

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1380

By: Bergstrom of the Senate

and

Lepak of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to long-term care; amending 63 O.S.
11 2021, Section 330.51, as amended by Section 3,
12 Chapter 271, O.S.L. 2023, and as renumbered by
13 Section 12, Chapter 271, O.S.L. 2023 (63 O.S. Supp.
14 2023, Section 1-1949.2), which relates to definitions
15 used in the Long-Term Care Administrator Licensing
16 Act; modifying and adding definitions; amending 63
17 O.S. 2021, Section 330.53, as amended by Section 5,
18 Chapter 271, O.S.L. 2023, and as renumbered by
19 Section 13, Chapter 271, O.S.L. 2023 (63 O.S. Supp.
20 2023, Section 1-1949.3), which relates to
21 qualifications for license or certification; adding
22 licensure tier; prohibiting specified internship
23 requirement; providing certain exception; allowing
24 certain entities to request examination results from
the State Department of Health for specified purpose;
amending 63 O.S. 2021, Section 330.58, as amended by
Section 6, Chapter 271, O.S.L. 2023, and as
renumbered by Section 14, Chapter 271, O.S.L. 2023
(63 O.S. Supp. 2023, Section 1-1949.4), which relates
to duties of the Department; modifying certain duty;
making language gender neutral; updating statutory
references and language; authorizing certain nurses
to prepare medications for administration under
specified conditions; providing certain construction;
providing for codification; and declaring an
emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 330.51, as amended by Section 3, Chapter 271, O.S.L. 2023, and as renumbered by Section 12, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-1949.2), is amended to read as follows:

Section 1-1949.2. For the purposes of ~~this act~~ the Long-Term Care Administrator Licensing Act:

1. "Long-term care administrator" means a person licensed or certified as a Tier 1 ~~long-term care administrator or~~, Tier 2, or Tier 3 long-term care administrator under ~~this act~~ the Long-Term Care Administrator Licensing 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 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

1 independently owned and operated or may be part of a larger
2 institutional ownership and operation;

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

8 3. "Tier 2 long-term care administrator" means a person
9 licensed or certified by this state to perform the duties of an
10 administrator serving in an assisted living ~~facility center,~~
11 ~~residential care facility, adult day care center,~~ or intermediate
12 care facility for individuals with intellectual disabilities with
13 sixteen or fewer beds (ICF/IID-16), or seeking a combined assisted
14 living center and residential care home license;

15 4. "Tier 3 long-term care administrator" means a person
16 licensed or certified by this state to perform the duties of an
17 administrator serving in a residential care home or adult day care
18 center; and

19 5. "Nursing home", "rest home" and "specialized home" facility"
20 shall have the same meaning ~~as the term "nursing facility"~~ as such
21 term is defined in the Nursing Home Care Act; "assisted living
22 center" and "continuum of care facility" shall have the same meaning
23 as such terms are defined in the Continuum of Care and Assisted
24 Living Act; ~~"home" and "residential care home"~~ shall have the same

1 meaning as ~~the terms are used~~ such term is defined in the
2 Residential Care Act; and "adult day care center" ~~and "center"~~ shall
3 have the same meaning as such ~~terms are used~~ term is defined in the
4 Adult Day Care Act.

5 SECTION 2. AMENDATORY 63 O.S. 2021, Section 330.53, as
6 amended by Section 5, Chapter 271, O.S.L. 2023, and as renumbered by
7 Section 13, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-
8 1949.3), is amended to read as follows:

9 Section 1-1949.3. A. The State Department of Health shall have
10 authority to issue licenses or certifications to qualified persons
11 as long-term care administrators in accordance with qualification
12 criteria established by the State Commissioner of Health.

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

15 1. The person shall have submitted evidence satisfactory to the
16 Department that the person is:

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

18 b. of reputable and responsible character; and

19 2. The person shall have submitted evidence satisfactory to the
20 Department of the person's ability to be licensed or certified to
21 serve as a Tier 1 ~~long-term care administrator or,~~ Tier 2, or Tier 3
22 long-term care administrator.

23 C. The Commissioner shall have the authority to determine the
24 qualifications, skill, and fitness of any person to serve as a long-

1 term care administrator under the applicable provisions of the
2 Nursing Home Care Act, the Continuum of Care and Assisted Living
3 Act, the Residential Care Act, and the Adult Day Care Act. The
4 Commissioner shall promulgate rules to determine the qualifications
5 for licensure or certification as a Tier 1 ~~or~~, Tier 2, or Tier 3
6 long-term care administrator. Such rules may, at the discretion of
7 the Commissioner, include a requirement for licensure instead of
8 certification for ~~either or both~~ any of the tiers of long-term care
9 administrators.

10 D. 1. All persons licensed or certified or lawfully serving as
11 an administrator in their ~~defined facility type~~ respective tier
12 shall be permitted to continue to serve in their current capacity
13 under their current terms of authorization. The Commissioner may
14 promulgate rules to address future certification and licensure
15 requirements for ~~both~~ any of the tiers of long-term care
16 administrators without effect on the licensure or certification
17 status of those currently certified or licensed. Until such rules
18 are promulgated, current licensure and certification processes and
19 standards shall remain in place.

20 2. To be eligible for licensure or certification as ~~either~~ a
21 Tier 1 ~~or~~, Tier 2, or Tier 3 long-term care administrator, the
22 applicant shall have successfully completed a training and education
23 program approved by the Commissioner.

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1 3. The Commissioner shall not include a requirement for a four-
2 year degree or an administrator-in-training (AIT) internship in any
3 licensing or certification requirements for Tier 2 or Tier 3 long-
4 term care administrators, except that the Commissioner may require
5 an AIT internship for Tier 2 administrators of an intermediate care
6 facility for individuals with intellectual disabilities with sixteen
7 or fewer beds (ICF/IID-16).

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

- 11 a. hold a baccalaureate degree from an institution of
12 higher education, or
- 13 b. hold an associate degree in a health- or business-
14 related field or other relevant field as determined by
15 the Commissioner and have not less than five (5) years
16 of experience in upper-level management of a long-term
17 care facility as determined by the Commissioner.

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

23 F. 1. The State Department of Health shall ~~either~~:

- 24 1. Approve

1 a. approve one or more organizations or agencies to
2 provide training and education programs for long-term
3 care administrators. Each such organization or agency
4 shall meet such requirements as may be prescribed by
5 rules promulgated by the State Commissioner of
6 Health~~1~~

7 ~~2. Offer~~

8 b. offer a training and education program for long-term
9 care administrators conducted by the Department~~1~~ or

10 ~~3. Both~~

11 c. both approve one or more organizations to provide
12 training and education programs for long-term care
13 administrators as described in ~~paragraph 1~~
14 subparagraph a of this ~~subsection~~ paragraph and offer
15 a training and education program for long-term care
16 administrators conducted by the Department as
17 described in ~~paragraph 2~~ subparagraph b of this
18 ~~subsection~~ paragraph.

19 2. Approved organizations or agencies may request examination
20 results from the Department for state and NAB examinations for the
21 purpose of monitoring and evaluating the organization's or agency's
22 training and education program.

23 G. 1. Each person licensed or certified as a long-term care
24 administrator under the provisions of ~~this act~~ the Long-Term Care

1 Administrator Licensing Act shall pay an annual license or
2 certification fee which shall be deposited in the Long-Term Care
3 Administrator Revolving Fund described in ~~Section 7 of this act~~
4 Section 1-1949.5 of this title. Such fee shall be determined by the
5 Commissioner. Each such license or certification shall expire on
6 the thirty-first day of December following its issuance, and shall
7 be renewable for a calendar year, upon meeting the renewal
8 requirements and upon payment of the annual licensure or
9 certification fee.

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

13 3. All revenues collected as a result of fees authorized in
14 this section and imposed by the Commissioner shall be deposited into
15 the Long-Term Care Administrator Revolving Fund described in ~~Section~~
16 ~~7 of this act~~ Section 1-1949.5 of this title.

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

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1 I. It shall be unlawful for any person to act or serve in the
2 capacity of a long-term care administrator unless the person is the
3 holder of a license or certificate as a long-term care
4 administrator, issued in accordance with the provisions of ~~this act~~
5 the Long-Term Care Administrator Licensing Act. A person found
6 guilty of a violation of this subsection shall, upon conviction, be
7 guilty of a misdemeanor.

8 SECTION 3. AMENDATORY 63 O.S. 2021, Section 330.58, as
9 amended by Section 6, Chapter 271, O.S.L. 2023, and as renumbered by
10 Section 14, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-
11 1949.4), is amended to read as follows:

12 Section 1-1949.4. The State Department of Health or, as
13 appropriate, the State Commissioner of Health shall:

14 1. Develop and apply standards for approval of training and
15 education programs for long-term care administrators ~~that meet the~~
16 ~~accreditation~~ which may include standards of the National
17 Association of Long Term Care Administrator Boards and approve or
18 offer training and education programs, or both, as described in
19 subsection F of Section ~~330.53~~ 1-1949.3 of this title;

20 2. Develop, impose, and enforce standards which must be met by
21 individuals in order to receive a license or certification as a
22 long-term care administrator, which standards shall be designed to
23 ensure that long-term care administrators will be individuals who
24 are of good character and are otherwise suitable, and who, by

1 training or experience in the field of institutional administration,
2 are qualified to serve as long-term care administrators;

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

6 4. Issue licenses or certifications to individuals determined,
7 after the application of such techniques, to meet such standards.

8 The Department may deny an initial application, deny a renewal
9 application, and revoke or suspend licenses or certifications
10 previously issued by the Department in any case where the individual
11 holding any such license or certification is determined
12 substantially to have failed to conform to the requirements of such
13 standards. The Department may also warn, censure, impose
14 administrative fines or use other remedies that may be considered to
15 be less than revocation and suspension. Administrative fines
16 imposed pursuant to this section shall not exceed One Thousand
17 Dollars (\$1,000.00) per violation. The Department shall consider
18 the scope, severity and repetition of the violation and any
19 additional factors deemed appropriate by the Department when issuing
20 a fine. The Department may utilize one or more administrative law
21 judges to conduct administrative proceedings;

22 5. Establish and carry out procedures designed to ensure that
23 individuals licensed or certified as long-term care administrators
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1 will, during any period that they serve as such, comply with the
2 requirements of such standards;

3 6. Receive, investigate, and take appropriate action with
4 respect to any charge or complaint filed with the Department to the
5 effect that any individual licensed as a long-term care
6 administrator has failed to comply with the requirements of such
7 standards. The long-term care ombudsman program of the Aging
8 Services Division of the Department of Human Services shall be
9 notified of all complaint investigations of the Department so that
10 they may be present at any such complaint investigation for the
11 purpose of representing long-term care facility consumers;

12 7. Receive and take appropriate action on any complaint or
13 referral received by the Department from the Department of Human
14 Services or any other regulatory agency. A complaint shall not be
15 published on the website of the Department unless there is a finding
16 by the Department that the complaint has merit. The Commissioner
17 shall promulgate rules that include, but are not limited to,
18 provisions for:

- 19 a. establishing a complaint review process,
- 20 b. creating a formal complaint file,
- 21 c. establishing a protocol for investigation of
22 complaints, and

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1 d. establishing an independent informal dispute
2 resolution process in accordance with ~~Section 9 of~~
3 ~~this act~~ Section 1-1949.7 of this title;

4 8. Enforce the provisions of ~~this act~~ the Long-Term Care
5 Administrator Licensing Act against all persons who are in violation
6 thereof including, but not limited to, individuals who are
7 practicing or attempting to practice as long-term care
8 administrators without proper authorization from the Department;

9 9. Conduct a continuing study and investigation of long-term
10 care facilities and administrators of long-term care facilities
11 within the state with a view toward the improvement of the standards
12 imposed for the licensing or certifying of such administrators and
13 of procedures and methods for the enforcement of such standards with
14 respect to administrators of long-term care facilities who have been
15 licensed or certified;

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

18 11. Develop a code of ethics for long-term care administrators
19 which includes, but is not limited to, a statement that
20 administrators have a fiduciary duty to the facility and cannot
21 serve as guardian of the person or of the estate, or hold a durable
22 power of attorney or power of attorney for any resident of a
23 facility of which they are an administrator;

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

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

6 14. Impose administrative fines, in an amount to be determined
7 by the Commissioner, against persons who do not comply with the
8 provisions of ~~this act~~ the Long-Term Care Administrator Licensing
9 Act or the rules adopted by the Commissioner. Administrative fines
10 imposed pursuant to this section shall not exceed One Thousand
11 Dollars (\$1,000.00) per violation. The Department shall consider
12 the scope, severity and repetition of the violation and any
13 additional factors deemed appropriate by the Department when issuing
14 a fine;

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

17 16. Grant short-term provisional licenses to individuals who do
18 not meet all of the licensing requirements, provided the individual
19 obtains the services of a currently licensed administrator to act as
20 a consultant and meets any additional criteria for a provisional
21 license established by the Commissioner;

22 17. Promulgate rules governing the employment of assistant
23 administrators including, but not limited to, minimum
24 qualifications; and

1 18. Employ such staff as may be necessary to carry out the
2 duties of ~~this act~~ the Long-Term Care Administrator Licensing Act.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-1950A of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A Registered Nurse or Licensed Practical Nurse performing
7 duties in a nursing facility or specialized facility may, within the
8 scope of his or her licensure as established by the Oklahoma Board
9 of Nursing and subject to rules promulgated by the State
10 Commissioner of Health, prepare medications for administration to
11 residents, including the reconstitution and dilution of such
12 medications.

13 B. This section shall not be construed to limit or otherwise
14 affect the ability of a Registered Nurse or Licensed Practical Nurse
15 to prepare medications in facilities or settings other than a
16 nursing facility or specialized facility.

17 SECTION 5. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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