

SENATE CHAMBER  
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 1

\_\_\_\_\_

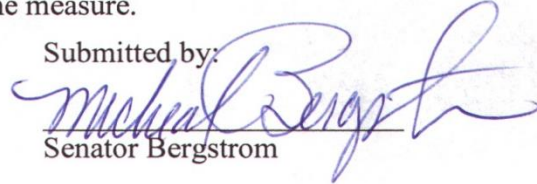
COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

I move to amend House Bill No. 2824 by substituting the attached floor substitute (Request #2154) for the title, enacting clause and entire body of the measure.

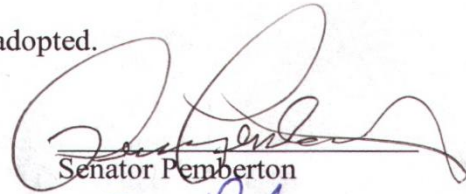
Submitted by:

  
Senator Bergstrom

I hereby grant permission for the floor substitute to be adopted.




Senator Rosino, Chair (required)

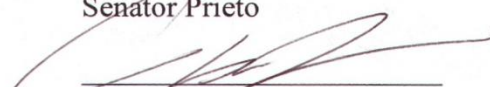


Senator Pemberton

  
Senator Prieto

Senator Haste

  
Senator Daniels

  
Senator Pugh

  
Senator Hall

Senator Standridge

Senator Hicks

  
Senator Stanley

Senator Montgomery

Senator Young

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Health and Human Services committee majority requires seven (7) members' signatures.

Bergstrom-DC-FS-HB2824  
4/25/2023 4:04 PM

(Floor Amendments Only)

Date and Time Filed: 4-25-23

4:37pm AH

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

6  
7  
8  
9 FLOOR SUBSTITUTE

10 [ long-term care - Long Term Care Administrator  
11 Licensing Act - transfer of employees, powers,  
12 duties, monies, and contractual rights - State  
13 Department of Health - State Commissioner of Health -  
14 termination date - licensure - rules - provisions -  
15 qualifications - fees - unlicensed activity -  
16 Revolving Fund - complaints - notice - appeals -  
17 summary suspension - confidentiality - information -  
18 disclosures - independent informal dispute resolution  
19 process - third-party vendor - panel - participants -  
20 evidence - statement - findings - rules - Oklahoma  
21 Open Records Act - repealer - codification -  
22 recodification - conditional effective clause -  
23 emergency ]

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1-1949.1 of Title 63, unless  
there is created a duplication in numbering, reads as follows:

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

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

4 A. On November 1, 2023, all employees, powers, duties,  
5 functions, and responsibilities of the Oklahoma State Board of  
6 Examiners for Long-Term Care Administrators shall be transferred to  
7 the State Department of Health. The transfer shall include all  
8 equipment, supplies, records, assets, current and future  
9 liabilities, fund balances, encumbrances, obligations, and  
10 indebtedness associated with the Oklahoma State Board of Examiners  
11 for Long-Term Care Administrators.

12 B. Any monies accruing to or in the name of the Oklahoma State  
13 Board of Examiners for Long-Term Care Administrators on and after  
14 November 1, 2023, or any monies that accrue in any funds or accounts  
15 or are maintained for the benefit of the Oklahoma State Board of  
16 Examiners for Long-Term Care Administrators on and after November 1,  
17 2023, shall be transferred to the State Department of Health.

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

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

1 E. On November 1, 2023, all administrative rules promulgated by  
2 the Oklahoma State Board of Examiners for Long-Term Care  
3 Administrators shall be transferred to and become a part of the  
4 administrative rules of the State Department of Health. The Office  
5 of Administrative Rules in the Secretary of State's office shall  
6 provide adequate notice in the Oklahoma Register of the transfer of  
7 such rules and shall place the transferred rules under the Oklahoma  
8 Administrative Code title of the State Department of Health. Such  
9 rules shall continue in force and effect as rules of the State  
10 Department of Health from and after November 1, 2023, and any  
11 amendment, repeal, or addition to the transferred rules shall be  
12 under the jurisdiction of the State Commissioner of Health.

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

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

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

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

22 2. ~~"Long-term care administrator" means a person licensed or~~  
23 ~~certified as a nursing facility administrator, an assisted living~~  
24 ~~facility administrator, a residential care facility administrator,~~

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

17 ~~3. "Nursing facility administrator"~~

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

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

24

1        3. "Tier 2 long-term care administrator" means a person  
2 licensed or certified by ~~the State of Oklahoma~~ this state to perform  
3 the duties of an administrator serving in an assisted living  
4 facility, residential care facility, adult day care center, or  
5 intermediate care facility for individuals with intellectual  
6 disabilities with sixteen or fewer beds (ICF/IID-16);

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

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

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

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

1 Section 330.52 A. There is hereby re-created, ~~to continue~~  
2 ~~until July 1, 2022, in accordance with the provisions of the~~  
3 ~~Oklahoma Sunset Law,~~ the Oklahoma State Board of Examiners for Long-  
4 Term Care Administrators, to continue until the conditions of  
5 Section 2 of this act have been met. Upon satisfaction of such  
6 conditions, the Oklahoma State Board of Examiners for Long-Term Care  
7 Administrators shall be abolished.

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

1 Director of the Department of Human Services, and the Director of  
2 the Department of Mental Health and Substance Abuse Services, or  
3 their designees.

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

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

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

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

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



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

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

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

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

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

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

17            b. of reputable and responsible character; and

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

23        C. The Commissioner shall have the authority to determine the  
24 qualifications, skill, and fitness of any person to serve as a long-

1 term care administrator under the applicable provisions of the  
2 Nursing Home Care Act, the Continuum of Care and Assisted Living  
3 Act, the Residential Care Act, and the Adult Day Care Act. The  
4 Commissioner shall promulgate rules to determine the qualifications  
5 for licensure or certification as a Tier 1 or Tier 2 long-term care  
6 administrator. Such rules may, at the discretion of the  
7 Commissioner, include a requirement for licensure instead of  
8 certification for either or both of the tiers of long-term care  
9 administrators.

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

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

1        3. The Board Commissioner shall not include a requirement for a  
2 four-year degree in any future licensing or certification  
3 requirements for assisted living, residential care or adult day care  
4 administrators. Until such rules are promulgated, current licensure  
5 and certification processes and standards shall remain in place Tier  
6 2 long-term care administrators.

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

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

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

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

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

4 F. The State Department of Health shall either:

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

7 Each such organization or agency shall meet such requirements as may  
8 be prescribed by rules promulgated by the State Commissioner of  
9 Health;

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

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

17 G. 1. Each person licensed or certified as a long-term care  
18 administrator under the provisions of this act shall pay an annual  
19 license or certification fee which shall be deposited in the Long-  
20 Term Care Administrator Revolving Fund described in Section 7 of  
21 this act. Such fee shall be determined by the Commissioner. Each  
22 such license or certification shall expire on the thirty-first day  
23 of December following its issuance, and shall be renewable for a  
24

1 calendar year, upon meeting the renewal requirements and upon  
2 payment of the annual licensure or certification fee.

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

6 3. All revenues collected as a result of fees authorized in  
7 this section and imposed by the Commissioner shall be deposited into  
8 the Long-Term Care Administrator Revolving Fund described in Section  
9 7 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

12 I. The informal dispute resolution process is limited to  
13 violations alleged by the Department in the complaint. If the  
14 impartial decision-making panel finds that matters not subject to  
15 the informal dispute resolution are presented, the impartial  
16 decision-making panel shall strike all documentary evidence related  
17 to or presented for the purpose of disputing the matter not subject  
18 to the informal dispute resolution. The impartial decision-making  
19 panel may not include in the statement of findings described in  
20 subsection J of this section any matter not subject to the informal  
21 dispute resolution.

22 J. Upon the conclusion of all arguments by the parties at the  
23 informal dispute resolution, the impartial decision-making panel  
24

1 shall issue a written statement of findings, which shall be provided  
2 to all parties and which shall include:

3 1. A summary of any alleged violations;

4 2. A statement of whether the impartial decision-making panel  
5 agrees that the alleged violation or violations occurred;

6 3. The facts and persuasive arguments that support the finding  
7 of the impartial decision-making panel for each alleged violation;

8 and

9 4. A recommendation on appropriate disciplinary action against  
10 the administrator, if any.

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

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

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

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

24

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

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

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

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

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

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

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

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

15 h. except as provided for in Section 2-110 of Title 47 of  
16 the Oklahoma Statutes<sup>7</sup>:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24



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

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

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

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

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