~~11.~~ 12. Report a final adverse action against a long-term care
14 administrator to the Healthcare Integrity and Protection Data Bank
15 pursuant to federal regulatory requirements;

16 ~~12.~~ 13. Refer completed investigations to the proper law
17 enforcement authorities for prosecution of criminal activities;

18 ~~13.~~ 14. Impose administrative fines, in an amount to be
19 determined by the ~~Board~~ Commissioner, against persons who do not
20 comply with ~~the provisions of this act~~ Section 350.51, et seq. of
21 this title or the rules adopted by the ~~Board~~ Commissioner.

22 Administrative fines imposed pursuant to this section shall not
23 exceed One Thousand Dollars (\$1,000.00) per violation. The ~~Board~~
24 Department shall, with the input and assistance of the Advisory

1 Council, 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.~~ 15. Assess the costs of the hearing process, including
5 attorney fees;

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

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

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

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

24

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

17 Section 330.64 A. Any person or agency may submit to the State
18 Department of Health a complaint against a long-term care
19 administrator. Complaints may also be generated by the Department.
20 Each investigation of a complaint received by the ~~Oklahoma State~~
21 ~~Board of Examiners for Long-Term Care Administrators~~ Department
22 shall be initiated within ninety (90) days from the date the
23 complaint is received by the ~~Board~~ Department. Each complaint
24 investigation shall be completed within twelve (12) months of

1 initiation. The time period may be extended by the ~~Board~~ Department
2 for good cause. When the Department completes an investigation, the
3 Department shall immediately notify the Advisory Council and shall
4 share the investigative file with the Advisory Council.

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

17 C. The Department shall not take any adverse action against an
18 administrator for a violation of this act or the rules promulgated
19 by the State Commissioner of Health before the Advisory Council has
20 issued a recommendation to the Department regarding the complaint
21 and before the Department has taken such recommendation into
22 consideration, except:

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

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

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

1 holder, or AIT candidate shall have the right to contest the order
2 at a hearing as provided by subsection H of this section.

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

20 G. The Department may give the respondent an opportunity to
21 participate in an informal resolution of the case. Discussions to
22 resolve the case without a hearing shall be conducted in
23 consultation with the Advisory Council.

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

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

12 The State Commissioner of Health shall promulgate rules to
13 implement the provisions of this act.

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

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

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

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

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

11 SECTION 14. REPEALER 63 O.S. 2021, Sections 330.52,
12 330.54, 330.56, 330.57, 330.59, 330.60, 330.61 and 330.65, are
13 hereby repealed.

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

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