

1 ENGROSSED HOUSE
2 BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

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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 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. 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 2. 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;

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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-

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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.

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1 SECTION 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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;

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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;

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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;

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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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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.

