

# An Act

ENROLLED SENATE  
BILL NO. 1709

By: Rosino, Pederson, and  
Stephens of the Senate

and

Echols, Burns, Ford,  
Townley, and May of the  
House

An Act relating to the Department of Human Services; transferring the Office of Client Advocacy from the Department of Human Services to the State Department of Health; transferring the Office of the State Long-Term Care Ombudsman from the Department of Human Services to the Office of the Attorney General; directing certain transfers; requiring the Director of the Office of Management and Enterprise Services to coordinate certain transfers; stipulating procedures for transfer of administrative rules; amending 10 O.S. 2021, Section 1430.27, which relates to inspection, investigation, survey, or evaluation of group homes; conforming and updating language; amending 10A O.S. 2021, Section 1-9-112, which relates to the Office of Client Advocacy; conforming, updating, and clarifying language; removing certain restriction on dismissal of personnel; modifying qualifications of Advocate General; amending 10A O.S. 2021, Section 1-9-117, which relates to allegations against Department of Human Services employees or child-placing agency by foster parent; conforming and updating language; amending Section 2, Chapter 123, O.S.L. 2022, as amended by Section 1 of Enrolled House Bill No. 3317 of the 2nd Session of the 59th Oklahoma Legislature, which relates to multidisciplinary elderly and vulnerable adult abuse teams; conforming and updating language; amending 63 O.S. 2021, Sections 1-829, 1-1902, 1-1911, 1-1941, 1-1945, 330.58, as amended by Section 6, Chapter 271, O.S.L. 2023, and as renumbered by Section 14, Chapter

271, O.S.L. 2023, 1-1950.4, 1-2212, 1-2213, 1-2214, and 1-2216 (63 O.S. Supp. 2023, Section 1-1949.4), which relate to long-term care; conforming, updating, and clarifying language; making language gender neutral; updating statutory references; providing for codification; and providing an effective date.

SUBJECT: Department of Human Services

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-112a of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, the Office of Client Advocacy within the Department of Human Services shall transfer to the State Department of Health. The Office of Client Advocacy and the Advocate General shall continue to exercise their statutory powers and duties.

B. All equipment, supplies, records, matters pending, assets, future liabilities, fund balances, encumbrances, obligations, indebtedness, and legal and contractual rights and responsibilities of the Office of Client Advocacy shall be transferred to the State Department of Health.

C. Any monies accruing to or in the name of the Office of Client Advocacy on and after the effective date of this act, or any monies that accrue in any funds or accounts or are maintained for the benefit of the Office of Client Advocacy on and after the effective date of this act, shall be transferred to the State Department of Health.

D. The Department of Human Services and the State Department of Health may enter into an agreement for the transfer of personnel. No employee shall be transferred to the State Department of Health except on the freely given written consent of the employee. Any employee who is transferred shall not be required to accept a lesser

grade or salary than presently received. All employees shall retain leave, sick, and annual time earned, and any retirement and longevity benefits which have accrued during their tenure with the Department of Human Services. The transfer of personnel between the state agencies shall be coordinated with the Office of Management and Enterprise Services.

E. The Director of the Office of Management and Enterprise Services shall coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations or encumbrances as provided for in this section.

F. Upon the effective date of this act, all administrative rules promulgated by the Director of Human Services for the Office of Client Advocacy shall be transferred to and become a part of the administrative rules of the State Department of Health. The Office of Administrative Rules in the Office of the Secretary of State shall provide adequate notice in "The Oklahoma Register" of the transfer of such rules and shall place the transferred rules under the Oklahoma Administrative Code title of the State Department of Health. Such rules shall continue in force and effect as rules of the State Department of Health from and after the effective date of this act, and any amendment, repeal, or addition to the transferred rules shall be under the jurisdiction of the State Commissioner of Health.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2213.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, the Office of the State Long-Term Care Ombudsman within the Department of Human Services shall transfer to the Office of the Attorney General. The Office of the State Long-Term Care Ombudsman shall continue to exercise its statutory powers and duties.

B. All equipment, supplies, records, matters pending, assets, future liabilities, fund balances, encumbrances, obligations, indebtedness, and legal and contractual rights and responsibilities of the Office of the State Long-Term Care Ombudsman shall be transferred to the Office of the Attorney General.

C. Any monies accruing to or in the name of the Office of the State Long-Term Care Ombudsman on and after the effective date of this act, or any monies that accrue in any funds or accounts or are maintained for the benefit of the Office on and after the effective date of this act, shall be transferred to the Office of the Attorney General.

D. The Department of Human Services and the Office of the Attorney General may enter into an agreement for the transfer of personnel. No employee shall be transferred to the Office of the Attorney General except on the freely given written consent of the employee. Any employee who is transferred shall not be required to accept a lesser grade or salary than presently received. All employees shall retain leave, sick, and annual time earned, and any retirement and longevity benefits which have accrued during their tenure with the Department of Human Services. The transfer of personnel between the state agencies shall be coordinated with the Office of Management and Enterprise Services.

E. The Director of the Office of Management and Enterprise Services shall coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations or encumbrances as provided for in this section.

F. Upon the effective date of this act, all administrative rules promulgated by the Director of Human Services for the Office of the State Long-Term Care Ombudsman shall be transferred to and become a part of the administrative rules of the Office of the Attorney General. The Office of Administrative Rules in the Office of the Secretary of State shall provide adequate notice in "The Oklahoma Register" of the transfer of such rules and shall place the transferred rules under the Oklahoma Administrative Code title of the Office of the Attorney General. Such rules shall continue in force and effect as rules of the Office of the Attorney General from and after the effective date of this act, and any amendment, repeal, or addition to the transferred rules shall be under the jurisdiction of the Attorney General.

SECTION 3. AMENDATORY 10 O.S. 2021, Section 1430.27, is amended to read as follows:

Section 1430.27. A. Every group home shall be inspected at least annually by a duly appointed representative of the Department of Human Services pursuant to rules promulgated by the ~~Commission for Human Services with the advice and counsel of the Group Homes for Persons with Developmental or Physical Disabilities Advisory Board established by Section 1430.4 of this title~~ Director of Human Services.

B. The Department shall at least annually and whenever it deems necessary inspect, survey, and evaluate each group home to determine compliance with applicable licensure and program requirements and standards.

C. Any inspection, investigation, survey, or evaluation may be conducted without prior notice to the home. At least one inspection per group home shall be unannounced. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to enter and inspect the group home in accordance with the provisions of the Group Homes for Persons with Developmental or Physical Disabilities Act. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license.

D. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the group home and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. Proposed dates for the resolution of deficiencies;

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the group home was notified of the results of the inspection or investigation.

E. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the group home to the extent necessary to implement the provisions of the Group Homes for Persons with Developmental or Physical Disabilities Act and the rules promulgated by the ~~Commission for Human Services~~ Director pursuant thereto.

F. Any ~~state or local ombudsman~~ representative of the Office of the State Long-Term Care Ombudsman within the Office of the Attorney General or a representative of the Office of Client Advocacy within the State Department of Health having proper identification is authorized to enter any group home licensed pursuant to the provisions of the Group Homes for Persons with Developmental or Physical Disabilities Act, communicate privately and without unreasonable restriction with any resident of a group home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a group home, and to observe all areas of a group home that directly pertain to the care of a resident of a group home.

G. All state agencies receiving complaints on, or conducting surveys or inspections of, group homes shall forward complete copies of complaints or inspection or survey results to the Office of Client Advocacy ~~of the Department of Human Services~~.

SECTION 4. AMENDATORY 10A O.S. 2021, Section 1-9-112, is amended to read as follows:

Section 1-9-112. A. 1. ~~The Director of Human Services is authorized and directed to~~ State Commissioner of Health shall establish the Office of Client Advocacy within the Department of Human Services State Department of Health and to shall employ personnel necessary to carry out the ~~purposes of this section and the duties listed in provisions of~~ purposes of this section. ~~Personnel may be dismissed only for cause.~~

2. The ~~chief administrative officer~~ head of the Office of Client Advocacy shall be the Advocate General, ~~who shall be an attorney. The Advocate General shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The compensation of the Advocate General shall be no less than that of the classification of Attorney III as established in the Merit System of Personnel Administration classification and compensation plan, but shall be an unclassified position.~~

~~3.~~ The duties and responsibilities of the Advocate General are to:

- a. supervise personnel assigned to the Office of Client Advocacy,
- b. monitor and review grievance procedures and hearings,
- c. establish and maintain a fair, simple, and expeditious system for resolution of grievances of:
  - (1) all children in the custody of the Department of Human Services regarding:
    - (a) the substance or application of any written or unwritten policy or rule of the Department or agent of the Department, or
    - (b) any decision or action by an employee or agent of the Department, or of any child in the custody of the Department,
  - (2) foster parents relating to the provision of foster care services pursuant to this section and Section 1-9-117 of this title, and
  - (3) all persons receiving services from the Developmental Disabilities Services Division of the Department of Human Services,
- d. investigate allegations of abuse, neglect, sexual abuse, and sexual exploitation, as those terms are

defined in the Oklahoma Children's Code, by a person responsible for a child, regardless of custody:

- (1) residing outside ~~their~~ his or her own homes home other than children in foster care or children in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure facility,
  - (2) in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, and submit a report of the results of the investigation to the appropriate district attorney and to the State Department of Health,
  - (3) receiving services from a community services worker as that term is defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, and
  - (4) residing in a state institution listed in Section 1406 of Title 10 of the Oklahoma Statutes,
- e. establish a system for investigating allegations of misconduct, by a person responsible for a child, not rising to the level of abuse, neglect, sexual abuse, or sexual exploitation with regard to any child or resident listed in subparagraph d of this paragraph,
- f. coordinate any hearings or meetings of ~~Departmental~~ departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations,
- g. make recommendations to the State Commissioner of Health, who shall then make recommendations to the Director of Human Services, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the ~~Commissioner~~ Commissioner, the Office of Juvenile System Oversight, and other appropriate persons as necessary,



- h. forward to the Office of Juvenile System Oversight, for the information of the Director of that office, a copy of the final report of any grievance which is not resolved in the favor of the complainant,
- i. perform such other duties as required by the ~~Director of the Department or the Commission~~ State Commissioner of Health, and
- j. develop policies and procedures as necessary to implement the duties and responsibilities assigned to the Office of Client Advocacy.

B. The Office of Client Advocacy shall make a complete written report of ~~their~~ its investigations. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

C. 1. Except as otherwise provided by the Oklahoma Children's Code, the reports required by Section 1-2-101 of this title or any other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided in Section 1-2-108 of this title and the Oklahoma Children's Code.

2. Except as otherwise provided by the Oklahoma Children's Code, any violation of the confidentiality requirements of the Oklahoma Children's Code shall, upon conviction, be a misdemeanor punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

3. Any records or information disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purpose for which disclosure is authorized. Rules promulgated by the ~~Commission for Human Services~~ State Commissioner of Health shall provide for disclosure of relevant information concerning Office of Client Advocacy investigations to persons or entities acting in an official capacity with regard to the subject of the investigation.

4. Nothing in this section shall be construed as prohibiting the Office of Client Advocacy or the Department of Human Services from disclosing such confidential information as may be necessary to

secure appropriate care, treatment, or protection of a child alleged to be abused or neglected.

D. 1. The Office of Client Advocacy shall investigate any complaint received by the Office of Juvenile System Oversight alleging that an employee of the Department of Human Services or a child-placing agency has threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 1-9-120 of this title,
- b. provided information to any state official or Department of Human Services employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the Department of Human Services or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department of Human Services or a child-placement agency in conformity with the result of any such proceeding.

3. The Office of Client Advocacy shall at all times be granted access to any foster home or any child-placing agency which is certified, authorized, or funded by the Department of Human Services.

SECTION 5. AMENDATORY 10A O.S. 2021, Section 1-9-117, is amended to read as follows:

Section 1-9-117. A. 1. A foster parent may report to the Office of Client Advocacy ~~of the Department of Human Services~~ within the State Department of Health an allegation that an employee of the Department of Human Services or of a child-placing agency has threatened the foster parent with removal of a child from the foster

parent, harassed or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 1-9-120 of this title,
- b. provided information to any state official or Department of Human Services employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the Department of Human Services or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department of Human Services or a child-placing agency in conformity with the result of any such proceeding.

3. A reporter shall not be relieved of the duty to report incidents of alleged child abuse or neglect pursuant to the Oklahoma Children's Code.

4. The Advocate General shall establish rules and procedures for evaluating reports of complaints pursuant to paragraph 1 of this subsection and for conducting an investigation of such reports.

B. 1. The Office of Client Advocacy shall prepare and maintain written records from the reporting source that shall contain the following information to the extent known at the time the report is made:

- a. the names and addresses of the child and the person responsible for the child's welfare,
- b. the nature of the complaint, and
- c. the names of the persons or agencies responsible for the allegations contained in the complaint.

2. Any investigation conducted by the Office of Client Advocacy pursuant to such information shall not duplicate and shall be separate from the investigation mandated by the Oklahoma Children's Code or other investigation of the Department of Human Services having notice and hearing requirements.

3. At the request of the reporter, the Office of Client Advocacy shall keep the identity of the reporter strictly confidential from the operation of the Department of Human Services, until the ~~Advocate General~~ State Commissioner of Health determines what recommendations shall be made to the ~~Commission for Human Services~~ and to the Director of the Department.

C. The ~~Commission~~ Commissioner and the Director shall ensure that a person making a report in good faith under this section is not adversely affected solely on the basis of having made such report.

D. Any person who knowingly and willfully makes a false or frivolous report or complaint or a report that the person knows lacks factual foundation, pursuant to the provisions of this section, may be subject to loss of foster parent certification.

SECTION 6. AMENDATORY Section 2, Chapter 123, O.S.L. 2022, as amended by Section 1 of Enrolled House Bill No. 3317 of the 2nd Session of the 59th Oklahoma Legislature, is amended to read as follows:

Section 10-115. A. In coordination with the District Attorneys Council, each district attorney may develop a multidisciplinary team for the investigation and prosecution of crimes committed against the elderly or vulnerable adults in each county of the district attorney or in a contiguous group of counties. The lead agency for the team shall be chosen by the members of the team. The team shall intervene in reports involving sexual abuse, abuse, neglect, or exploitation of an elderly person or vulnerable adult as defined in Section 10-103 of this title.

B. The multidisciplinary elderly and vulnerable adult abuse team members shall include, but not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;

2. Police officers or other law enforcement agents whose duties include, or who have experience or training in, ~~elder~~ elderly and vulnerable adult abuse and neglect investigation;

3. Medical personnel with experience in ~~elder~~ elderly and vulnerable adult abuse and neglect identification;

4. Adult Protective Services, ~~Office of Client Advocacy~~, and long-term care workers within the Department of Human Services;

5. Office of Client Advocacy workers within the State Department of Health;

6. Multidisciplinary ~~elder~~ elderly and vulnerable adult abuse team coordinators; and

~~6.~~ 7. The district attorney or assistant district attorney.

C. 1. Subject to the availability of funds and resources, the functions of the team shall include, but not be limited to:

- a. whenever feasible, joint investigations by law enforcement and Adult Protective Services, Office of Client Advocacy, or long-term care staff to effectively respond to reports of abuse against elderly or vulnerable adult victims,
- b. the development of a written protocol for investigation of sexual abuse, abuse, neglect, or exploitation cases of elderly or vulnerable adults and for the interview of victims to ensure coordination and cooperation between all agencies involved. Such protocol shall include confidentiality statements and interagency agreements signed by member agencies that specify the cooperative effort of the member agencies to the team,
- c. communication and collaboration among the professionals responsible for the reporting,

investigation, prosecution, and treatment of elderly and vulnerable adult abuse and neglect cases,

- d. elimination of duplicative efforts in the investigation and the prosecution of abuse and neglect cases committed against elderly or vulnerable adult victims,
- e. identification of gaps in service or untapped resources within the community to improve the delivery of services to the victim and family,
- f. development of expertise through training. Each team member and those conducting investigations and interviews of ~~elder~~ elderly or vulnerable adult abuse victims shall be trained in the multidisciplinary team approach, conduction of legally sound developmentally and age-appropriate interviews, effective investigation techniques and joint investigations as provided through the State Department of Health, the District Attorneys Council, the Department of Human Services, or other resources. At least one team member or those conducting investigations and interviews of elder or vulnerable adult abuse victims shall complete dementia-specific training on Alzheimer's disease and related dementia that includes one or more of the following:
  - (1) communication skills,
  - (2) problem-solving with challenging behaviors, or
  - (3) explanation of Alzheimer's disease and other dementia,
- g. formalization of a case review process and provision of data as requested, and
- h. standardization of investigative procedures for the handling of elderly and vulnerable adult abuse and neglect cases.

2. Any investigation or interview related to sexual abuse, abuse, or neglect of elderly or vulnerable adults shall be conducted by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely manner and if a law enforcement officer or the Department of Human Services determines that there is reasonable cause to believe a delay in investigation or interview of a victim could place the victim's health or welfare in danger of harm or threatened harm, the investigation may proceed without full participation of all personnel, but only for as long as the danger to the victim exists. The Department of Human Services shall make a reasonable effort to find and provide a trained investigator or interviewer.

D. A multidisciplinary ~~elder~~ elderly or vulnerable adult abuse team shall have full access to any service or treatment plan and any personal data known to the Department of Human Services that is directly related to the implementation of the requirements of this section.

E. Each member of the team shall protect the confidentiality of the elderly or vulnerable adult and any information made available to the team member. The multidisciplinary team and any information received by the team shall be exempt from the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-829, is amended to read as follows:

Section 1-829. A. Every residential care home for which a license has been issued shall be inspected by a duly appointed representative of the State Department of Health pursuant to rules promulgated by the State ~~Board~~ Commissioner of Health with the advice and counsel of the Long-Term Care Facility Advisory Board. Inspection reports shall be prepared on forms prescribed by the Department with the advice and counsel of the Advisory Board.

B. 1. The Department shall at least one time a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure rules.

2. An inspection, investigation, survey, or evaluation shall be either announced or unannounced. The ~~State Board of Health Commissioner~~ shall promulgate rules determining the criteria when an inspection, investigation, survey, or evaluation shall be unannounced or may be announced by the Department. Any licensee, applicant for a license, or operator of any unlicensed facility shall be deemed to have given consent to any duly authorized employee, or agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection shall constitute grounds for the denial, nonrenewal, suspension, or revocation of a license as well as emergency transfer of all residents.

3. Any employee of the Department who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced residential care home inspection that is required pursuant to the provisions of the Residential Care Act shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

One person may be invited from a statewide organization of older adults or persons with disabilities by the Department to act as a citizen observer in any inspection.

C. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the home and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. The date a plan of correction was submitted and the date the plan was approved;



5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the complainant was notified of the results of the inspection or investigation.

D. The Department may require the residential care home to submit periodic reports. The Department shall have access to books, records, and other documents maintained by the home to the extent necessary to implement the provisions of the Residential Care Act and the rules promulgated by the ~~Board~~ Commissioner pursuant thereto.

E. The Department shall make at least one annual report on each home in the state. The report shall include all conditions and practices not in compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto within the last year and, if a violation is corrected, or is subject to an approved plan of correction. The Department shall send a copy of the report to any person upon receiving a written request. The Department may charge a reasonable fee to cover the cost of copying and mailing the report.

F. ~~A state or local ombudsman as that term is defined by the Special Unit on Aging within the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, representative of the Office of the State Long-Term Care Ombudsman or case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies is authorized to accompany and shall be notified by the Department of any inspection conducted of any home licensed pursuant to the provisions of the Residential Care Act. Any state or local ombudsman~~ The State Long-Term Care Ombudsman or a representative of the Office is authorized to enter any home licensed pursuant to the provisions of the Residential Care Act, communicate privately and without unreasonable restriction with any resident of a home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a home, and to observe all areas of a home that directly pertain to the care of a resident of a home.

G. Following any inspection by the Department, pursuant to the provisions of this section, all reports relating to the inspection shall be filed in the county office of the Department of Human Services in which the home is located and with the Department of Mental Health and Substance Abuse Services.

SECTION 8. AMENDATORY 63 O.S. 2021, Section 1-1902, is amended to read as follows:

Section 1-1902. As used in the Nursing Home Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, impairment, or mental anguish;

2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. ~~The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended,~~ A representative of the Office of the State Long-Term Care Ombudsman and a case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;

3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility. An administrator must devote at least one-third (1/3) of such person's working time to on-the-job supervision of the facility; provided, that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one such ICF/IID-16 facility, if such facilities are located within a circle that has a radius of not more

than fifteen (15) miles, the total number of facilities and beds does not exceed six facilities and sixty-four beds, and each such ICF/IID-16 facility is supervised by a qualified professional. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 facility may be independently owned and operated or may be part of a larger institutional operation;

4. "Advisory Board" means the Long-Term Care Facility Advisory Board;

5. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer adults with intellectual or developmental disabilities;

6. "Board" means the State Board of Health;

7. "Commissioner" means the State Commissioner of Health;

8. "Department" means the State Department of Health;

9. "Facility" means a nursing facility and a specialized home; provided, this term shall not include a residential care home or an adult companion home;

10. "Nursing facility" means a home, an establishment, or an institution, a distinct part of which is primarily engaged in providing:

- a. skilled nursing care and related services for residents who require medical or nursing care,
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which

can be made available to them only through a nursing facility.

~~"Nursing facility"~~ Nursing facility does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

11. "Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for individuals with intellectual or developmental disabilities, but does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any resident requiring supportive assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term ~~"residential care home"~~ residential care home shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

13. "Licensee" means the person, a corporation, partnership, or association who is the owner of the facility which is licensed by the Department pursuant to the provisions of the Nursing Home Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

15. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility. Notwithstanding the foregoing, any nonstate governmental entity that has acquired and owns or leases a facility and that has entered into an agreement with the Oklahoma Health Care Authority to participate in the nursing facility supplemental payment program (~~"UPL Owner"~~) (UPL Owner) shall be deemed the owner of such facility and shall be authorized to obtain management services from a management services provider (~~"UPL Manager"~~) (UPL Manager), and to delegate, allocate, and assign as between the UPL Owner and UPL Manager, compensation, profits, losses, liabilities, decision-making authority, and responsibilities, including responsibility for the employment, direction, supervision, and control of the facility's administrator and staff;

17. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his or her person, whether or not a guardian has been appointed for such person;

18. "Resident" means a person residing in a facility due to illness, physical or mental infirmity, or advanced age;

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the

resident; provided, that any owner, operator, administrator, or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Care Act, or the Group Homes for ~~the Developmentally Disabled or Physically Handicapped~~ Persons with Developmental or Physical Disabilities Act shall not be appointed guardian or limited guardian of a resident of the facility unless the owner, operator, administrator, or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

SECTION 9. AMENDATORY 63 O.S. 2021, Section 1-1911, is amended to read as follows:

Section 1-1911. A. 1. Every building, institution, or establishment for which a license has been issued, including any facility operated by the Oklahoma Department of Veterans Affairs, shall be periodically inspected by a duly appointed representative of the State Department of Health, pursuant to rules promulgated by the State ~~Board~~ Commissioner of Health with the advice and counsel of the Long-Term Care Facility Advisory Board, created in Section 1-1923 of this title.

2. Inspection reports shall be prepared on forms prescribed by the Commissioner with the advice and counsel of the Advisory Board.

B. 1. The Department, whenever it deems necessary, shall inspect, survey, and evaluate every facility, including any facility operated by the Oklahoma Department of Veterans Affairs, to determine compliance with applicable licensure and certification requirements and standards. All inspections of facilities shall be unannounced. The Department may have as many unannounced inspections as it deems necessary.

2. The Department shall conduct at least one unannounced inspection per calendar year of all nursing facilities operated by the Oklahoma Department of Veterans Affairs.

3. Any employee of the State Department of Health who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced nursing home inspection required pursuant to the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

4. a. The Department may periodically visit a facility for the purpose of consultation and may notify the facility in advance of such a visit. An inspection, survey, or evaluation, other than an inspection of financial records or a consultation visit, shall be conducted without prior notice to the facility.
- b. One person shall be invited by the Department ~~from a statewide organization of the elderly to act as a citizen observer in unannounced inspections. The individual may be a state or local ombudsman as defined by the Aging Services Division of the Department of Human Services, acting pursuant to the provisions of the Older Americans Act of 1965, Public Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as amended~~ a representative of a statewide organization of the elderly or a representative of the Office of the State Long-Term Care Ombudsman.
- c. The citizen observer shall be reimbursed for expenses in accordance with the provisions of the State Travel Reimbursement Act.
- d. An employee of a state or unit of a local government agency, charged with inspecting, surveying, and evaluating facilities, who aids, abets, assists, conceals, or conspires with a facility administrator or employee in violation of the provisions of the Nursing Home Care Act shall be guilty, upon conviction

thereof, of a misdemeanor and shall be subject to dismissal from employment.

C. The Department shall hold open meetings, as part of its routine licensure survey, in each of the licensed facilities to advise and to facilitate communication and cooperation between facility personnel and the residents of facilities in their mutual efforts to improve patient care. Administrators, employees of the facility, residents, residents' relatives, friends, residents' representatives, and employees from appropriate state and federal agencies shall be encouraged to attend these meetings to contribute to this process.

D. 1. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the facility to the extent necessary to implement the provisions of the Nursing Home Care Act and the rules promulgated pursuant thereto.

2. Any holder of a license or applicant for a license shall be deemed to have given consent to any authorized officer, employee, or agent of the Department to enter and inspect the facility in accordance with the provisions of the Nursing Home Care Act. Refusal to permit ~~said~~ such entry or inspection, except for good cause, shall constitute grounds for remedial action or administrative penalty or both such action and penalty as provided in the Nursing Home Care Act.

E. The Department shall maintain a file on each facility in the state. All conditions and practices not in compliance with applicable standards shall be specifically stated. If a violation is corrected or is subject to an approved plan of correction, such action shall be contained in the file. Upon receiving a written request for a copy of the file documents, the Department shall send a copy of the document to any person making the written request. The Department may charge a reasonable fee for copying costs.

SECTION 10. AMENDATORY 63 O.S. 2021, Section 1-1941, is amended to read as follows:

Section 1-1941. All state agencies receiving complaints on, or conducting surveys or inspections of, nursing home facilities shall forward complete copies of complaints or of inspection or survey



results to the ~~Ombudsman Program of the Special Unit on Aging Office~~ Office of the State Long-Term Care Ombudsman.

SECTION 11. AMENDATORY 63 O.S. 2021, Section 1-1945, is amended to read as follows:

Section 1-1945. For purposes of the Long-term Care Security Act:

1. "Long-term care facility" means:

- a. a nursing facility, or specialized facility, ~~or residential care home~~ as defined by Section 1-1902 of this title,
- b. an adult day care center as defined by Section 1-872 of this title,
- c. skilled nursing care provided in a distinct part of a hospital as defined by Section 1-701 of this title,
- d. an assisted living center as defined by Section 1-890.2 of this title,
- e. the nursing care component of a continuum of care facility as defined under the Continuum of Care and Assisted Living Act,
- f. the nursing care component of a life care community as defined by the Long-term Care Insurance Act, or
- g. a residential care home as defined by Section 1-820 of this title;

2. "Ombudsman" means the individual employed by the ~~Department of Human Services~~ Office of the Attorney General as the State Long-Term Care Ombudsman;

3. "Nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center, or an

adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the ~~Oklahoma~~ State Plan Personal Care Program of the state Medicaid program;

4. "Employer" means any of the following facilities, homes, agencies, or programs which are subject to the provisions of Section 1-1947 of this title:

- a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,
- b. a residential care home as such term is defined by the Residential Care Act,
- c. an adult day care center as such term is defined in the Adult Day Care Act,
- d. an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act,
- e. a continuum of care facility as such term is defined by the Continuum of Care and Assisted Living Act,
- f. a home health or home care agency,
- g. the Department of Human Services, in its capacity as an operator of any hospital or health care institution or as a contractor with providers under the ~~Oklahoma~~ State Plan Personal Care Program of the state Medicaid program,
- h. a hospice agency as such term is defined in the Oklahoma Hospice Licensing Act,
- i. a Medicaid home- and community-based services waived provider as defined in Section 1915(c) or 1915(i) of the ~~Federal~~ federal Social Security Act,

- j. a staffing agency with a contracted relationship to provide staff with direct patient access to service recipients of one or more of the other employers listed in this paragraph, and
- k. an independent contractor where the independent contractor has a contracted relationship to provide staff or services with direct patient access to service recipients for one or more of the employers listed in this paragraph;

5. "Home health or home care agency" means any person, partnership, association, corporation, or other organization which administers, offers, or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency;

6. "Bureau" means the Oklahoma State Bureau of Investigation;

7. "FBI" means the Federal Bureau of Investigation;

8. "Applicant" means an individual who applies for employment with an employer, applies to work as an independent contractor to an employer, applies to provide services to service recipients through the granting of clinical privileges by an employer, or applies to a nurse aide scholarship program;

9. "Direct patient access" means access to a service recipient of an employer, through employment, independent contract, or the granting of clinical privileges, in which the performance of duties involves, or may involve one-on-one contact with a service recipient of the employer on an ongoing basis. The term shall include access to a service recipient's property, medical information, or financial information. The term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve one-on-one contact with a service recipient of an employer, without line-of-sight supervision by employer staff;

10. "Independent contract" means a contract entered into by an employer with an individual who provides the contracted services independently or a contract entered into by an employer with an organization or agency that employs or contracts with an individual after complying with the requirements of this section to provide the contracted services to the employer on behalf of the organization or agency;

11. "Medicare" means benefits under the Federal Medicare Program established under Title XVIII of the Social Security Act, Title 42 of the United States Code, Sections 1395 to 1395hhh;

12. "Registry screening" means a review of those registries identified in subsection D of Section 1-1947 of this title;

13. "Department" means the State Department of Health;

14. "Nurse aide scholarship program" means a nurse aide training program operated under contract with the Oklahoma Health Care Authority for the purpose of providing free training to prospective nurse aides in exchange for employment in a SoonerCare contracted facility; and

15. "Service recipient" means a patient, resident, participant, consumer, client, or member receiving services from an employer.

SECTION 12. AMENDATORY 63 O.S. 2021, Section 330.58, as amended by Section 6, Chapter 271, O.S.L. 2023, and as renumbered by Section 14, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-1949.4), is amended to read as follows:

Section 1-1949.4. The State Department of Health or, as appropriate, the State Commissioner of Health shall:

1. Develop and apply standards for approval of training and education programs for long-term care administrators that meet the accreditation standards of the National Association of Long Term Care Administrator Boards and approve or offer training and education programs, or both, as described in subsection F of ~~Section 330.53~~ Section 1-1949.3 of this title;

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

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

4. Issue licenses or certifications to individuals determined, after the application of such techniques, to meet such standards. The Department may deny an initial application, deny a renewal application, and revoke or suspend licenses or certifications previously issued by the Department in any case where the individual holding any such license or certification is determined substantially to have failed to conform to the requirements of such standards. The Department may also warn, censure, impose administrative fines, or use other remedies that may be considered to be less than revocation and suspension. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars (\$1,000.00) per violation. The Department shall consider the scope, severity, and repetition of the violation and any additional factors deemed appropriate by the Department when issuing a fine. The Department may utilize one or more administrative law judges to conduct administrative proceedings;

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

6. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Department to the effect that any individual licensed as a long-term care administrator has failed to comply with the requirements of such standards. ~~The long-term care ombudsman program of the Aging Services Division of the Department of Human Services~~ Office of the State Long-Term Care Ombudsman shall be notified of all complaint investigations of the Department so that they may be present at any

such complaint investigation for the purpose of representing long-term care facility consumers;

7. Receive and take appropriate action on any complaint or referral received by the Department from the Department of Human Services or any other regulatory agency. A complaint shall not be published on the website of the Department unless there is a finding by the Department that the complaint has merit. The Commissioner shall promulgate rules that include, but are not limited to, provisions for:

- a. establishing a complaint review process,
- b. creating a formal complaint file,
- c. establishing a protocol for investigation of complaints, and
- d. establishing an independent informal dispute resolution process in accordance with Section ~~9~~ 1-1949.7 of this ~~act~~ title;

8. Enforce the provisions of ~~this act~~ the Long-Term Care Administrator Licensing Act against all persons who are in violation thereof including, but not limited to, individuals who are practicing or attempting to practice as long-term care administrators without proper authorization from the Department;

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

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

11. Develop a code of ethics for long-term care administrators which includes, but is not limited to, a statement that administrators have a fiduciary duty to the facility and cannot

serve as guardian of the person or of the estate, or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator;

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

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

14. Impose administrative fines, in an amount to be determined by the Commissioner, against persons who do not comply with the provisions of ~~this act~~ the Long-Term Care Administrator Licensing Act or the rules adopted by the Commissioner. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars (\$1,000.00) per violation. The Department shall consider the scope, severity, and repetition of the violation and any additional factors deemed appropriate by the Department when issuing a fine;

15. Assess the costs of the hearing process, including attorney fees;

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

17. Promulgate rules governing the employment of assistant administrators including, but not limited to, minimum qualifications; and

18. Employ such staff as may be necessary to carry out the duties of ~~this act~~ the Long-Term Care Administrator Licensing Act.

SECTION 13. AMENDATORY 63 O.S. 2021, Section 1-1950.4, is amended to read as follows:

Section 1-1950.4. A. 1. The State Department of Health, in conjunction with the Office of the State Long-term Care Ombudsman of

the Department ~~of Human Services~~, shall develop a uniform employment application to be used in the hiring of nurse aide staff by a nursing facility or a specialized facility as such terms are defined in the Nursing Home Care Act, a residential care home, as such term is defined by the Residential Care Act, an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act, a continuum of care facility as defined by the Continuum of Care and Assisted Living Act, a hospice inpatient facility or program providing hospice services as such terms are defined by the Oklahoma Hospice Licensing Act, an adult day care center as such term is defined by the Adult Day Care Act, and a home care agency as defined by the Home Care Act. Such uniform application shall be used as the only application for employment of nurse aides in such facilities on and after January 1, 2001.

2. Nothing in this section shall prohibit the State Department of Health or any other state agency from requiring applicants for any position in the classified service to be certified by the state using the State of Oklahoma ~~Employment Application~~ employment application.

B. The uniform employment application shall be designed to gather all pertinent information for entry into the nurse aide registry maintained by the State Department of Health. The uniform application shall also contain:

1. A signature from the applicant to confirm or deny any previous felony conviction;

2. A release statement for the applicant to sign giving the State Department of Health and the Oklahoma State Bureau of Investigation the authority to proceed with the state or national criminal history record checks; and

3. Such other information deemed necessary by the Department.

C. The Department shall provide implementation training on the use of the uniform employment application.

SECTION 14. AMENDATORY 63 O.S. 2021, Section 1-2212, is amended to read as follows:



Section 1-2212. As used in the Long-Term Care Ombudsman Act:

1. "Office" means the Office of the State Long-Term Care Ombudsman. For purposes of the Long-Term Care Ombudsman Act, any area or local ombudsman entity designated by the State Long-Term Care Ombudsman shall be deemed to be a subdivision of this Office;

2. "State Long-Term Care Ombudsman" means the individual employed by the ~~Department of Human Services~~ Office of the Attorney General to be the ~~chief administrative officer~~ head of the Office;

~~3. "Department" means the Department of Human Services;~~

~~4.~~ 3. "Representative" means the State Long-Term Care Ombudsman, and any state, area, or local long-term care ombudsman designated by the State Long-Term Care Ombudsman, whether paid or unpaid; and

~~5.~~ 4. "Resident" means any person residing in a long-term care facility.

SECTION 15. AMENDATORY 63 O.S. 2021, Section 1-2213, is amended to read as follows:

Section 1-2213. A. There is hereby created within the ~~Department of Human Services~~ Office of the Attorney General the Office of the State Long-Term Care Ombudsman. The Office, under the auspices and general direction of the State Long-Term Care Ombudsman, shall carry out a long-term care ombudsman program in accordance with the Older Americans Act of 1965, as amended, and in accordance with federal regulations issued pursuant to the Older Americans Act or as provided by the Long-Term Care Ombudsman Act.

B. The State Long-Term Care Ombudsman shall, personally or through representatives of the Office:

1. Identify, investigate, and resolve complaints that:

a. are made by, or on behalf of, residents, and

b. relate to action, inaction, or decisions, of:

- (1) providers, or representatives of providers, of long-term care services,
- (2) public agencies, or
- (3) health and social service agencies,

that may adversely affect the health, safety, welfare, or rights of the residents;

2. Provide services to assist the residents in protecting their health, safety, welfare, and rights;

3. Inform residents about means of obtaining services offered by providers or agencies;

4. Ensure that the residents have regular and timely access to the services provided through the Office;

5. Ensure that the residents and complainant receive timely responses from the Office and representatives of the Office regarding complaints;

6. Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

7. Provide administrative and technical assistance to area or local ombudsman entities to assist the entities in participating in the State Long-Term Care Ombudsman Program;

8. a. analyze, comment on, and monitor the development and implementation of federal, state, and local laws, rules, and other government policies and actions that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in this state,
- b. recommend any changes in such laws, rules, policies, and actions as the Office determines to be appropriate, and

- c. facilitate public comment on the laws, rules, policies, and actions;
- 9. a. provide for training representatives of the Office,
  - b. promote the development of citizen organizations, to participate in the State Long-Term Care Ombudsman Program, and
  - c. provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

10. Carry out such other activities as the ~~Commission for Human Services~~ Attorney General determines to be appropriate.

C. 1. In carrying out the duties of the Office, the State Long-Term Care Ombudsman may designate an entity as an area or local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

2. An individual so designated shall, in accordance with the policies and procedures established by the Office and ~~Commission for Human Services~~ the Attorney General, carry out such duties and activities as required by the State Long-Term Care Ombudsman pursuant to the authority granted by the Long-Term Care Ombudsman Act and rules promulgated by the ~~Commission~~ Attorney General thereto.

3. Entities eligible to be designated as area or local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall:

- a. have demonstrated capability to carry out the responsibilities of the Office,
- b. be free of conflicts of interest,
- c. in the case of the entities, be public or nonprofit private entities, and

- d. meet such additional requirements as the Ombudsman may specify.

D. 1. In accordance with the Older Americans Act of 1965, as amended, and in accordance with federal regulations issued pursuant thereto, or as otherwise provided by the Long-Term Care Ombudsman Act, the State Long-Term Care Ombudsman and representatives of the Office shall have:

- a. access to long-term care facilities and residents,
- b. (1) access to review the medical and social records of a resident, if:
  - (a) the representative of the Office has the permission of the resident, or the legal representative of the resident, or
  - (b) the resident is unable to consent to the review and has no legal representative and the representative of the Office obtains the approval of the State Long-Term Care Ombudsman, or
- (2) access to the records as is necessary to investigate a complaint if:
  - (a) a legal guardian of the resident refuses to give the permission,
  - (b) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident, and
  - (c) the representative obtains the approval of the State Long-Term Care Ombudsman,
- c. access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities, and

- d. access to copies of all licensing and certification records maintained by the ~~Department~~ Office of the Attorney General or any other agency of this state with respect to long-term care facilities.

2. For purposes of this subsection, the term "~~Representative of the Office~~" "representative of the Office" shall not include any unpaid or volunteer state, area, or local ombudsman.

SECTION 16. AMENDATORY 63 O.S. 2021, Section 1-2214, is amended to read as follows:

Section 1-2214. A. For purposes of ~~the~~ The Governmental Tort Claims Act, any state, area, or local long-term care ombudsman shall be deemed to be an employee of this state and as such shall not be personally liable for any act or omission made within the "scope of employment", as such term is defined by ~~the~~ The Governmental Tort Claims Act.

B. 1. The ~~Department of Human Services~~ Office of the Attorney General shall assure that adequate legal counsel is available to the Office of the State Long-Term Care Ombudsman for the advice and consultation needed to protect the health, safety, welfare, and rights of residents, and that legal representation is provided to any representative of the Office:

- a. against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment, or
- b. to assist the ombudsman and representatives of the Office in the performance of their official duties.

2. The provisions of this section shall not be construed to require or authorize any legal counsel provided by the ~~Department of Human Services~~ Office of the Attorney General to represent any resident of a nursing facility in an individual capacity.

SECTION 17. AMENDATORY 63 O.S. 2021, Section 1-2216, is amended to read as follows:

Section 1-2216. A. The ~~Commission for Human Services~~ Attorney General shall promulgate rules regarding:

1. The powers and official duties of the State Long-Term Care Ombudsman consistent with applicable federal law and rules or as provided by the Long-Term Care Ombudsman Act;

2. Minimum qualifications for persons to serve as representatives of the Office of the State Long-Term Care Ombudsman;

3. Initial and continuing training requirements for ombudsman staff and volunteers which shall provide for a minimum of eighteen (18) hours of continuing education relevant to the care of the aging and disabled;

4. The minimum number of visits that must be made by an ombudsman to the assigned facilities;

5. The proper documentation and reporting of visits made to facilities by the ombudsman;

6. Procedures to ensure that officers, employees, or other representatives of the Office are not subject to a conflict of interest which would impair their ability to carry out their official duties in an impartial manner; and

7. The disclosure by the State Long-Term Care Ombudsman or area or local Ombudsman entities of files maintained by the State Long-Term Care Ombudsman Program. Such rules shall:

a. provide that such files and records may be disclosed only at the discretion of the State Long-Term Care Ombudsman or the person designated by the State Long-Term Care Ombudsman to disclose the files and records, and

b. prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless:

(1) the complainant or resident, or the legal representative of the complainant or resident,

consents to the disclosure and the consent is given in writing,

- (2) (a) the complainant or resident gives consent orally, and
  - (b) the consent is documented contemporaneously in a writing made by a State Long-Term Care Ombudsman representative of the Office in accordance with such rules as the ~~Commission~~ Attorney General shall promulgate, or
- (3) the disclosure is required by court order.

B. The Oklahoma State Council on Aging and Adult Protective Services, established by the ~~Commission for Human Services~~ Attorney General to review, monitor, and evaluate programs targeted to older persons, shall serve in an advisory capacity to the State Long-Term Care Ombudsman through establishment of a committee with equal provider and consumer representation.

SECTION 18. This act shall become effective November 1, 2024.

Passed the Senate the 20th day of May, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_