STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE FOR ENGROSSED

HOUSE BILL NO. 2824

By: Kendrix of the House

and

Bergstrom of the Senate

COMMITTEE SUBSTITUTE

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 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; extending 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; granting certain authority to the Commissioner; requiring promulgation of certain rules; modifying applicability of certain provisions; stipulating certain licensure and certification qualifications; requiring and authorizing certain fees; directing deposit of fees; 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; modifying applicability of certain provisions; 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; 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 effective dates; and declaring an emergency.

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 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” 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 or ICF/IID
facility;

4. “Assisted living facility 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;

5. “Residential care facility administrator” means a person
licensed or certified by the State of Oklahoma this state 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 this state 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 330.52, 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 November 1, 2023, the Oklahoma State Board of
Examiners for Long-Term Care Administrators. The Oklahoma State
Board of Examiners for Long-Term Care Administrators shall be
abolished when the conditions of subsection F of Section 2 of this
act have been met.

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

C. 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.

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.

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 licensed or certified to serve as a 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 for each of the long-term care administrator types as defined in Section 330.51 of this title. Such rules may, at the discretion of the Commissioner, include a requirement for licensure instead of certification for one or more long-term care administrator types.

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 long-term care administrator types 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 any type of 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.

4. In addition to the requirement provided by paragraph 2 of this subsection, to be eligible for licensure or certification as a nursing facility administrator, the applicant shall:
   a. hold a baccalaureate degree from an institution of higher education,
   b. hold an associate degree in a health- or business-related field or other relevant field as determined by the Commissioner,
   c. have not less than five (5) years of experience in upper-level management of a long-term care facility as determined by the Commissioner,
   d. be currently licensed as an assisted living facility administrator or residential care facility
administrator and have not less than three (3) years of experience acting in such capacity, or

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

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

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 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. 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 created in Section 330.62 of this title. 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 for training and education programs approved by the Commissioner.

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 created in Section 330.62 of this title.

G. 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;

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

3. 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. 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. 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. 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 website of the Oklahoma State Board of Examiners for Long-Term Care Administrators 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. Enforce the provisions of Sections 330.51 through 330.65 of this title 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. 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;

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

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

14. Impose administrative fines, in an amount to be determined by the 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;

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

16. Grant short-term provisional licenses to individuals who do not meet all of the licensing requirements, provided the individual obtains the services of a currently licensed administrator to act as a consultant and meets any additional
criteria for a provisional license established by the 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 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. 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 upon 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 process conducted in accordance with Section 9 of this act or a hearing conducted under subsection C of this section, or both.

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, 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 and in any appeal therefrom and agrees not to otherwise disclose the information.

F. Effective May 13, 2005, the Board 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 an administrator who the Department has determined, upon investigation, has violated the Long-Term Care Administrator Licensing 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 five (5) individuals who meet the following criteria:

   1. Two 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, owner, operator, or director of nursing 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;

   2. One member shall be an employee of the Department who has no current involvement in the long-term care facility survey process;
3. One member shall be a person representing the aging or disabled community; and

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

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. 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. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department. The State Long-Term Care Ombudsman or designee may appear at or participate in the meeting. No party may be represented by an attorney.

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. 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 the Long-Term Care Administrator Licensing 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” 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,
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 1, 2, and 4 of this act shall become effective June 1, 2023.

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

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