An Act

ENROLLED HOUSE
BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

An Act relating to long-term care; creating the Long-Term Care Administrator Licensing Act; providing short title; directing transfer of employees, powers, duties, monies, and contractual rights from the Oklahoma State Board of Examiners for Long-Term Care Administrators to the State Department of Health; requiring the Director of the Office of Management and Enterprise Services to coordinate certain transfers; directing transfer of certain administrative rules from the Board to the State Commissioner of Health; abolishing the Board upon completion of transfers; amending 63 O.S. 2021, Section 330.51, which relates to definitions; removing, adding, and modifying certain definitions; amending 63 O.S. 2021, Section 330.52, which relates to the Oklahoma State Board of Examiners for Long-Term Care Administrators; modifying termination date; abolishing the Board when certain conditions are met; amending 63 O.S. 2021, Section 330.53, which relates to licensure of long-term care administrators; transferring duties to the Department and the Commissioner; modifying terminology; granting certain authority to the Commissioner; requiring promulgation of certain rules; modifying applicability of certain provisions; stipulating certain licensure and certification qualifications; imposing certain duties on the Department regarding training and education programs; requiring and authorizing certain fees; directing deposit of fees; providing for licensure by endorsement; prohibiting certain unlicensed activity; amending 63 O.S. 2021, Section 330.58, which relates to duties; transferring duties to the Department and the Commissioner; adding, modifying, and removing

certain duties; modifying applicability of certain provisions; amending 63 O.S. 2021, Section 330.62, which relates to the Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund; renaming and transferring fund; amending 63 O.S. 2021, Section 330.64, which relates to complaints; providing complaint procedures; transferring duties to the Department and the Commissioner; requiring certain notice to be provided to administrator found to be in violation of act; providing for certain appeals; authorizing the Department to order summary suspension under certain conditions; requiring certain notice; granting certain right to suspended licensee; providing for confidentiality; excluding certain information from specified definition and certain proceedings; authorizing certain disclosures; establishing and requiring the Department to offer independent informal dispute resolution process; allowing the Department to contract with a third-party vendor for specified purpose; stipulating procedures for request for and conduct of informal dispute resolution; specifying composition of impartial decision-making panel; providing for submission of evidence and presentation of arguments; limiting length of arguments; specifying certain procedures for production of evidence; prohibiting and authorizing certain recording of informal dispute resolution; specifying allowed participants; prohibiting legal representation; limiting inclusion of evidence in certain written statement; requiring panel to issue and provide written statement of findings; stipulating contents of statement; allowing the Commissioner to intervene for certain purpose; requiring the Department to consider findings when making certain determination; directing promulgation of rules; amending 51 O.S. 2021, Section 24A.3, as amended by Section 1, Chapter 402, O.S.L. 2022 (51 O.S. Supp. 2022, Section 24A.3), which relates to the Oklahoma Open Records Act; modifying certain definition; updating statutory references and language; renumbering 63 O.S. 2021, Sections 330.51, 330.53, 330.58, 330.62, and 330.64, as amended by Sections 3, 5, 6, 7, and 8 of this act, which relate to the Oklahoma State Board of Examiners for Long-

Term Care Administrators; repealing 63 O.S. 2021, Sections 330.54, 330.56, 330.57, 330.59, 330.60, 330.61, and 330.65, which relate to the Oklahoma State Board of Examiners for Long-Term Care Administrators; providing for codification; providing for recodification; providing a conditional effective clause; and declaring an emergency.

SUBJECT: Long-term care

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".

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

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

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

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

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

E. On November 1, 2023, all administrative rules promulgated by the Oklahoma State Board of Examiners for Long-Term Care Administrators 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 Secretary of State's office 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 November 1, 2023, and any amendment, repeal, or addition to the transferred rules shall be under the jurisdiction of the State Commissioner of Health.

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

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

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

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

~~2.~~ "Long-term care administrator" means a person licensed or certified as a ~~nursing facility administrator, an assisted living facility administrator, a residential care facility administrator, or an adult day care center administrator pursuant to Section 330.51 et seq. of this title~~ Tier 1 long-term care administrator or Tier 2 long-term care administrator under this act. A long-term care administrator must devote at least one-half (1/2) of such person's working time to on-the-job supervision of a long-term care 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 ICF/IID-16, if such facilities are located within a circle that has

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

~~3. "Nursing facility administrator"~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. of reputable and responsible character; and

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

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

Commissioner shall promulgate rules to determine the qualifications for licensure or certification as a Tier 1 or Tier 2 long-term care administrator. Such rules may, at the discretion of the Commissioner, include a requirement for licensure instead of certification for either or both of the tiers of long-term care administrators.

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

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

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

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

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

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

b. hold an associate degree in a health- or business-related field or other relevant field as determined by the Commissioner and have not less than five (5) years

of experience in upper-level management of a long-term care facility as determined by the Commissioner.

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

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

F. The State Department of Health shall either:

1. Approve one or more organizations or agencies to provide training and education programs for long-term care administrators. Each such organization or agency shall meet such requirements as may be prescribed by rules promulgated by the State Commissioner of Health;

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

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

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

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

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

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

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

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

Section 330.58 The ~~Oklahoma State Board of Examiners for Long-Term Care Administrators shall~~ 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 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;

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

~~3.~~ 4. Issue licenses or certifications to individuals determined, after the application of such techniques, to meet such standards. The ~~Board~~ Department may deny an initial application, deny a renewal application, and revoke or suspend licenses or certifications previously issued by the ~~Board~~ 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 ~~Board~~ 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 ~~Board~~ Department shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the ~~Board~~ Department when issuing a fine. The Department may utilize one or more administrative law judges to conduct administrative proceedings;

~~4.~~ 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;

~~5.~~ 6. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the ~~Board~~ 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 shall be notified of all complaint investigations of the ~~Board~~ Department so that they may be present at any such complaint investigation for the purpose of representing long-term care facility consumers;

~~6.~~ 7. Receive and take appropriate action on any complaint or referral received by the ~~Board~~ Department from the Department of Human Services or any other regulatory agency~~. Complaints may also be generated by the Board or staff~~. A complaint shall not be published on the ~~web site~~ website of the ~~Oklahoma State Board of Examiners for Long-Term Care Administrators~~ Department unless there is a finding by the ~~Board~~ Department that the complaint has merit. The ~~Board~~ 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, ~~and~~

c. establishing a protocol for investigation of complaints, and

d. establishing an independent informal dispute resolution process in accordance with Section 9 of this act;

~~7.~~ 8. Enforce the provisions of ~~Sections 330.51 through 330.65 of this title~~ this 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 ~~Board~~ Department;

~~8.~~ 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;

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

~~10.~~ 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;

~~11.~~ 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;

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

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

~~Board~~ Commissioner. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars ($1,000.00) per violation. The ~~Board~~ Department shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the ~~Board~~ Department when issuing a fine;

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

~~15.~~ 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 ~~Board~~ Commissioner;

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

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

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

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

Section 330.62 There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma State Board of Examiners for Long-Term Care Administrators~~ State Department of Health to be designated the "~~Oklahoma State Board of Examiners for~~ Long-Term Care ~~Administrators~~ Administrator Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of such sources of income as are provided by law. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the ~~Oklahoma State Board of Examiners for Long-Term Care Administrators~~ Department to carry out the duties established by ~~law~~ this act. Expenditures from

~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

Section 330.64 A. Any person or agency may submit to the State Department of Health a complaint against a long-term care administrator. Complaints may also be generated by the Department. Each investigation of a complaint received by the ~~Oklahoma State Board of Examiners for Long-Term Care Administrators~~ Department shall be initiated within ninety (90) days from the date the complaint is received by the ~~Board~~ Department. Each complaint investigation shall be completed within twelve (12) months of initiation. The time period may be extended by the ~~Board~~ Department for good cause.

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

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

D. Notwithstanding any other provision of this section, the Department may order a summary suspension of an administrator's license or certification or an Administrator in Training (AIT) permit if, in the course of an investigation, it is determined that a licensee, certificate holder, or AIT candidate for licensure has

engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm. The Department shall immediately notify the licensee, certificate holder, or AIT candidate upon issuance of the order. The licensee, certificate holder, or AIT candidate shall have the right to contest the order at a hearing as provided by subsection C of this section.

E. To ensure the confidentiality of an investigative file obtained during the investigation, the information in the investigative file shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the information be subject to subpoena or discovery in any civil or criminal proceeding, except that the Department may give the information to law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that will ensure against unauthorized access to the information. The respondent may acquire information obtained during an investigation, unless the disclosure of the information is otherwise prohibited, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purpose of defense in the proceedings of the Department and in any appeal therefrom and agrees not to otherwise disclose the information.

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

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

A. The Department shall give a long-term care administrator who the Department has determined, upon investigation, has violated the provisions of this act an opportunity to participate in an independent informal dispute resolution process of the case in

accordance with this section. The Department may contract with a third-party vendor to provide the independent informal dispute resolution.

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

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

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

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

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

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

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

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

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

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

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

E. The Department shall present initial arguments. The administrator shall then present his or her arguments. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments; however, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision-making panel.

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

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

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

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

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

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

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

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

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

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

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

1. A summary of any alleged violations;

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

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

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

K. If the impartial decision-making panel cannot reach a majority decision on the findings of the informal dispute resolution

as described in subsection J of this section, the State Commissioner of Health may intervene for the purpose of breaking a tie.

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

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

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

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

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

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

a. computer software,

b. nongovernment personal effects,

c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,

d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit or for the

purpose of becoming qualified to contract with a public body,

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

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

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

h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes~~,~~:

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

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

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

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

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, ~~"public body"~~ public body does not mean judges, justices, the Council on Judicial Complaints, the Legislature or legislators. ~~"Public body"~~ Public body shall not include an organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose sole beneficiary is a college or university, or an affiliated entity of the college or university, that is a member of The Oklahoma State System of Higher Education. Such organization shall not receive direct appropriations from the Oklahoma Legislature. The following persons shall not be eligible to serve as a voting member of the governing board of the organization:

a. a member, officer, or employee of the Oklahoma State Regents for Higher Education,

b. a member of the board of regents or other governing board of the college or university that is the sole beneficiary of the organization, or

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

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

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

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State

Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

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

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

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

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

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

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

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

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

Passed the House of Representatives the 16th day of May, 2023.

Presiding Officer of the House of Representatives

Passed the Senate the 26th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 17th day of May, 2023, at 2:36 o'clock p. M.

By: Jenner Curry

Approved by the Governor of the State of Oklahoma this 22nd day of May, 2023, at 8:15 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 22nd day of May, 2023, at 9:11 o'clock A M.

By: Brian Bingman