

1 **SENATE FLOOR VERSION**

2 April 13, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

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8
9 [long-term care - Long Term Care Administrator
10 Licensing Act - transfer of employees, powers,
11 duties, monies, and contractual rights - State
12 Department of Health - State Commissioner of Health -
13 termination date - licensure - rules - provisions -
14 qualifications - fees - unlicensed activity -
15 Revolving Fund - complaints - notice - appeals -
summary suspension - confidentiality - information -
disclosures - independent informal dispute resolution
process - third-party vendor - panel - participants -
evidence - statement - findings - rules - Oklahoma
Open Records Act - repealer - codification -
recodification - effective dates -
emergency]

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

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

22 This act shall be known and may be cited as the "Long-Term Care
23 Administrator Licensing Act".
24

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

16 ~~3.~~ 2. "Nursing facility administrator" means a person licensed
17 by ~~the State of Oklahoma~~ this state to perform the duties of an
18 administrator serving in a skilled nursing or nursing or ICF/IID
19 facility;

20 ~~4.~~ 3. "Assisted living facility administrator" means a person
21 licensed or certified by ~~the State of Oklahoma~~ this state to perform
22 the duties of an administrator serving in an assisted living
23 facility;

24

1 ~~5.~~ 4. "Residential care facility 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 a residential care
4 facility;

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

9 ~~7.~~ 6. "Nursing home", "rest home" and "specialized home" shall
10 have the same meaning as the term "nursing facility" as such term is
11 defined in the Nursing Home Care Act; "assisted living center" and
12 "continuum of care facility" shall have the same meaning as such
13 terms are defined in the Continuum of Care and Assisted Living Act;
14 "home" and "residential care home" shall have the same meaning as
15 the terms are used in the Residential Care Act; and "adult day care
16 center" and "center" shall have the same meaning as such terms are
17 used in the Adult Day Care Act.

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

20 Section 330.52 A. There is hereby re-created, to continue
21 until ~~July 1, 2022, in accordance with the provisions of the~~
22 ~~Oklahoma Sunset Law~~ November 1, 2023, the Oklahoma State Board of
23 Examiners for Long-Term Care Administrators. The Oklahoma State
24 Board of Examiners for Long-Term Care Administrators shall be

1 abolished when the conditions of subsection F of Section 2 of this
2 act have been met.

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

23

24

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

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

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

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

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

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

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

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

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

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

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

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

19 C. The Commissioner shall have the authority to determine the
20 qualifications, skill, and fitness of any person to serve as a long-
21 term care administrator under the applicable provisions of the
22 Nursing Home Care Act, the Continuum of Care and Assisted Living
23 Act, the Residential Care Act, and the Adult Day Care Act. The
24 Commissioner shall promulgate rules to determine the qualifications

1 for licensure or certification for each of the long-term care
2 administrator types as defined in Section 330.51 of this title.
3 Such rules may, at the discretion of the Commissioner, include a
4 requirement for licensure instead of certification for one or more
5 long-term care administrator types.

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

16 2. To be eligible for licensure or certification as any type of
17 long-term care administrator, the applicant shall have successfully
18 completed a training and education program approved by the
19 Commissioner.

20 3. The ~~Board~~ Commissioner shall not include a requirement for a
21 four-year degree in any future licensing or certification
22 requirements for assisted living, residential care or adult day care
23 administrators. ~~Until such rules are promulgated, current licensure~~
24 ~~and certification processes and standards shall remain in place.~~

1 4. In addition to the requirement provided by paragraph 2 of
2 this subsection, to be eligible for licensure or certification as a
3 nursing facility administrator, the applicant shall:

4 a. hold a baccalaureate degree from an institution of
5 higher education,

6 b. hold an associate degree in a health- or business-
7 related field or other relevant field as determined by
8 the Commissioner,

9 c. have not less than five (5) years of experience in
10 upper-level management of a long-term care facility as
11 determined by the Commissioner,

12 d. be currently licensed as an assisted living facility
13 administrator or residential care facility
14 administrator and have not less than three (3) years
15 of experience acting in such capacity, or

16 e. have not less than five (5) years of experience
17 working in a long-term care setting.

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

21 E. Eligible applicants may sit for the state standards
22 examination at a testing facility using procedures approved by the
23 National Association of Long-Term Care Administrator Board, Boards

1 including, but not limited to, the use of electronic or online
2 methods for examination.

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

6 F. 1. Each person licensed or certified as a long-term care
7 administrator under the provisions of this act shall pay an annual
8 license or certification fee which shall be deposited in the Long-
9 Term Care Administrator Revolving Fund created in Section 330.62 of
10 this title. Such fee shall be determined by the Commissioner. Each
11 such license or certification shall expire on the thirty-first day
12 of December following its issuance, and shall be renewable for a
13 calendar year, upon meeting the renewal requirements and upon
14 payment of the annual licensure or certification fee.

15 2. In addition to licensure and certification fees, the
16 Commissioner may impose fees for training and education programs
17 approved by the Commissioner.

18 3. All revenues collected as a result of fees authorized in
19 this section and imposed by the Commissioner shall be deposited into
20 the Long-Term Care Administrator Revolving Fund created in Section
21 330.62 of this title.

22 G. It shall be unlawful for any person to act or serve in the
23 capacity of a long-term care administrator unless the person is the
24 holder of a license or certificate as a long-term care

1 administrator, issued in accordance with the provisions of this act.

2 A person found guilty of a violation of this subsection shall, upon
3 conviction, be guilty of a misdemeanor.

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

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

9 1. Develop and apply standards for approval of training and
10 education programs for long-term care administrators that meet the
11 accreditation standards of the National Association of Long-Term
12 Care Administrator Boards;

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

20 ~~2.~~ 3. Develop and apply appropriate techniques, including
21 examinations and investigations, for determining whether an
22 individual meets such standards;

23 ~~3.~~ 4. Issue licenses or certifications to individuals
24 determined, after the application of such techniques, to meet such

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

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

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

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

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

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

21 ~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65~~
22 ~~of this title~~ this act against all persons who are in violation
23 thereof including, but not limited to, individuals who are
24 practicing or attempting to practice as long-term care

1 administrators without proper authorization from the ~~Board~~
2 Department;

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

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

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

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

21 ~~12.~~ 13. Refer completed investigations to the proper law
22 enforcement authorities for prosecution of criminal activities;

23 ~~13.~~ 14. Impose administrative fines, in an amount to be
24 determined by the ~~Board~~ Commissioner, against persons who do not

1 comply with the provisions of this act or the rules adopted by the
2 ~~Board~~ Commissioner. Administrative fines imposed pursuant to this
3 section shall not exceed One Thousand Dollars (\$1,000.00) per
4 violation. The ~~Board~~ Department shall consider the scope, severity
5 and repetition of the violation and any additional factors deemed
6 appropriate by the ~~Board~~ Department when issuing a fine;

7 ~~14.~~ 15. Assess the costs of the hearing process, including
8 attorney fees;

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

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

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

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

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

23 D. Notwithstanding any other provision of this section, the
24 Department may order a summary suspension of an administrator's

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

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

1 purpose of defense in the proceedings of the Department and in any
2 appeal therefrom and agrees not to otherwise disclose the
3 information.

4 F. ~~Effective May 13, 2005, the Board~~ The Department shall
5 create and maintain a registry of all complaints or referrals, found
6 by the ~~Board~~ Department to have merit, complaining of acts or
7 omissions of licensed administrators. The registry shall be
8 maintained in both electronic and paper formats and shall be
9 available for inspection by the public. Such registry shall be
10 organized both in chronological order by the date of the complaint
11 and by the name of the licensed administrator. The registry shall
12 contain information about the nature of the complaint and the
13 action, if any, taken by the ~~Board~~ Department. The registry shall
14 also contain the number of complaints made against an individual
15 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 an administrator who the
20 Department has determined, upon investigation, has violated the
21 Long-Term Care Administrator Licensing Act an opportunity to
22 participate in an independent informal dispute resolution process of
23 the case in accordance with this section. The Department may
24

1 contract with a third-party vendor to provide the independent
2 informal dispute 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 five
2 (5) individuals who meet the following criteria:

3 1. Two 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 owner, operator, or director of nursing of an appropriate long-term
8 care facility, but shall not include any person with a direct
9 financial interest in any facility that employs or contracts with
10 the administrator who is the subject of the complaint;

11 2. One member shall be an employee of the Department who has no
12 current involvement in the long-term care facility survey process;

13 3. One member shall be a person representing the aging or
14 disabled community; and

15 4. One member shall be an impartial person who is not employed
16 by the State Department of Health.

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

21 E. The Department shall present initial arguments. The
22 administrator shall then present his or her arguments. The informal
23 dispute resolution shall be limited to no more than two (2) hours in
24 length, with each party being permitted one (1) hour to present its

1 arguments; however, the impartial decision-making panel may grant
2 each party additional equal time for good cause as determined by the
3 impartial decision making-panel.

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

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

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

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

14 H. Only employees of or health care providers contracted by the
15 facility where the administrator who is the subject of the complaint
16 is employed may appear or participate in the informal dispute
17 resolution on behalf of the administrator. Only employees of the
18 Department may appear or participate at the meeting for, or on
19 behalf of, the Department. The State Long-Term Care Ombudsman or
20 designee may appear at or participate in the meeting. No party may
21 be represented by an attorney.

22 I. The informal dispute resolution process is limited to
23 violations alleged by the Department in the complaint. If the
24 impartial decision-making panel finds that matters not subject to

1 the informal dispute resolution are presented, the impartial
2 decision-making panel shall strike all documentary evidence related
3 to or presented for the purpose of disputing the matter not subject
4 to the informal dispute resolution. The impartial decision-making
5 panel may not include in the statement of findings described in
6 subsection J of this section any matter not subject to the informal
7 dispute resolution.

8 J. Upon the conclusion of all arguments by the parties at the
9 informal dispute resolution, the impartial decision-making panel
10 shall issue a written statement of findings, which shall be provided
11 to all parties and which shall include:

12 1. A summary of any alleged violations;

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

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

18 4. A recommendation on appropriate disciplinary action against
19 the administrator, if any.

20 K. The Department shall review the findings of the impartial
21 decision-making panel and shall take such findings into
22 consideration when determining whether to pursue further
23 disciplinary action against the administrator.

24

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

4 The State Commissioner of Health shall promulgate rules to
5 implement the provisions of the Long-Term Care Administrator
6 Licensing Act.

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

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

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

20 Record does not mean:

- 21 a. computer software,
- 22 b. nongovernment personal effects,
- 23 c. unless public disclosure is required by other laws or
24 regulations, vehicle movement records of the Oklahoma

- 1 Transportation Authority obtained in connection with
2 the Authority's electronic toll collection system,
- 3 d. personal financial information, credit reports or
4 other financial data obtained by or submitted to a
5 public body for the purpose of evaluating credit
6 worthiness, obtaining a license, permit or for the
7 purpose of becoming qualified to contract with a
8 public body,
- 9 e. any digital audio/video recordings of the toll
10 collection and safeguarding activities of the Oklahoma
11 Transportation Authority,
- 12 f. any personal information provided by a guest at any
13 facility owned or operated by the Oklahoma Tourism and
14 Recreation Department to obtain any service at the
15 facility or by a purchaser of a product sold by or
16 through the Oklahoma Tourism and Recreation
17 Department,
- 18 g. a Department of Defense Form 214 (DD Form 214) filed
19 with a county clerk including any DD Form 214 filed
20 before July 1, 2002,
- 21 h. except as provided for in Section 2-110 of Title 47 of
22 the Oklahoma Statutes⁷:
- 23 (1) any record in connection with a Motor Vehicle
24 Report issued by the Department of Public Safety,

1 as prescribed in Section 6-117 of Title 47 of the
2 Oklahoma Statutes, or

3 (2) personal information within driver records, as
4 defined by the Driver's Privacy Protection Act,
5 18 United States Code, Sections 2721 through
6 2725, which are stored and maintained by the
7 Department of Public Safety, ~~or~~

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

20 j. an investigative file obtained during an investigation
21 conducted by the State Department of Health under this
22 act;

23 2. "Public body" shall include, but not be limited to, any
24 office, department, board, bureau, commission, agency, trusteeship,

1 authority, council, committee, trust or any entity created by a
2 trust, county, city, village, town, township, district, school
3 district, fair board, court, executive office, advisory group, task
4 force, study group or any subdivision thereof, supported in whole or
5 in part by public funds or entrusted with the expenditure of public
6 funds or administering or operating public property, and all
7 committees, or subcommittees thereof. Except for the records
8 required by Section 24A.4 of this title, ~~"public body"~~ public body
9 does not mean judges, justices, the Council on Judicial Complaints,
10 the Legislature or legislators. ~~"Public body"~~ Public body shall not
11 include an organization that is exempt from federal income tax under
12 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
13 and whose sole beneficiary is a college or university, or an
14 affiliated entity of the college or university, that is a member of
15 The Oklahoma State System of Higher Education. Such organization
16 shall not receive direct appropriations from the Oklahoma
17 Legislature. The following persons shall not be eligible to serve
18 as a voting member of the governing board of the organization:
19 a. a member, officer, or employee of the Oklahoma State
20 Regents for Higher Education,
21 b. a member of the board of regents or other governing
22 board of the college or university that is the sole
23 beneficiary of the organization, or
24

1 c. an officer or employee of the college or university
2 that is the sole beneficiary of the organization;

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

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

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

14 SECTION 12. RECODIFICATION 63 O.S. 2021, Section 330.51,
15 as amended by Section 3 of this act, shall be recodified as Section
16 1-1949.2 of Title 63 of the Oklahoma Statutes, unless there is
17 created a duplication in numbering.

18 SECTION 13. RECODIFICATION 63 O.S. 2021, Section 330.53,
19 as amended by Section 5 of this act, shall be recodified as Section
20 1-1949.3 of Title 63 of the Oklahoma Statutes, unless there is
21 created a duplication in numbering.

22 SECTION 14. RECODIFICATION 63 O.S. 2021, Section 330.58,
23 as amended by Section 6 of this act, shall be recodified as Section
24

1 1-1949.4 of Title 63 of the Oklahoma Statutes, unless there is
2 created a duplication in numbering.

3 SECTION 15. RECODIFICATION 63 O.S. 2021, Section 330.62,
4 as amended by Section 7 of this act, shall be recodified as Section
5 1-1949.5 of Title 63 of the Oklahoma Statutes, unless there is
6 created a duplication in numbering.

7 SECTION 16. RECODIFICATION 63 O.S. 2021, Section 330.64,
8 as amended by Section 8 of this act, shall be recodified as Section
9 1-1949.6 of Title 63 of the Oklahoma Statutes, unless there is
10 created a duplication in numbering.

11 SECTION 17. REPEALER 63 O.S. 2021, Sections 330.54,
12 330.56, 330.57, 330.59, 330.60, 330.61, and 330.65, are hereby
13 repealed.

14 SECTION 18. Sections 1, 2, and 4 of this act shall become
15 effective June 1, 2023.

16 SECTION 19. Sections 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,
17 16, and 17 of this act shall become effective November 1, 2023.

18 SECTION 20. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist for Sections 1, 2, and 4 of this act, by reason
21 whereof such sections shall take effect and be in full force from
22 and after its passage and approval.

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
24 April 13, 2023 - DO PASS AS AMENDED BY CS