

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1100

By: Worthen

COMMITTEE SUBSTITUTE

An Act relating to long-term care facilities; creating short title; amending 63 O.S. 1991, Sections 330.51, as last amended by Section 2, Chapter 118, O.S.L. 1996, 330.52, as last amended by Section 1, Chapter 91, O.S.L. 2000, 330.53, as amended by Section 2, Chapter 289, O.S.L. 1995, 330.54, 330.56, 330.57, 330.58, 330.59, 330.60, 330.61, 330.62 and 330.63 (63 O.S. Supp. 2000, Sections 330.51, 330.52 and 330.53), which relate to licensed nursing home administrators; expanding act to include administrators of residential care homes and assisted living facilities; modifying and adding definitions; adding to the Oklahoma State Board of Examiners for Nursing Home Administrators; changing name of Board; requiring certain administrators to be licensed; setting requirements and qualifications; providing for issuance and expiration of licenses; setting fees; providing for promulgation of rules; providing for qualifications of administrators; providing for and modifying powers and duties of Oklahoma State Board of Examiners for Long-term Care Administrators; specifying penalties; providing for additional fees; changing name and purpose of the Oklahoma State Board of Examiners for Nursing Home Administrators Revolving Fund; amending 63 O.S. 1991, Section 1-836, as amended by Section 1, Chapter 110, O.S.L. 1998 (63 O.S. Supp. 2000, Section 1-836), which relates to the Residential Care Act; requiring certain educational requirements for licensure for administrators of residential care homes; authorizing inactive status; removing transferred language; repealing 63 O.S. 1991, Section 330.63, which relates to transfer of certain monies to the General Revenue Fund; providing for codification; providing an effective date; 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 330.50 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 "Oklahoma Long-term Care Administrators Licensing Act".

SECTION 2. AMENDATORY 63 O.S. 1991, Section 330.51, as last amended by Section 2, Chapter 118, O.S.L. 1996 (63 O.S. Supp. 2000, Section 330.51), is amended to read as follows:

Section 330.51 For the purposes of ~~this act, and as used herein~~ the Oklahoma Long-term Care Administrators Licensing Act:

1. "Board" means the Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators hereinafter created;

2. "~~Nursing home~~ Long-term care administrator" means a person licensed by the State of Oklahoma who is in charge of a long-term facility. A long-term care administrator may be in charge of a nursing facility, an assisted living center or a residential care home. The long-term care administrator shall comply with the standards and criteria established by the Board for the particular category of long-term care facility for which the administrator has made application for licensure. ~~A nursing home~~ In addition a long-term care administrator must devote at least one-third (1/3) of such person's working time to on-the-job supervision of such facility; provided that this requirement shall not apply to a ~~nursing home~~ long-term care administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/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-MR/16 may be independently owned and operated or may be part of a larger institutional ownership and operation;

3. "~~Nursing home", "rest home" and "specialized home"~~ shall have the same meaning as the term "Long-term care facility" means

"nursing facility" as such term is defined in the Nursing Home Care Act, an assisted living center as defined by the Continuum of Care and Assisted Living Act or a residential care home as defined by the Residential Care Act;

4. ~~"Administrator" and "owner" shall have the same meanings as such terms are defined in the Nursing Home Care Act~~ "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the facility shall be presumed to be the owner of a long-term care facility; and

5. "Qualified mental retardation professional" shall be an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to:

- a. have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and
- b. be one of the following:
  - (1) a doctor of medicine or osteopathy licensed to practice in this state,
  - (2) a registered nurse, or
  - (3) an individual who holds at least a bachelor's degree in a related field.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 330.52, as last amended by Section 1, Chapter 91, O.S.L. 2000 (63 O.S. Supp. 2000, Section 330.52), is amended to read as follows:

Section 330.52 A. There is hereby ~~re-created~~ created, to continue until July 1, 2006, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators. The Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators

shall consist of ~~fifteen (15)~~ nineteen (19) members, ~~eleven of whom~~  
as follows:

1. Eleven members shall be representative of the professions and institutions concerned with the care and treatment of critically ill or infirm elderly patients, ~~two~~. Six of the members appointed pursuant to this paragraph shall be present owners of nursing facilities or licensed nursing home administrators who have each had five (5) years' experience in the long-term care profession as an owner or administrator of a long-term care facility. The other members shall not be long-term care facility owners or long-term care administrators and shall have no direct financial interest in long-term care facilities;

2. Two members shall be owners or administrators of assisted living centers who have each had three (3) years' experience as an administrator of an assisted living center;

3. Two members shall be owners or administrators of residential care homes who have each had three (3) years' experience as an administrator of a residential care home;

4. Two members representing shall represent the general public, and the and shall not have any direct or indirect financial interest in long-term care facilities;

5. The Commissioner of Health, or designee; and the

6. The Director of the Department of Human Services, or their designees designee.

B. The ~~thirteen~~ seventeen members shall be appointed by the Governor, with the advice and consent of the Senate.

~~B. Six of the thirteen appointive members shall each be presently an owner and a licensed administrator and shall have had five (5) years' experience in the nursing home profession as an owner and administrator. Two members shall be representatives of the general public and shall not have any direct or indirect financial interest in nursing homes. The other members shall not be~~

~~nursing home owners or administrators and shall have no direct financial interest in nursing homes.~~

C. 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.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 330.53, as amended by Section 2, Chapter 289, O.S.L. 1995 (63 O.S. Supp. 2000, Section 330.53), is amended to read as follows:

Section 330.53 A. The Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators shall ~~have authority to~~ issue licenses to qualified persons as ~~nursing home~~ long-term care administrators, and shall establish qualification criteria for such ~~nursing home~~ long-term care administrators.

B. No license shall be issued to a person as a ~~nursing home~~ long-term care administrator unless:

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

- a. not less than twenty-one (21) years of age,
- b. of reputable and responsible character, and
- c. in sound physical and mental health; and

2. The person shall have submitted evidence satisfactory to the Board of the person's ability to supervise a ~~nursing home or specialized home~~ long-term-care facility.

C. 1. A qualified mental retardation professional, as defined in Section 330.51 of this title, shall be determined to meet the educational requirements as a licensed ~~nursing home~~ long-term care administrator and shall be eligible to take the National Administrator Board and State Standards Examinations.

2. A qualified mental retardation professional who meets the requirements of paragraph 1 of this subsection may serve as the licensed administrator for no more than four (4) intermediate care

facilities for the mentally retarded with sixteen or less beds (ICF-MR/16).

SECTION 5. AMENDATORY 63 O.S. 1991, Section 330.54, is amended to read as follows:

Section 330.54 Each person licensed as a ~~nursing home~~ long-term care administrator pursuant to the provisions of ~~Section 330.53 of this title~~ the Oklahoma Long-term Care Administrators Licensing Act shall be required to pay an annual license fee which shall be deposited in the Oklahoma State Board of Examiners for ~~Nursing Home Long-term Care~~ Administrators Revolving Fund. Such fee shall be determined by the Oklahoma State Board of Examiners for ~~Nursing Home Long-term Care~~ Administrators in an amount not to exceed Two Hundred Dollars (\$200.00). Each such license shall expire on the 31st day of December following its issuance, and shall be renewable for a calendar year, upon payment of the annual license fee.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 330.56, is amended to read as follows:

Section 330.56 The Oklahoma State Board of Examiners for Long-term Care Administrators shall elect from its membership a president, vice-president, and secretary-treasurer, and shall ~~adopt~~ promulgate rules ~~and regulations~~ to govern its proceedings. Each member shall be allowed necessary travel expenses, as may be approved by the Board pursuant to the State Travel Reimbursement Act. The Board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 330.57, is amended to read as follows:

Section 330.57 A. The Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators shall have sole and exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a ~~nursing home~~

~~or specialized home under the provisions of the Nursing Home Care Act, Section 1-1901 et seq. of this title~~ long-term care facility.

B. The holder of a license ~~under~~ pursuant to the provisions of ~~this act~~ the Oklahoma Long-term Care Administrators Licensing Act shall be deemed qualified to serve as the administrator of a ~~nursing home or specialized home~~ long-term care facility based upon standards and criteria established by the Board for the particular category of long-term care facility.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 330.58, is amended to read as follows:

Section 330.58 The Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators shall:

~~(a)~~ 1. Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a ~~nursing home~~ long-term care administrator, ~~which~~ for a nursing home, assisted living center or residential care home. The standards shall be designed to:

- a. meet the needs and characteristics of each category of long-term care facility, and
- b. ensure that ~~nursing home~~ 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 ~~nursing home~~ long-term care administrators.;

~~(b)~~ 2. Develop and apply appropriate techniques, including, but not limited to, examinations and investigations, for determining whether an individual meets such standards.;

~~(c)~~ 3. Issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke ~~or,~~ suspend or not renew licenses previously issued by the Board in any case where the individual holding any such license is determined

substantially to have failed to conform to the requirements of such standards-;

~~(d)~~ 4. Establish and carry out procedures designed to ensure that individuals licensed as ~~nursing home~~ long-term care administrators will, during any period that they serve as such, comply with the requirements of such standards-;

~~(e)~~ 5. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any individual licensed as a ~~nursing home~~ 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 so that they may be present at any such complaint investigation for the purpose of representing ~~nursing home~~ long-term care consumers-; and

~~(f)~~ 6. Conduct a continuing study and investigation of ~~nursing homes~~ long-term care facilities and administrators of ~~nursing homes~~ long-term care facilities within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of ~~nursing homes~~ long-term care facilities who have been licensed as such.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 330.59, is amended to read as follows:

Section 330.59 ~~It~~ On and after January 1, 2002, it shall be unlawful and a misdemeanor for any person to act or serve in the capacity as a ~~nursing home~~ long-term care administrator unless ~~he~~ such person is the holder of a license as a ~~nursing home~~ long-term care administrator, issued in accordance with the provisions of ~~this act~~ the Oklahoma Long-term Care Administrators Licensing Act.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 330.60, is amended to read as follows:

Section 330.60 The Oklahoma State Board of Examiners for Long-term Care Administrators shall establish such rules ~~and regulations~~ governing operations, reporting of fees, and compensation of employees, the maintenance of books, records and manner and time of employee compensation, all as may be in the public interest.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 330.61, is amended to read as follows:

Section 330.61 A. In addition to the annual license fees, the Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators may impose fees for:

1. Training programs conducted or approved by the Board; and
2. Education programs conducted or approved by the Board.

B. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators Revolving Fund.

SECTION 12. AMENDATORY 63 O.S. 1991, 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 ~~Nursing Home~~ Long-term Care Administrators to be designated the "Oklahoma State Board of Examiners for ~~Nursing Home~~ 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 fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Board of Examiners for ~~Nursing Home~~ Long-term Care Administrators to carry out the duties established by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 330.58a of Title 63, unless there is created a duplication in numbering, reads as follows:

A. To receive an Oklahoma long-term care administrators license pursuant to the Oklahoma Long-Term Care Administrators Licensing Act, a residential care home administrator shall receive the training specified by this section.

B. For residential care home administrators the training shall consist of a minimum of fifty (50) hours which shall include at least fifteen (15) hours of training in the administration of medication and shall also include, but not be limited to, training in:

1. Administration;
2. Supervision;
3. Reporting;
4. Record keeping;
5. Independent or daily living skills;
6. Leisure skills and recreation; and
7. Public relations concerning the issues associated with the operation of residential care homes and programs.

C. 1. The training program shall be developed and administered by the Oklahoma State Board of Examiners for Long-Term Care Administrators with the advice of an institution of higher learning.

2. An individual applying for licensure as an administrator of a residential care home may at any time present an institution of higher education with documentation of prior education and work experience for consideration for possible credit toward certification.

D. 1. Any person employed as an administrator after July 1, 1988, shall have completed the training specified by this section.

2. Thereafter, annually, at least sixteen (16) hours of training in the subjects specified by this section shall be required for such administrator.

E. 1. A licensed residential care home administrator may make a written request to the Oklahoma State Board of Examiners for Long-Term Care Administrators to be placed in an inactive status for up to five (5) subsequent calendar years.

2. Inactive status shall allow the administrator to waive the educational requirements for the period of the request. An administrator on inactive status shall not work in a residential care home administrator capacity in Oklahoma until such time as the license is reactivated. The request to reactivate the license shall be made in writing to the Board. Such administrator shall then be required to complete sixteen (16) hours of training in the subjects specified in this section.

SECTION 14. AMENDATORY 63 O.S. 1991, Section 1-836, as amended by Section 1, Chapter 110, O.S.L. 1998 (63 O.S. Supp. 2000, Section 1-836), is amended to read as follows:

Section 1-836. A. The State Department of Health shall develop minimum standards for residential care homes. These standards shall be promulgated by the State Board of Health and submitted to the Legislature no later than January of each year. These standards shall regulate:

1. Location and construction of the home, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and protection from fire hazards;

2. Number of all personnel, including management and supervisory personnel, having responsibility for any part of the care given to residents. The Department shall establish staffing ratios for homes which shall specify the number of staff hours of care per resident that are needed for care for various types of

homes or areas within homes. Minimum personnel ratio requirements for all homes shall be based only on average daily census;

3. All sanitary conditions within the home and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;

4. Diet-related needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;

5. Equipment essential to the health and welfare of the residents; and

6. Rehabilitation programs for those residents who would benefit from such programs.

B. 1. In order to further ensure minimum standards for homes, a certificate of training as specified shall be required of all:

- ~~a. administrators, who shall obtain a residential care administrator certificate of training, and~~
- ~~b. direct care staff responsible for administration of medication to residents, who shall obtain a residential care certificate of training.~~

2. The certificate will be developed and administered by an institution of higher learning with the advice of the State Commissioner of Health and of the Long Term Care Facility Advisory Board.

- ~~a. (1) For residential care home administrators the training shall consist of a minimum of fifty (50) hours which shall include at least fifteen (15) hours of training in the administration of medication and shall also include, but not be limited to training in:
  - ~~(a) administration,~~
  - ~~(b) supervision,~~~~

- ~~(c) reporting,~~
  - ~~(d) record keeping,~~
  - ~~(e) independent or daily living skills,~~
  - ~~(f) leisure skills and recreation, and~~
  - ~~(g) public relations concerning the issues associated with the operation of residential care homes and programs.~~
- ~~(2) An individual applying for certification as an administrator may at any time present the institution of higher education with documentation of prior education and work experience for consideration for possible credit toward certification.~~
- ~~(3) Any person employed as an administrator after July 1, 1988, shall have completed the training specified by this division.~~
- ~~(4) Thereafter, annually, at least sixteen (16) hours of training in the subjects specified by this division shall be required for such administrator.~~
- ~~(5) A certified administrator may make a written request to the State Commissioner of Health to be placed in an inactive status for up to five (5) subsequent calendar years. Such inactive status shall allow the administrator to waive the educational requirements for the period of the request. Such certified administrator shall not work in a residential care administrator capacity in Oklahoma until such time as the certificate is reactivated. The request to reactivate the certificate shall be made in writing to the Commissioner. Such administrator shall then be~~

~~required to complete sixteen (16) hours of training in the subjects specified in this division.~~

~~b.~~

3. All direct care staff who are responsible for administration of medication to residents shall be required to begin training in the administration of medication within ninety (90) days of employment with the home and to satisfactorily complete at least fifteen (15) hours of training in the administration of medication, within the first year of employment with the home.

~~3.~~ C. 1. All other direct care staff who are employed by a residential care home, within ninety (90) days of employment with the home, shall be required to begin eight (8) hours of in-service training, to be administered by the administrator of the home or other person designated by the administrator of the home and completed within twelve (12) months from such person's date of employment, and annually thereafter.

2. Thereafter such direct care staff and the direct care staff responsible for administering medication to residents shall, annually, be required to receive at least eight (8) hours of training by the administrator of the home in:

- a. patient reporting and observation,
- b. record keeping,
- c. independent or daily living skills,
- d. leisure skills and recreation,
- e. human relations, and
- f. such other training relevant to residential care programs and operations.

~~4.~~ D. 1. The requirement of certification and the training specified pursuant to the provisions of this ~~subsection~~ section shall be included in the rules promulgated by the Board.

5. 2. Failure of the owner or administrator to ensure the training required pursuant to this ~~subsection~~ section is received shall constitute a violation of the Residential Care Act and shall be grounds for revocation of licensure. Proof of successful completion of such training for the residential care home administrator and direct care staff shall be required prior to issuance or renewal of a license issued pursuant to the provisions of the Residential Care Act. The Department shall not renew any license for any residential care home, if the training required by this ~~subsection~~ section has not been completed.

E. Residential care home administrators shall be required to have a current license issued pursuant to the Oklahoma Long-Term Care Administrators Licensing Act.

SECTION 15. Section 9 of this act shall become effective January 1, 2002.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and 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.

48-1-6690            KSM            6/12/15