

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 888

By: Crain of the Senate

and

Cox of the House

6
7
8
9 COMMITTEE SUBSTITUTE

10 (public health and safety - Long-Term Care -

11 effective date)

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 63 O.S. 2001, Section 330.52, as
16 last amended by Section 2, Chapter 291, O.S.L. 2006 (63 O.S. Supp.
17 2006, Section 330.52), is amended to read as follows:

18 Section 330.52 A. There is hereby re-created, to continue
19 until July 1, 2012, in accordance with the provisions of the
20 Oklahoma Sunset Law, the Oklahoma State Board of Examiners for Long-
21 Term Care Administrators. The Oklahoma State Board of Examiners for
22 Long-Term Care Administrators shall consist of fifteen (15) members,
23 ten of whom shall be representative of the professions and
24 institutions concerned with the care and treatment of critically ill

1 or infirm elderly patients, three members representing the general
2 public, and the State Commissioner of Health and the Director of the
3 Department of Human Services, or their designees. The thirteen
4 members shall be appointed by the Governor, with the advice and
5 consent of the Senate.

6 B. Five of the thirteen appointive members shall each be
7 presently an owner or a licensed administrator and shall have had
8 five (5) years' experience in the nursing home profession as an
9 owner or administrator. Three members shall be representatives of
10 the general public. No members other than the five owners or
11 licensed administrators shall have a direct or indirect financial
12 interest in nursing homes.

13 C. Effective July 1, 2005, all appointed positions of the
14 current Board shall be deemed vacant. The Governor shall make
15 initial appointments pursuant to the provisions of this subsection
16 upon the effective date of this act. Initial appointments shall
17 become effective on July 1, 2005. The new members of the Board
18 shall be initially appointed as follows:

19 1. Two members who are owners or licensed administrators, one
20 member representing the general public and two other members shall
21 be appointed for a term of one (1) year to expire on July 1, 2006;

22 2. Two members who are owners or licensed administrators, one
23 member representing the general public and two other members shall

24

1 be appointed for a term of two (2) years to expire on July 1, 2007;
2 and

3 3. One member who is an owner or licensed administrator, one
4 member representing the general public and one other member shall be
5 appointed for a term of three (3) years to expire on July 1, 2008.

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

10 E. Members of the board who are representatives from a state
11 agency shall be ex officio members.

12 SECTION 2. AMENDATORY 63 O.S. 2001, Section 330.58, as
13 last amended by Section 7, Chapter 291, O.S.L. 2006 (63 O.S. Supp.
14 2006, Section 330.58), is amended to read as follows:

15 Section 330.58 The Oklahoma State Board of Examiners for Long-
16 Term Care Administrators shall:

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

24

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

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

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

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

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

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

- 13 a. establishing a complaint review process, and
- 14 b. creating a formal complaint file;

15 7. Conduct a continuing study and investigation of long-term
16 care facilities and administrators of long-term care facilities
17 within the state with a view toward the improvement of the standards
18 imposed for the licensing of such administrators and of procedures
19 and methods for the enforcement of such standards with respect to
20 administrators of long-term care facilities who have been licensed;

21 8. Cooperate with and provide assistance when necessary to
22 state regulatory agencies in investigations of complaints;

23 9. Develop a code of ethics for long-term care administrators
24 ~~which includes, but is not limited to, a statement that~~

1 ~~administrators have a fiduciary duty to the facility and cannot~~
2 ~~serve as guardian of the person or of the estate, or hold a durable~~
3 ~~power of attorney or power of attorney for any resident of a~~
4 ~~facility of which they are an administrator;~~

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

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

10 12. Impose administrative fines, in an amount to be determined
11 by the Board, against persons who do not comply with the provisions
12 of this act or the rules adopted by the Board. Administrative fines
13 imposed pursuant to this section shall not exceed One Thousand
14 Dollars (\$1,000.00) per violation. The Board shall consider the
15 scope, severity and repetition of the violation and any additional
16 factors deemed appropriate by the Board when issuing a fine;

17 13. Assess the costs of the hearing process, including attorney
18 fees;

19 14. Authorize administrators to be the legal guardians of
20 individuals residing in the facility;

21 15. Authorize administrators to be the administrator of record
22 for more than one facility, and authorize management staff to
23 preside over more than one facility, provided that the facilities
24 are within a fifty-mile radius of each other and each facility

1 retains an assistant administrator. This provision shall not apply
2 to direct care staff;

3 ~~14.~~ 16. Grant short-term provisional licenses to individuals
4 who do not meet all of the licensing requirements, provided the
5 individual obtains the services of a currently licensed
6 administrator to act as a consultant and meets any additional
7 criteria for a provisional license established by the Board; and

8 ~~15.~~ 17. Order a summary suspension of an administrator's
9 license or an Administrator in Training (AIT) permit, if, in the
10 course of an investigation, it is determined that a licensee or AIT
11 candidate for licensure has engaged in conduct of a nature that is
12 detrimental to the health, safety or welfare of the public, and
13 which conduct necessitates immediate action to prevent further harm.

14
15
16
17
18
19
20
21
22
23
24

51-1-7865 SAB 04/13/07