STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2824

By: Kendrix

COMMITTEE SUBSTITUTE

An Act relating to long-term care; 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 1-1923, which relates to the Long-Term Care Facility Advisory Board; extending termination date; changing name; decreasing and modifying membership; removing certain duty of the Department; modifying and adding powers and duties of the Long-Term Care Advisory Council; requiring certain recusal; amending 63 O.S. 2021, Section 330.51, which relates to definitions; removing and adding definitions; amending 63 O.S. 2021, Section 330.53, which relates to licensure of long-term care administrators; transferring duties to the Department and the Commissioner; requiring input of the Advisory Council; modifying applicability of certain provisions; requiring and authorizing certain fees; directing deposit of fees; requiring the Commissioner to determine certain qualifications; prohibiting certain unlicensed activity; amending 63 O.S. 2021, Section 330.58, which relates to duties; transferring duties to the Department and the Commissioner; requiring input of the Advisory Council; adding and removing certain duties; 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 input of the Advisory Council; requiring certain notice; prohibiting adverse action by the Department except under certain conditions; requiring the Advisory Council to review complaints; authorizing certain investigation and interviews; directing certain recommendation; requiring certain vote; 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; authorizing informal resolution process; providing for certain appeals; directing promulgation of rules; renumbering 63 O.S. 2021, Sections 330.51, 330.53, 330.58, 330.62, and 330.64, as amended by Sections 3, 4, 5, 6, and 7 of this act, which relate to the Oklahoma State Board of Examiners for Long-Term Care Administrators; repealing 63 O.S. 2021, Sections 330.52, 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; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 330.66 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On the effective date of this act, all employees, powers, duties, functions and responsibilities of the Oklahoma State Board of Examiners for Long-Term Care Administrators shall be transferred
to the State Department of Health. The transfer shall include all 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 the effective date of this act, 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 the effective date of this act 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 the effective date of this act, 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 Administrative Code section of the State Department of Health. Such rules shall continue in force and effect as rules of the State Department of Health from and after the effective date of this act, and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the State Commissioner of Health.

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 2. AMENDATORY 63 O.S. 2021, Section 1-1923, is amended to read as follows:

Section 1-1923. A. There is hereby re-created, to continue until July 1, 2023 July 1, 2025, in accordance with the provisions of the Oklahoma Sunset Law, a Long-Term Care Facility Advisory Board Council of fifteen (15) members, each of whom shall serve at the pleasure of the member’s appointing authority, which shall be composed as follows:

1. The Governor shall appoint a twenty-seven-member Long-Term Care Facility Advisory Board which shall advise the State Commissioner of Health. The Advisory Board shall be comprised of the following persons:

   a. one representative from the Office of the State Fire Marshal, designated by the State Fire Marshal,
b. one representative from the Oklahoma Health Care Authority, designated by the Administrator,

c. one representative from the Department of Mental Health and Substance Abuse Services, designated by the Commissioner of Mental Health and Substance Abuse Services,

d. one representative from the Department of Human Services, designated by the Director of Human Services,

e. one member who shall be a licensed general practitioner of the medical profession,

f. one member who shall be a general practitioner of the osteopathic profession,

g. one member who shall be a registered pharmacist,

h. one member who shall be a licensed registered nurse,

i. one member who shall be a licensed practical nurse,

j. three members who shall be of reputable and responsible character and sound physical and mental health and shall be operator-administrators of nursing homes which have current licenses issued pursuant to the Nursing Home Care Act and who shall have had five (5) years’ experience in the nursing home profession as operator-administrators,
k. three members who shall be residential care home
operator-administrators licensed pursuant to the
provisions of the Residential Care Act,

l. three members who shall be adult day care facility
owner-operators licensed pursuant to the provisions of
the Adult Day Care Act,

m. three members who shall be continuum of care facility
or assisted living center owner-operators licensed
pursuant to the provisions of the Continuum of Care
and Assisted Living Act, and

n. six members who shall be over the age of sixty-five
(65) who shall represent the general public;

2. The designated representative from the Office of the State
Fire Marshal, the designated representative from the Department of
Mental Health and Substance Abuse Services, the designated
representative from the Department of Human Services, and the
designated representative from the State Department of Health shall
serve at the pleasure of their designators;

3. The initial appointments of the Governor shall be for the
following terms:

a. the initial term of the member of the medical
profession shall be for a three-year term,

b. the initial term of the member of the osteopathic
profession shall be for a three-year term.
e. the initial term of the registered pharmacist shall be for a two-year term,

d. the initial term of the licensed registered nurse shall be for a two-year term,

e. the initial term of the licensed practical nurse shall be for a one-year term,

f. of the initial terms for the twelve members who are licensed operator-administrators for facilities pursuant to the Nursing Home Care Act, residential care homes pursuant to the Residential Care Act, adult day care facilities pursuant to the Adult Day Care Act, and continuum of care facilities and assisted living centers pursuant to the Continuum of Care and Assisted Living Act, four shall be for one-year terms, four shall be for two-year terms, and four shall be for three-year terms; provided that representatives for each of the terms shall include one individual representing facilities subject to the provisions of the Nursing Home Care Act, one individual representing residential care homes subject to the Residential Care Act, one individual representing facilities subject to the provisions of the Adult Day Care Act, and one individual representing continuum of care facilities.
and assisted living centers subject to the provisions of the Continuum of Care and Assisted Living Act, and
the initial terms for the six members of the general public over the age of sixty-five (65) shall be for one-, two-, three-, four-, five- and six-year terms respectively; and

4. After the initial designations or appointments, the designated representative from the Office of the State Fire Marshal, the designated representative of the Oklahoma Health Care Authority, the designated representative of the Department of Human Services and the designated representative of the Department of Mental Health and Substance Abuse Services shall each serve at the pleasure of their designators. All other terms shall be for a three-year period. In case of a vacancy, the Governor shall appoint individuals to fill the remainder of the term.

The State Long-Term Care Ombudsman or designee. Such designee must be a current employee of the Department of Human Services;

2. One medical doctor or doctor of osteopathy who practices in general practice or who specializes in geriatrics, appointed by the Governor;

3. One pharmacist who works in a long-term care facility or in the long-term care industry, appointed by the Governor;

4. One Registered Nurse, appointed by the President Pro Tempore of the Oklahoma State Senate;
5. One Licensed Practical Nurse, appointed by the Speaker of the Oklahoma House of Representatives;

6. Three representatives of nursing facilities, each of whom shall be an executive, owner-operator or administrator of the facility and shall have not less than three (3) years of experience as an executive, owner-operator, or administrator of one or more nursing facilities. One of the representatives shall be appointed by the President Pro Tempore of the Senate, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the Governor;

7. Two individuals, one appointed by the President Pro Tempore of the Senate and one appointed by the Speaker of the House, both of whom shall be an executive, owner-operator, or administrator of an assisted living center or continuum of care facility and shall have not less than three (3) years of experience as an executive, owner-operator, or administrator of one or more assisted living centers or continuum of care facilities;

8. One representative of an adult day care center or residential care home, appointed by the Governor, who shall be an executive, owner-operator, or administrator of the center or home and shall have not less than three (3) years of experience as an executive, owner-operator, or administrator of one or more adult day care centers or residential care homes;
9. One representative of an intermediate care facility for individuals with intellectual disabilities (ICF/IID), appointed by the President Pro Tempore of the Senate, who shall be an executive, owner-operator, or administrator of the ICF/IID and shall have not less than three (3) years of experience as an executive, owner-operator, or administrator of one or more ICFs/IID;

10. One representative of a veterans center operated by the state, appointed by the Speaker of the House, who shall be an administrator of the center and shall have not less than three (3) years of experience as an administrator of one or more veterans centers operated by the state; and

11. Two members of the general public, both appointed by the Governor, at least one of whom shall be sixty-five (65) years of age or older. Neither such member shall be a current or former employee of the State Department of Health or the Department of Human Services, be currently registered as a lobbyist, or be affiliated with any organization that represents the long-term care industry or advocates for senior citizens.

B. The State Department of Health shall provide a clerical staff worker to perform designated duties of the Advisory Board. The Department shall also provide space for meetings of the Advisory Board Council.

C. The Advisory Board Council shall annually elect a chair, vice-chair and secretary-treasurer, shall meet at least quarterly.
monthly, and may hold such special meetings as may be necessary. The members of the Advisory Board Council shall be reimbursed as provided for by the State Travel Reimbursement Act.

D. The Advisory Board Council shall have the power and duty to:

1. Serve as an advisory body to the Department for the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act, homes subject to the provisions of the Residential Care Act and facilities subject to the provisions of the Adult Day Care Act;

2. Review, make recommendations regarding, and approve in its advisory capacity the system of standards developed by the Department;

3. Evaluate and review the standards, practices, and procedures of the Department regarding the administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act, and the quality of services and care and treatment provided to residents of facilities and residential care homes and participants in adult day care centers. The Board Advisory Council may make recommendations to the Department as necessary and appropriate;

4. Evaluate and review financial accountability standards, policies and practices of residential care long-term care facilities regarding residents’ funds for which the facility is the payee, and
evaluate and review expenditures made on behalf of the resident by
the facility to ensure that such funds are managed appropriately and
in the best interests of the resident; and

5. Publish and distribute an annual report of its activities
and any recommendations for the improvement of services and care and
treatment to residents of facilities and residential care homes and
participants in adult day care centers on or before January 1 of
each year to the Governor, the State Commissioner of Health, the
State Board of Health, the Speaker of the House of Representatives,
the President Pro Tempore of the Senate, and the chief
administrative officer of each agency affected by the report; and

6. Perform the duties prescribed by Sections 4, 5, 6, and 7 of
this act.

E. Any member of the Advisory Council shall recuse himself or
herself from voting on any matter that originated from or involves
an entity with which the Advisory Council member is affiliated or
has a direct financial interest.

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:

1. "Board" means the Oklahoma State Board of Examiners for
Long-Term Care Administrators; "Advisory Council" means the Long-Term
Care Advisory Council;
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. 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" means a person licensed by the State of Oklahoma to perform the duties of an administrator serving in a skilled nursing or nursing or ICF/IID facility;

4. "Assisted living facility administrator" means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in an assisted living facility;
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. "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 330.53, 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, with the input and assistance of the Long-Term Care Advisory Council, shall have authority to issue licenses or certifications to qualified persons as long-term care administrators, and shall establish qualification criteria for each type of long-term care administrator.
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 licensed or certified to serve as a long-term care administrator.

C. 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 State Commissioner of Health may promulgate rules pursuant to Section 330.57 of this title to address future certification and licensure requirements for all long-term care administrator types without effect on the licensure or certification status of those currently certified or licensed. 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 for 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 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 Boards, 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

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 Revolving Fund created in Section 6 of this act. Such fee shall be determined by the Commissioner with the input of the Advisory Council. Each such license or certification shall expire on the 31st 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 license fee.

2. In addition to licensure and certification fees, the Commissioner may, with the input of the Advisory Council, impose fees for training and education programs approved by the Department.
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 Revolving Fund created in Section 6 of this act.

F. The Commissioner, with the input and assistance of the Advisory Council, shall have sole and exclusive 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, with the input and assistance of the Advisory Council, promulgate rules to determine the qualifications for licensure or certification for the long-term care administrator categories as defined in Section 330.51 of this title. Such rules may include a requirement for licensure instead of certification for certain long-term care administrator categories.

G. It shall be unlawful for any person to act or serve in the capacity as a long-term care administrator unless the person is the holder of a license or certification 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 5. 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, with the input
and assistance of the Long-Term Care Advisory Council:

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;

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, with the input and assistance
of the Advisory Council, 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, with the input and assistance of the Advisory Council, 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, with the input and assistance of the Advisory Council, consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Board Department when issuing a fine;

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 Department. A complaint shall not be published on the 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 State Commissioner of Health shall, with the input and assistance of the Advisory Council, 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 as provided by Section 330.64 of this title;

7-8. Enforce the provisions of Sections 330.51 through 330.65 of this title Section 330.51 et seq. 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. Cooperate with and provide assistance when necessary to
state regulatory agencies in investigations of complaints;

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

13. 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 Section 350.51, et seq. of
this title 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, with the input and assistance of the Advisory
Council, 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.

SECTION 6. 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 to be designated the "Oklahoma State Board of Examiners for Long-Term Care Administrators 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 7. 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. When the Department completes an investigation, the Department shall immediately notify the Advisory Council and shall share the investigative file with the Advisory Council.

B. Effective May 13, 2005, the Board Department shall, with the input and assistance of the Advisory Council, 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.

C. The Department shall not take any adverse action against an administrator for a violation of this act or the rules promulgated by the State Commissioner of Health before the Advisory Council has issued a recommendation to the Department regarding the complaint and before the Department has taken such recommendation into consideration, except:

1. As provided by subsection E of this section, or
2. If the Advisory Council does not issue a recommendation within forty-five (45) calendar days following the date the investigation is completed.

D. The Advisory Council shall review the complaint and the investigative materials provided by the Department, may cause the allegations to be investigated, and may interview witnesses including but not limited to the administrator who is the subject of the complaint. The Advisory Council shall make a recommendation to the Department to set the case for hearing, or for dismissal or other action including but not limited to informal resolution. Any recommendation of the Advisory Council to the Department under this subsection shall be voted upon by a quorum of the Advisory Council in an open meeting.

E. 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 H of this section.

F. 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, except for the
investigative report, 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 or the
Advisory Council and in any appeal therefrom and agrees not to
otherwise disclose the information.

G. The Department may give the respondent an opportunity to
participate in an informal resolution of the case. Discussions to
resolve the case without a hearing shall be conducted in
consultation with the Advisory Council.
H. If the case is not resolved, the respondent shall be afforded notice and a hearing in accordance with the provisions of Article II of the Administrative Procedures Act. The Advisory Council may assist and advise the Department in all hearings and may recommend to the Department disciplinary action against the respondent. 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.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1923F 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 9. RECODIFICATION 63 O.S. 2021, Section 330.51, as amended by Section 3 of this act, shall be recodified as Section 1-1923A of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 10. RECODIFICATION 63 O.S. 2021, Section 330.53, as amended by Section 4 of this act, shall be recodified as Section 1-1923B of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 11. RECODIFICATION 63 O.S. 2021, Section 330.58, as amended by Section 5 of this act, shall be recodified as Section
1-1923C of Title 63 of the Oklahoma Statutes, unless there is
created a duplication in numbering.

SECTION 12. RECODIFICATION 63 O.S. 2021, Section 330.62,
as amended by Section 6 of this act, shall be recodified as Section
1-1923D of Title 63 of the Oklahoma Statutes, unless there is
created a duplication in numbering.

SECTION 13. RECODIFICATION 63 O.S. 2021, Section 330.64,
as amended by Section 7 of this act, shall be recodified as Section
1-1923E of Title 63 of the Oklahoma Statutes, unless there is
created a duplication in numbering.

SECTION 14. REPEALER 63 O.S. 2021, Sections 330.52,
330.54, 330.56, 330.57, 330.59, 330.60, 330.61 and 330.65, are
hereby repealed.

SECTION 15. This act shall become effective November 1, 2023.