

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1709 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Charles McCall _____

Reading Clerk

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1709

By: Rosino and Pederson of the
Senate

6 and

7 Echols of the House

8
9 FLOOR SUBSTITUTE

10 An Act relating to the Department of Human Services;
11 transferring the Office of Client Advocacy from the
12 Department of Human Services to the Office of the
13 Attorney General; transferring the Office of the
14 State Long-Term Care Ombudsman from the Department of
15 Human Services to the Office of the Attorney General;
16 directing certain transfers; requiring the Director
17 of the Office of Management and Enterprise Services
18 to coordinate certain transfers; stipulating
19 procedures for transfer of administrative rules;
20 amending 10 O.S. 2021, Section 1430.27, which relates
21 to inspection, investigation, survey, or evaluation
22 of group homes; conforming and updating language;
23 amending 10A O.S. 2021, Section 1-9-112, which
24 relates to the Office of Client Advocacy; conforming,
updating, and clarifying language; removing certain
restriction on dismissal of personnel; modifying
qualifications of Advocate General; amending 10A O.S.
2021, Section 1-9-117, which relates to allegations
against Department of Human Services employees or
child-placing agency by foster parent; conforming and
updating language; amending Section 2, Chapter 123,
O.S.L. 2022 (43A O.S. Supp. 2023, Section 10-115),
which relates to multidisciplinary elderly and
vulnerable adult abuse teams; conforming and updating
language; amending 63 O.S. 2021, Sections 1-829, 1-
1902, 1-1911, 1-1941, 1-1945, 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,

1 1-1950.4, 1-2212, 1-2213, 1-2214, and 1-2216 (63 O.S.
2 Supp. 2023, Section 1-1949.4), which relate to long-
3 term care; conforming, updating, and clarifying
4 language; making language gender neutral; updating
5 statutory references; providing for codification; and
6 providing an effective date.

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

8 SECTION 1. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-9-112a of Title 10A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Upon the effective date of this act, the Office of Client
12 Advocacy within the Department of Human Services shall transfer to
13 the Office of the Attorney General. The Office of Client Advocacy
14 and the Advocate General shall continue to exercise their statutory
15 powers and duties.

16 B. All equipment, supplies, records, matters pending, assets,
17 future liabilities, fund balances, encumbrances, obligations,
18 indebtedness, and legal and contractual rights and responsibilities
19 of the Office of Client Advocacy shall be transferred to the Office
20 of the Attorney General.

21 C. Any monies accruing to or in the name of the Office of
22 Client Advocacy on and after the effective date of this act, or any
23 monies that accrue in any funds or accounts or are maintained for
24 the benefit of the Office of Client Advocacy on and after the

1 effective date of this act, shall be transferred to the Office of
2 the Attorney General.

3 D. The Department of Human Services and the Office of the
4 Attorney General may enter into an agreement for the transfer of
5 personnel. No employee shall be transferred to the Office of the
6 Attorney General except on the freely given written consent of the
7 employee. Any employee who is transferred shall not be required to
8 accept a lesser grade or salary than presently received. All
9 employees shall retain leave, sick, and annual time earned, and any
10 retirement and longevity benefits which have accrued during their
11 tenure with the Department of Human Services. The transfer of
12 personnel between the state agencies shall be coordinated with the
13 Office of Management and Enterprise Services.

14 E. The Director of the Office of Management and Enterprise
15 Services shall coordinate the transfer of funds, allotments,
16 purchase orders, and outstanding financial obligations or
17 encumbrances as provided for in this section.

18 F. Upon the effective date of this act, all administrative
19 rules promulgated by the Director of Human Services for the Office
20 of Client Advocacy shall be transferred to and become a part of the
21 administrative rules of the Office of the Attorney General. The
22 Office of Administrative Rules in the Office of the Secretary of
23 State shall provide adequate notice in "The Oklahoma Register" of
24 the transfer of such rules and shall place the transferred rules

1 under the Oklahoma Administrative Code title of the Office of the
2 Attorney General. Such rules shall continue in force and effect as
3 rules of the Office of the Attorney General from and after the
4 effective date of this act, and any amendment, repeal, or addition
5 to the transferred rules shall be under the jurisdiction of the
6 Attorney General.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-2213.1 of Title 63, unless
9 there is created a duplication in numbering, reads as follows:

10 A. Upon the effective date of this act, the Office of the State
11 Long-Term Care Ombudsman within the Department of Human Services
12 shall transfer to the Office of the Attorney General. The Office of
13 the State Long-Term Care Ombudsman shall continue to exercise its
14 statutory powers and duties.

15 B. All equipment, supplies, records, matters pending, assets,
16 future liabilities, fund balances, encumbrances, obligations,
17 indebtedness, and legal and contractual rights and responsibilities
18 of the Office of the State Long-Term Care Ombudsman shall be
19 transferred to the Office of the Attorney General.

20 C. Any monies accruing to or in the name of the Office of the
21 State Long-Term Care Ombudsman on and after the effective date of
22 this act, or any monies that accrue in any funds or accounts or are
23 maintained for the benefit of the Office on and after the effective
24

1 date of this act, shall be transferred to the Office of the Attorney
2 General.

3 D. The Department of Human Services and the Office of the
4 Attorney General may enter into an agreement for the transfer of
5 personnel. No employee shall be transferred to the Office of the
6 Attorney General except on the freely given written consent of the
7 employee. Any employee who is transferred shall not be required to
8 accept a lesser grade or salary than presently received. All
9 employees shall retain leave, sick, and annual time earned, and any
10 retirement and longevity benefits which have accrued during their
11 tenure with the Department of Human Services. The transfer of
12 personnel between the state agencies shall be coordinated with the
13 Office of Management and Enterprise Services.

14 E. The Director of the Office of Management and Enterprise
15 Services shall coordinate the transfer of funds, allotments,
16 purchase orders, and outstanding financial obligations or
17 encumbrances as provided for in this section.

18 F. Upon the effective date of this act, all administrative
19 rules promulgated by the Director of Human Services for the Office
20 of the State Long-Term Care Ombudsman shall be transferred to and
21 become a part of the administrative rules of the Office of the
22 Attorney General. The Office of Administrative Rules in the Office
23 of the Secretary of State shall provide adequate notice in "The
24 Oklahoma Register" of the transfer of such rules and shall place the

1 transferred rules under the Oklahoma Administrative Code title of
2 the Office of the Attorney General. Such rules shall continue in
3 force and effect as rules of the Office of the Attorney General from
4 and after the effective date of this act, and any amendment, repeal,
5 or addition to the transferred rules shall be under the jurisdiction
6 of the Attorney General.

7 SECTION 3. AMENDATORY 10 O.S. 2021, Section 1430.27, is
8 amended to read as follows:

9 Section 1430.27. A. Every group home shall be inspected at
10 least annually by a duly appointed representative of the Department
11 of Human Services pursuant to rules promulgated by the ~~Commission~~
12 ~~for Human Services with the advice and counsel of the Group Homes~~
13 ~~for Persons with Developmental or Physical Disabilities Advisory~~
14 ~~Board established by Section 1430.4 of this title~~ Director of Human
15 Services.

16 B. The Department shall at least annually and whenever it deems
17 necessary inspect, survey, and evaluate each group home to determine
18 compliance with applicable licensure and program requirements and
19 standards.

20 C. Any inspection, investigation, survey, or evaluation may be
21 conducted without prior notice to the home. At least one inspection
22 per group home shall be unannounced. Any licensee or applicant for
23 a license shall be deemed to have given consent to any duly
24 authorized employee or agent of the Department to enter and inspect

1 the group home in accordance with the provisions of the Group Homes
2 for Persons with Developmental or Physical Disabilities Act.

3 Refusal to permit such entry or inspection may constitute grounds
4 for the denial, nonrenewal, suspension, or revocation of a license.

5 D. The Department shall maintain a log, updated at least
6 monthly and available for public inspection, which shall at a
7 minimum detail:

8 1. The name of the group home and date of inspection,
9 investigation, survey, or evaluation;

10 2. Any deficiencies, lack of compliance, or violation noted at
11 the inspection, investigation, survey, or evaluation;

12 3. The date a notice of violation, license denial, nonrenewal,
13 suspension, or revocation was issued or other enforcement action
14 occurred;

15 4. Proposed dates for the resolution of deficiencies;

16 5. The date corrections were completed, as verified by an
17 inspection; and

18 6. If the inspection or investigation was made pursuant to the
19 receipt of a complaint, the date such complaint was received and the
20 date the group home was notified of the results of the inspection or
21 investigation.

22 E. The Department shall require periodic reports and shall have
23 access to books, records, and other documents maintained by the
24 group home to the extent necessary to implement the provisions of

1 the Group Homes for Persons with Developmental or Physical
2 Disabilities Act and the rules promulgated by the ~~Commission for~~
3 ~~Human Services Director~~ pursuant thereto.

4 F. Any ~~state or local ombudsman~~ representative of the Office of
5 the State Long-Term Care Ombudsman within the Office of the Attorney
6 General or a representative of the Office of Client Advocacy within
7 the Office of the Attorney General having proper identification is
8 authorized to enter any group home licensed pursuant to the
9 provisions of the Group Homes for Persons with Developmental or
10 Physical Disabilities Act, communicate privately and without
11 unreasonable restriction with any resident of a group home who
12 consents to such communication, to seek consent to communicate
13 privately and without restriction with any resident of a group home,
14 and to observe all areas of a group home that directly pertain to
15 the care of a resident of a group home.

16 G. All state agencies receiving complaints on, or conducting
17 surveys or inspections of, group homes shall forward complete copies
18 of complaints or inspection or survey results to the Office of
19 Client Advocacy ~~of the Department of Human Services~~.

20 SECTION 4. AMENDATORY 10A O.S. 2021, Section 1-9-112, is
21 amended to read as follows:

22 Section 1-9-112. A. 1. The ~~Director of Human Services is~~
23 ~~authorized and directed to~~ Attorney General shall establish the
24 Office of Client Advocacy within the ~~Department of Human Services~~

1 Office of the Attorney General and ~~to~~ shall employ personnel
2 necessary to carry out the ~~purposes of this section and the duties~~
3 ~~listed in provisions of~~ this section. ~~Personnel may be dismissed~~
4 ~~only for cause.~~

5 2. The ~~chief administrative officer~~ head of the Office of
6 Client Advocacy shall be the Advocate General, ~~who shall be an~~
7 ~~attorney.~~ The Advocate General shall be a member of the Oklahoma
8 Bar Association and shall have a minimum of three (3) years'
9 experience as an attorney. The compensation of the Advocate General
10 shall be no less than that of the classification of Attorney III as
11 established in the Merit System of Personnel Administration
12 classification and compensation plan, but shall be an unclassified
13 position.

14 3. The duties and responsibilities of the Advocate General are
15 to:

- 16 a. supervise personnel assigned to the Office of Client
17 Advocacy,
18 b. monitor and review grievance procedures and hearings,
19 c. establish and maintain a fair, simple, and expeditious
20 system for resolution of grievances of:

21 (1) all children in the custody of the Department of
22 Human Services regarding:
23
24

1 (a) the substance or application of any written
2 or unwritten policy or rule of the
3 Department or agent of the Department, or
4 (b) any decision or action by an employee or
5 agent of the Department, or of any child in
6 the custody of the Department,

7 (2) foster parents relating to the provision of
8 foster care services pursuant to this section and
9 Section 1-9-117 of this title, and

10 (3) all persons receiving services from the
11 Developmental Disabilities Services Division of
12 the Department of Human Services,

13 d. investigate allegations of abuse, neglect, sexual
14 abuse, and sexual exploitation, as those terms are
15 defined in the Oklahoma Children's Code, by a person
16 responsible for a child, regardless of custody:

17 (1) residing outside ~~their~~ his or her own ~~homes~~ home
18 other than children in foster care or children in
19 the custody of the Office of Juvenile Affairs and
20 placed in an Office of Juvenile Affairs secure
21 facility,

22 (2) in a day treatment program as defined in Section
23 175.20 of Title 10 of the Oklahoma Statutes, and
24 submit a report of the results of the

1 investigation to the appropriate district
2 attorney and to the State Department of Health,
3 (3) receiving services from a community services
4 worker as that term is defined in Section 1025.1
5 of Title 56 of the Oklahoma Statutes, and
6 (4) residing in a state institution listed in Section
7 1406 of Title 10 of the Oklahoma Statutes,

8 e. establish a system for investigating allegations of
9 misconduct, by a person responsible for a child, not
10 rising to the level of abuse, neglect, sexual abuse,
11 or sexual exploitation with regard to any child or
12 resident listed in subparagraph d of this paragraph,

13 f. coordinate any hearings or meetings of ~~Departmental~~
14 departmental administrative review committees
15 conducted as a result of unresolved grievances or as a
16 result of investigations,

17 g. make recommendations to the State Commissioner of
18 Health, who shall then make recommendations to the
19 Director of Human Services, and provide regular or
20 special reports regarding grievance procedures,
21 hearings and investigations to the Director, the
22 ~~Commission~~ Commissioner, the Office of Juvenile System
23 Oversight, and other appropriate persons as necessary,
24

- 1 h. forward to the Office of Juvenile System Oversight,
2 for the information of the Director of that office, a
3 copy of the final report of any grievance which is not
4 resolved in the favor of the complainant,
- 5 i. perform such other duties as required by the ~~Director~~
6 ~~of the Department or the Commission~~ State Commissioner
7 of Health, and
- 8 j. develop policies and procedures as necessary to
9 implement the duties and responsibilities assigned to
10 the Office of Client Advocacy.

11 B. The Office of Client Advocacy shall make a complete written
12 report of ~~their~~ its investigations. The investigation report,
13 together with its recommendations, shall be submitted to the
14 appropriate district attorney's office.

15 C. 1. Except as otherwise provided by the Oklahoma Children's
16 Code, the reports required by Section 1-2-101 of this title or any
17 other information acquired pursuant to the Oklahoma Children's Code
18 shall be confidential and may be disclosed only as provided in
19 Section 1-2-108 of this title and the Oklahoma Children's Code.

20 2. Except as otherwise provided by the Oklahoma Children's
21 Code, any violation of the confidentiality requirements of the
22 Oklahoma Children's Code shall, upon conviction, be a misdemeanor
23 punishable by up to six (6) months in jail, by a fine of Five
24 Hundred Dollars (\$500.00), or by both such fine and imprisonment.

1 3. Any records or information disclosed as provided by this
2 subsection shall remain confidential. The use of any information
3 shall be limited to the purpose for which disclosure is authorized.
4 Rules promulgated by the ~~Commission for Human Services~~ State
5 Commissioner of Health shall provide for disclosure of relevant
6 information concerning Office of Client Advocacy investigations to
7 persons or entities acting in an official capacity with regard to
8 the subject of the investigation.

9 4. Nothing in this section shall be construed as prohibiting
10 the Office of Client Advocacy or the Department of Human Services
11 from disclosing such confidential information as may be necessary to
12 secure appropriate care, treatment, or protection of a child alleged
13 to be abused or neglected.

14 D. 1. The Office of Client Advocacy shall investigate any
15 complaint received by the Office of Juvenile System Oversight
16 alleging that an employee of the Department of Human Services or a
17 child-placing agency has threatened a foster parent with removal of
18 a child from the foster parent, harassed a foster parent, or refused
19 to place a child in a licensed or certified foster home, or
20 disrupted a child placement as retaliation or discrimination towards
21 a foster parent who has:

22 a. filed a grievance pursuant to Section 1-9-120 of this
23 title,

24

- 1 b. provided information to any state official or
2 Department of Human Services employee, or
3 c. testified, assisted, or otherwise participated in an
4 investigation, proceeding, or hearing against the
5 Department of Human Services or child-placing agency.

6 2. The provisions of this subsection shall not apply to any
7 complaint by a foster parent regarding the result of a criminal,
8 administrative, or civil proceeding for a violation of any law,
9 rule, or contract provision by that foster parent, or the action
10 taken by the Department of Human Services or a child-placement
11 agency in conformity with the result of any such proceeding.

12 3. The Office of Client Advocacy shall at all times be granted
13 access to any foster home or any child-placing agency which is
14 certified, authorized, or funded by the Department of Human
15 Services.

16 SECTION 5. AMENDATORY 10A O.S. 2021, Section 1-9-117, is
17 amended to read as follows:

18 Section 1-9-117. A. 1. A foster parent may report to the
19 Office of Client Advocacy ~~of the Department of Human Services~~ within
20 the Office of the Attorney General an allegation that an employee of
21 the Department of Human Services or of a child-placing agency has
22 threatened the foster parent with removal of a child from the foster
23 parent, harassed or refused to place a child in a licensed or
24

1 certified foster home, or disrupted a child placement as retaliation
2 or discrimination towards a foster parent who has:

- 3 a. filed a grievance pursuant to Section 1-9-120 of this
4 title,
- 5 b. provided information to any state official or
6 Department of Human Services employee, or
- 7 c. testified, assisted, or otherwise participated in an
8 investigation, proceeding, or hearing against the
9 Department of Human Services or child-placing agency.

10 2. The provisions of this subsection shall not apply to any
11 complaint by a foster parent regarding the result of a criminal,
12 administrative, or civil proceeding for a violation of any law,
13 rule, or contract provision by that foster parent, or the action
14 taken by the Department of Human Services or a child-placing agency
15 in conformity with the result of any such proceeding.

16 3. A reporter shall not be relieved of the duty to report
17 incidents of alleged child abuse or neglect pursuant to the Oklahoma
18 Children's Code.

19 4. The Advocate General shall establish rules and procedures
20 for evaluating reports of complaints pursuant to paragraph 1 of this
21 subsection and for conducting an investigation of such reports.

22 B. 1. The Office of Client Advocacy shall prepare and maintain
23 written records from the reporting source that shall contain the
24

1 following information to the extent known at the time the report is
2 made:

- 3 a. the names and addresses of the child and the person
4 responsible for the child's welfare,
- 5 b. the nature of the complaint, and
- 6 c. the names of the persons or agencies responsible for
7 the allegations contained in the complaint.

8 2. Any investigation conducted by the Office of Client Advocacy
9 pursuant to such information shall not duplicate and shall be
10 separate from the investigation mandated by the Oklahoma Children's
11 Code or other investigation of the Department of Human Services
12 having notice and hearing requirements.

13 3. At the request of the reporter, the Office of Client
14 Advocacy shall keep the identity of the reporter strictly
15 confidential from the operation of the Department of Human Services,
16 until the ~~Advocate General~~ State Commissioner of Health determines
17 what recommendations shall be made to the ~~Commission for Human~~
18 ~~Services and to the~~ Director of the Department.

19 C. The ~~Commission~~ Commissioner and the Director shall ensure
20 that a person making a report in good faith under this section is
21 not adversely affected solely on the basis of having made such
22 report.

23 D. Any person who knowingly and willfully makes a false or
24 frivolous report or complaint or a report that the person knows

1 lacks factual foundation, pursuant to the provisions of this
2 section, may be subject to loss of foster parent certification.

3 SECTION 6. AMENDATORY Section 2, Chapter 123, O.S.L.
4 2022 (43A O.S. Supp. 2023, Section 10-115), is amended to read as
5 follows:

6 Section 10-115. A. In coordination with the District Attorneys
7 Council, each district attorney may develop a multidisciplinary team
8 for the investigation and prosecution of crimes committed against
9 the elderly or vulnerable adults in each county of the district
10 attorney or in a contiguous group of counties. The lead agency for
11 the team shall be chosen by the members of the team. The team shall
12 intervene in reports involving sexual abuse, abuse, neglect, or
13 exploitation of an elderly person or vulnerable adult as defined in
14 Section 10-103 of Title 43A of the Oklahoma Statutes.

15 B. The multidisciplinary elderly and vulnerable adult abuse
16 team members shall include, but not be limited to:

17 1. Mental health professionals licensed pursuant to the laws of
18 this state or licensed professional counselors;

19 2. Police officers or other law enforcement agents whose duties
20 include, or who have experience or training in, ~~elder~~ elderly and
21 vulnerable adult abuse and neglect investigation;

22 3. Medical personnel with experience in ~~elder~~ elderly and
23 vulnerable adult abuse and neglect identification;

24

1 4. Adult Protective Services, ~~Office of Client Advocacy~~, and
2 long-term care workers within the Department of Human Services;

3 5. Office of Client Advocacy workers within the Office of the
4 Attorney General;

5 6. Multidisciplinary elder ~~elderly~~ elderly and vulnerable adult abuse
6 team coordinators; and

7 ~~6.~~ 7. The district attorney or assistant district attorney.

8 C. 1. Subject to the availability of funds and resources, the
9 functions of the team shall include, but not be limited to:

- 10 a. whenever feasible, joint investigations by law
11 enforcement and Adult Protective Services, Office of
12 Client Advocacy, or long-term care staff to
13 effectively respond to reports of abuse against
14 elderly or vulnerable adult victims,
- 15 b. the development of a written protocol for
16 investigation of sexual abuse, abuse, neglect, or
17 exploitation cases of elderly or vulnerable adults and
18 for the interview of victims to ensure coordination
19 and cooperation between all agencies involved. Such
20 protocol shall include confidentiality statements and
21 interagency agreements signed by member agencies that
22 specify the cooperative effort of the member agencies
23 to the team,

- 1 c. communication and collaboration among the
2 professionals responsible for the reporting,
3 investigation, prosecution, and treatment of elderly
4 and vulnerable adult abuse and neglect cases,
- 5 d. elimination of duplicative efforts in the
6 investigation and the prosecution of abuse and neglect
7 cases committed against elderly or vulnerable adult
8 victims,
- 9 e. identification of gaps in service or untapped
10 resources within the community to improve the delivery
11 of services to the victim and family,
- 12 f. development of expertise through training. Each team
13 member and those conducting investigations and
14 interviews of ~~elder~~ elderly or vulnerable adult abuse
15 victims shall be trained in the multidisciplinary team
16 approach, conduction of legally sound developmentally
17 and age-appropriate interviews, effective
18 investigation techniques and joint investigations as
19 provided through the State Department of Health, the
20 District Attorneys Council, the Department of Human
21 Services, or other resources,
- 22 g. formalization of a case review process and provision
23 of data as requested, and
24

1 h. standardization of investigative procedures for the
2 handling of elderly and vulnerable adult abuse and
3 neglect cases.

4 2. Any investigation or interview related to sexual abuse,
5 abuse, or neglect of elderly or vulnerable adults shall be conducted
6 by appropriate personnel using the protocols and procedures
7 specified in this section.

8 3. If trained personnel are not available in a timely manner
9 and if a law enforcement officer or the Department of Human Services
10 determines that there is reasonable cause to believe a delay in
11 investigation or interview of a victim could place the victim's
12 health or welfare in danger of harm or threatened harm, the
13 investigation may proceed without full participation of all
14 personnel, but only for as long as the danger to the victim exists.
15 The Department shall make a reasonable effort to find and provide a
16 trained investigator or interviewer.

17 D. A multidisciplinary ~~elder~~ elderly or vulnerable adult abuse
18 team shall have full access to any service or treatment plan and any
19 personal data known to the Department of Human Services that is
20 directly related to the implementation of the requirements of this
21 section.

22 E. Each member of the team shall protect the confidentiality of
23 the elderly or vulnerable adult and any information made available
24 to the team member. The multidisciplinary team and any information

1 received by the team shall be exempt from the Oklahoma Open Meeting
2 Act and the Oklahoma Open Records Act.

3 SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-829, is
4 amended to read as follows:

5 Section 1-829. A. Every residential care home for which a
6 license has been issued shall be inspected by a duly appointed
7 representative of the State Department of Health pursuant to rules
8 promulgated by the State ~~Board~~ Commissioner of Health with the
9 advice and counsel of the Long-Term Care Facility Advisory Board.
10 Inspection reports shall be prepared on forms prescribed by the
11 Department with the advice and counsel of the Advisory Board.

12 B. 1. The Department shall at least one time a year and
13 whenever it deems necessary inspect, survey, and evaluate each home
14 to determine compliance with applicable licensure rules.

15 2. An inspection, investigation, survey, or evaluation shall be
16 either announced or unannounced. The ~~State Board of Health~~
17 Commissioner shall promulgate rules determining the criteria when an
18 inspection, investigation, survey, or evaluation shall be
19 unannounced or may be announced by the Department. Any licensee,
20 applicant for a license, or operator of any unlicensed facility
21 shall be deemed to have given consent to any duly authorized
22 employee, or agent of the Department to enter and inspect the home
23 in accordance with the provisions of the Residential Care Act.
24 Refusal to permit such entry or inspection shall constitute grounds

1 for the denial, nonrenewal, suspension, or revocation of a license
2 as well as emergency transfer of all residents.

3 3. Any employee of the Department who discloses to any
4 unauthorized person, prior to an inspection, information regarding
5 an unannounced residential care home inspection that is required
6 pursuant to the provisions of the Residential Care Act shall, upon
7 conviction thereof, be guilty of a misdemeanor. In addition, such
8 action shall be construed to be a misuse of office and punishable as
9 a violation of rules promulgated by the Ethics Commission.

10 One person may be invited from a statewide organization of older
11 adults or persons with disabilities by the Department to act as a
12 citizen observer in any inspection.

13 C. The Department shall maintain a log, updated at least
14 monthly and available for public inspection, which shall at a
15 minimum detail:

16 1. The name of the home and date of inspection, investigation,
17 survey, or evaluation;

18 2. Any deficiencies, lack of compliance, or violation noted at
19 the inspection, investigation, survey, or evaluation;

20 3. The date a notice of violation, license denial, nonrenewal,
21 suspension, or revocation was issued or other enforcement action
22 occurred;

23 4. The date a plan of correction was submitted and the date the
24 plan was approved;

1 5. The date corrections were completed, as verified by an
2 inspection; and

3 6. If the inspection or investigation was made pursuant to the
4 receipt of a complaint, the date such complaint was received and the
5 date the complainant was notified of the results of the inspection
6 or investigation.

7 D. The Department may require the residential care home to
8 submit periodic reports. The Department shall have access to books,
9 records, and other documents maintained by the home to the extent
10 necessary to implement the provisions of the Residential Care Act
11 and the rules promulgated by the ~~Board~~ Commissioner pursuant
12 thereto.

13 E. The Department shall make at least one annual report on each
14 home in the state. The report shall include all conditions and
15 practices not in compliance with the provisions of the Residential
16 Care Act or rules promulgated pursuant thereto within the last year
17 and, if a violation is corrected, or is subject to an approved plan
18 of correction. The Department shall send a copy of the report to
19 any person upon receiving a written request. The Department may
20 charge a reasonable fee to cover the cost of copying and mailing the
21 report.

22 ~~F. A state or local ombudsman as that term is defined by the~~
23 ~~Special Unit on Aging within the Department of Human Services~~
24 ~~pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et~~

1 ~~seq., as amended,~~ representative of the Office of the State Long-
2 Term Care Ombudsman or case manager employed by the Department of
3 Mental Health and Substance Abuse Services or one of its contract
4 agencies is authorized to accompany and shall be notified by the
5 Department of any inspection conducted of any home licensed pursuant
6 to the provisions of the Residential Care Act. ~~Any state or local~~
7 ~~ombudsman~~ The State Long-Term Care Ombudsman or a representative of
8 the Office is authorized to enter any home licensed pursuant to the
9 provisions of the Residential Care Act, communicate privately and
10 without unreasonable restriction with any resident of a home who
11 consents to such communication, to seek consent to communicate
12 privately and without restriction with any resident of a home, and
13 to observe all areas of a home that directly pertain to the care of
14 a resident of a home.

15 G. Following any inspection by the Department, pursuant to the
16 provisions of this section, all reports relating to the inspection
17 shall be filed in the county office of the Department of Human
18 Services in which the home is located and with the Department of
19 Mental Health and Substance Abuse Services.

20 SECTION 8. AMENDATORY 63 O.S. 2021, Section 1-1902, is
21 amended to read as follows:

22 Section 1-1902. As used in the Nursing Home Care Act:
23
24

1 1. "Abuse" means the willful infliction of injury, unreasonable
2 confinement, intimidation, or punishment, with resulting physical
3 harm, impairment, or mental anguish;

4 2. "Access" means the right of a person to enter a facility to
5 communicate privately and without unreasonable restriction when
6 invited to do so by a resident. ~~The state or local "ombudsman", as~~
7 ~~that term is defined by the Aging Services Division of the~~
8 ~~Department of Human Services pursuant to the Older Americans' Act,~~
9 ~~42 U.S.C.A., Section 3001 et seq., as amended, A representative of~~
10 ~~the Office of the State Long-Term Care Ombudsman and a case manager~~
11 employed by the Department of Mental Health and Substance Abuse
12 Services or one of its contract agencies shall have right of access
13 to enter a facility, communicate privately and without unreasonable
14 restriction with any resident who consents to the communication, to
15 seek consent to communicate privately and without restriction with
16 any resident, and to observe all areas of the facility that directly
17 pertain to the patient care of the resident without infringing upon
18 the privacy of the other residents without first obtaining their
19 consent;

20 3. "Administrator" means the person licensed by the State of
21 Oklahoma who is in charge of a facility. An administrator must
22 devote at least one-third (1/3) of such person's working time to on-
23 the-job supervision of the facility; provided, that this requirement
24 shall not apply to an administrator of an intermediate care facility

1 for individuals with intellectual disabilities with sixteen or fewer
2 beds (ICF/IID-16), in which case the person licensed by the state
3 may be in charge of more than one such ICF/IID-16 facility, if such
4 facilities are located within a circle that has a radius of not more
5 than fifteen (15) miles, the total number of facilities and beds
6 does not exceed six facilities and sixty-four beds, and each such
7 ICF/IID-16 facility is supervised by a qualified professional. The
8 facilities may be free-standing in a community or may be on campus
9 with a parent institution. The ICF/IID-16 facility may be
10 independently owned and operated or may be part of a larger
11 institutional operation;

12 4. "Advisory Board" means the Long-Term Care Facility Advisory
13 Board;

14 5. "Adult companion home" means any home or establishment,
15 funded and certified by the Department of Human Services, which
16 provides homelike residential accommodations and supportive
17 assistance to three or fewer adults with intellectual or
18 developmental disabilities;

19 6. "Board" means the State Board of Health;

20 7. "Commissioner" means the State Commissioner of Health;

21 8. "Department" means the State Department of Health;

22 9. "Facility" means a nursing facility and a specialized home;
23 provided, this term shall not include a residential care home or an
24 adult companion home;

1 10. "Nursing facility" means a home, an establishment, or an
2 institution, a distinct part of which is primarily engaged in
3 providing:

- 4 a. skilled nursing care and related services for
- 5 residents who require medical or nursing care,
- 6 b. rehabilitation services for the rehabilitation of
- 7 injured, disabled, or sick persons, or
- 8 c. on a regular basis, health-related care and services
- 9 to individuals who because of their mental or physical
- 10 condition require care and services beyond the level
- 11 of care provided by a residential care home and which
- 12 can be made available to them only through a nursing
- 13 facility.

14 ~~"Nursing facility"~~ Nursing facility does not mean, for purposes of
15 Section 1-851.1 of this title, a facility constructed or operated by
16 an entity described in paragraph 7 of subsection B of Section 6201
17 of Title 74 of the Oklahoma Statutes or the nursing care component
18 of a continuum of care facility, as such term is defined under the
19 Continuum of Care and Assisted Living Act, to the extent that the
20 facility constructed or operated by an entity described in paragraph
21 7 of subsection B of Section 6201 of Title 74 of the Oklahoma
22 Statutes contains such a nursing care component;

23 11. "Specialized facility" means any home, establishment, or
24 institution which offers or provides inpatient long-term care

1 services on a twenty-four-hour basis to a limited category of
2 persons requiring such services, including but not limited to a
3 facility providing health or habilitation services for individuals
4 with intellectual or developmental disabilities, but does not mean,
5 for purposes of Section 1-851.1 of this title, a facility
6 constructed or operated by an entity described in paragraph 7 of
7 subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or
8 the nursing care component of a continuum of care facility, as such
9 term is defined under the Continuum of Care and Assisted Living Act,
10 to the extent that the facility constructed or operated by an entity
11 described in paragraph 7 of subsection B of Section 6201 of Title 74
12 of the Oklahoma Statutes contains such a nursing care component;

13 12. "Residential care home" means any home, establishment, or
14 institution licensed pursuant to the provisions of the Residential
15 Care Act other than a hotel, motel, fraternity or sorority house, or
16 college or university dormitory, which offers or provides
17 residential accommodations, food service, and supportive assistance
18 to any of its residents or houses any resident requiring supportive
19 assistance. The residents shall be persons who are ambulatory and
20 essentially capable of managing their own affairs, but who do not
21 routinely require nursing care; provided, the term "~~residential care~~
22 ~~home~~" residential care home shall not mean a hotel, motel,
23 fraternity or sorority house, or college or university dormitory, if
24 the facility operates in a manner customary to its description and

1 does not house any person who requires supportive assistance from
2 the facility in order to meet an adequate level of daily living;

3 13. "Licensee" means the person, a corporation, partnership, or
4 association who is the owner of the facility which is licensed by
5 the Department pursuant to the provisions of the Nursing Home Care
6 Act;

7 14. "Maintenance" means meals, shelter, and laundry services;

8 15. "Neglect" means failure to provide goods and/or services
9 necessary to avoid physical harm, mental anguish, or mental illness;

10 16. "Owner" means a person, corporation, partnership,
11 association, or other entity which owns a facility or leases a
12 facility. The person or entity that stands to profit or lose as a
13 result of the financial success or failure of the operation shall be
14 presumed to be the owner of the facility. Notwithstanding the
15 foregoing, any nonstate governmental entity that has acquired and
16 owns or leases a facility and that has entered into an agreement
17 with the Oklahoma Health Care Authority to participate in the
18 nursing facility supplemental payment program ("UPL Owner") shall be
19 deemed the owner of such facility and shall be authorized to obtain
20 management services from a management services provider ("UPL
21 Manager"), and to delegate, allocate, and assign as between the UPL
22 Owner and UPL Manager, compensation, profits, losses, liabilities,
23 decision-making authority, and responsibilities, including

24

1 responsibility for the employment, direction, supervision, and
2 control of the facility's administrator and staff;

3 17. "Personal care" means assistance with meals, dressing,
4 movement, bathing or other personal needs or maintenance, or general
5 supervision of the physical and mental well-being of a person, who
6 is incapable of maintaining a private, independent residence, or who
7 is incapable of managing his or her person, whether or not a
8 guardian has been appointed for such person;

9 18. "Resident" means a person residing in a facility due to
10 illness, physical or mental infirmity, or advanced age;

11 19. "Representative of a resident" means a court-appointed
12 guardian or, if there is no court-appointed guardian, the parent of
13 a minor, a relative, or other person, designated in writing by the
14 resident; provided, that any owner, operator, administrator, or
15 employee of a facility subject to the provisions of the Nursing Home
16 Care Act, the Residential Care Act, or the Group Homes for ~~the~~
17 ~~Developmentally Disabled or Physically Handicapped Persons~~ with
18 Developmental or Physical Disabilities Act shall not be appointed
19 guardian or limited guardian of a resident of the facility unless
20 the owner, operator, administrator, or employee is the spouse of the
21 resident, or a relative of the resident within the second degree of
22 consanguinity and is otherwise eligible for appointment; and

23 20. "Supportive assistance" means the service rendered to any
24 person which is less than the service provided by a nursing facility

1 but which is sufficient to enable the person to meet an adequate
2 level of daily living. Supportive assistance includes but is not
3 limited to housekeeping, assistance in the preparation of meals,
4 assistance in the safe storage, distribution, and administration of
5 medications, and assistance in personal care as is necessary for the
6 health and comfort of such person. Supportive assistance shall not
7 include medical service.

8 SECTION 9. AMENDATORY 63 O.S. 2021, Section 1-1911, is
9 amended to read as follows:

10 Section 1-1911. A. 1. Every building, institution, or
11 establishment for which a license has been issued, including any
12 facility operated by the Oklahoma Department of Veterans Affairs,
13 shall be periodically inspected by a duly appointed representative
14 of the State Department of Health, pursuant to rules promulgated by
15 the State ~~Board~~ Commissioner of Health with the advice and counsel
16 of the Long-Term Care Facility Advisory Board, created in Section 1-
17 1923 of this title.

18 2. Inspection reports shall be prepared on forms prescribed by
19 the Commissioner with the advice and counsel of the Advisory Board.

20 B. 1. The Department, whenever it deems necessary, shall
21 inspect, survey, and evaluate every facility, including any facility
22 operated by the Oklahoma Department of Veterans Affairs, to
23 determine compliance with applicable licensure and certification
24 requirements and standards. All inspections of facilities shall be

1 unannounced. The Department may have as many unannounced
2 inspections as it deems necessary.

3 2. The Department shall conduct at least one unannounced
4 inspection per calendar year of all nursing facilities operated by
5 the Oklahoma Department of Veterans Affairs.

6 3. Any employee of the State Department of Health who discloses
7 to any unauthorized person, prior to an inspection, information
8 regarding an unannounced nursing home inspection required pursuant
9 to the provisions of this section shall, upon conviction thereof, be
10 guilty of a misdemeanor. In addition, such action shall be
11 construed to be a misuse of office and punishable as a violation of
12 rules promulgated by the Ethics Commission.

13 4. a. The Department may periodically visit a facility for
14 the purpose of consultation and may notify the
15 facility in advance of such a visit. An inspection,
16 survey, or evaluation, other than an inspection of
17 financial records or a consultation visit, shall be
18 conducted without prior notice to the facility.

19 b. One person shall be invited by the Department ~~from a~~
20 ~~statewide organization of the elderly~~ to act as a
21 citizen observer in unannounced inspections. The
22 individual may be ~~a state or local ombudsman as~~
23 ~~defined by the Aging Services Division of the~~
24 ~~Department of Human Services, acting pursuant to the~~

1 ~~provisions of the Older Americans Act of 1965, Public~~
2 ~~Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as~~
3 ~~amended~~ a representative of a statewide organization
4 of the elderly or a representative of the Office of
5 the State Long-Term Care Ombudsman.

6 c. The citizen observer shall be reimbursed for expenses
7 in accordance with the provisions of the State Travel
8 Reimbursement Act.

9 d. An employee of a state or unit of a local government
10 agency, charged with inspecting, surveying, and
11 evaluating facilities, who aids, abets, assists,
12 conceals, or conspires with a facility administrator
13 or employee in violation of the provisions of the
14 Nursing Home Care Act shall be guilty, upon conviction
15 thereof, of a misdemeanor and shall be subject to
16 dismissal from employment.

17 C. The Department shall hold open meetings, as part of its
18 routine licensure survey, in each of the licensed facilities to
19 advise and to facilitate communication and cooperation between
20 facility personnel and the residents of facilities in their mutual
21 efforts to improve patient care. Administrators, employees of the
22 facility, residents, residents' relatives, friends, residents'
23 representatives, and employees from appropriate state and federal
24

1 agencies shall be encouraged to attend these meetings to contribute
2 to this process.

3 D. 1. The Department shall require periodic reports and shall
4 have access to books, records, and other documents maintained by the
5 facility to the extent necessary to implement the provisions of the
6 Nursing Home Care Act and the rules promulgated pursuant thereto.

7 2. Any holder of a license or applicant for a license shall be
8 deemed to have given consent to any authorized officer, employee, or
9 agent of the Department to enter and inspect the facility in
10 accordance with the provisions of the Nursing Home Care Act.

11 Refusal to permit ~~said~~ such entry or inspection, except for good
12 cause, shall constitute grounds for remedial action or
13 administrative penalty or both such action and penalty as provided
14 in the Nursing Home Care Act.

15 E. The Department shall maintain a file on each facility in the
16 state. All conditions and practices not in compliance with
17 applicable standards shall be specifically stated. If a violation
18 is corrected or is subject to an approved plan of correction, such
19 action shall be contained in the file. Upon receiving a written
20 request for a copy of the file documents, the Department shall send
21 a copy of the document to any person making the written request.
22 The Department may charge a reasonable fee for copying costs.

23 SECTION 10. AMENDATORY 63 O.S. 2021, Section 1-1941, is
24 amended to read as follows:

1 Section 1-1941. All state agencies receiving complaints on, or
2 conducting surveys or inspections of, nursing home facilities shall
3 forward complete copies of complaints or of inspection or survey
4 results to the ~~Ombudsman Program of the Special Unit on Aging~~ Office
5 of the State Long-Term Care Ombudsman.

6 SECTION 11. AMENDATORY 63 O.S. 2021, Section 1-1945, is
7 amended to read as follows:

8 Section 1-1945. For purposes of the Long-term Care Security
9 Act:

10 1. "Long-term care facility" means:

- 11 a. a nursing facility, or specialized facility, ~~or~~
12 ~~residential care home~~ as defined by Section 1-1902 of
13 this title,
- 14 b. an adult day care center as defined by Section 1-872
15 of this title,
- 16 c. skilled nursing care provided in a distinct part of a
17 hospital as defined by Section 1-701 of this title,
- 18 d. an assisted living center as defined by Section 1-
19 890.2 of this title,
- 20 e. the nursing care component of a continuum of care
21 facility as defined under the Continuum of Care and
22 Assisted Living Act,
- 23 f. the nursing care component of a life care community as
24 defined by the Long-term Care Insurance Act, or

1 g. a residential care home as defined by Section 1-820 of
2 this title;

3 2. "Ombudsman" means the individual employed by the ~~Department~~
4 ~~of Human Services~~ Office of the Attorney General as the State Long-
5 Term Care Ombudsman;

6 3. "Nurse aide" means any person who provides, for
7 compensation, nursing care or health-related services to residents
8 in a nursing facility, a specialized facility, a residential care
9 home, continuum of care facility, assisted living center, or an
10 adult day care center and who is not a licensed health professional.
11 Such term also means any person who provides such services to
12 individuals in their own homes as an employee or contract provider
13 of a home health or home care agency, or as a contract provider of
14 the ~~Oklahoma~~ State Plan Personal Care Program of the state Medicaid
15 program;

16 4. "Employer" means any of the following facilities, homes,
17 agencies, or programs which are subject to the provisions of Section
18 1-1947 of this title:

- 19 a. a nursing facility or specialized facility as such
20 terms are defined in the Nursing Home Care Act,
21 b. a residential care home as such term is defined by the
22 Residential Care Act,
23 c. an adult day care center as such term is defined in
24 the Adult Day Care Act,

- 1 d. an assisted living center as such term is defined by
2 the Continuum of Care and Assisted Living Act,
3 e. a continuum of care facility as such term is defined
4 by the Continuum of Care and Assisted Living Act,
5 f. a home health or home care agency,
6 g. the Department of Human Services, in its capacity as
7 an operator of any hospital or health care institution
8 or as a contractor with providers under the ~~Oklahoma~~
9 State Plan Personal Care Program of the state Medicaid
10 program,
11 h. a hospice agency as such term is defined in the
12 Oklahoma Hospice Licensing Act,
13 i. a Medicaid home- and community-based services waived
14 provider as defined in Section 1915(c) or 1915(i) of
15 the ~~Federal~~ federal Social Security Act,
16 j. a staffing agency with a contracted relationship to
17 provide staff with direct patient access to service
18 recipients of one or more of the other employers
19 listed in this paragraph, and
20 k. an independent contractor where the independent
21 contractor has a contracted relationship to provide
22 staff or services with direct patient access to
23 service recipients for one or more of the employers
24 listed in this paragraph;

1 5. "Home health or home care agency" means any person,
2 partnership, association, corporation, or other organization which
3 administers, offers, or provides health care services or supportive
4 assistance for compensation to three or more ill, disabled, or
5 infirm persons in the temporary or permanent residence of such
6 persons, and includes any subunits or branch offices of a parent
7 home health or home care agency;

8 6. "Bureau" means the Oklahoma State Bureau of Investigation;

9 7. "FBI" means the Federal Bureau of Investigation;

10 8. "Applicant" means an individual who applies for employment
11 with an employer, applies to work as an independent contractor to an
12 employer, applies to provide services to service recipients through
13 the granting of clinical privileges by an employer, or applies to a
14 nurse aide scholarship program;

15 9. "Direct patient access" means access to a service recipient
16 of an employer, through employment, independent contract, or the
17 granting of clinical privileges, in which the performance of duties
18 involves, or may involve one-on-one contact with a service recipient
19 of the employer on an ongoing basis. The term shall include access
20 to a service recipient's property, medical information, or financial
21 information. The term does not include a volunteer unless the
22 volunteer has duties that are equivalent to the duties of a direct
23 patient access employee and those duties involve one-on-one contact

24

1 with a service recipient of an employer, without line-of-sight
2 supervision by employer staff;

3 10. "Independent contract" means a contract entered into by an
4 employer with an individual who provides the contracted services
5 independently or a contract entered into by an employer with an
6 organization or agency that employs or contracts with an individual
7 after complying with the requirements of this section to provide the
8 contracted services to the employer on behalf of the organization or
9 agency;

10 11. "Medicare" means benefits under the Federal Medicare
11 Program established under Title XVIII of the Social Security Act,
12 Title 42 of the United States Code, Sections 1395 to 1395hhh;

13 12. "Registry screening" means a review of those registries
14 identified in subsection D of Section 1-1947 of this title;

15 13. "Department" means the State Department of Health;

16 14. "Nurse aide scholarship program" means a nurse aide
17 training program operated under contract with the Oklahoma Health
18 Care Authority for the purpose of providing free training to
19 prospective nurse aides in exchange for employment in a SoonerCare
20 contracted facility; and

21 15. "Service recipient" means a patient, resident, participant,
22 consumer, client, or member receiving services from an employer.

23 SECTION 12. AMENDATORY 63 O.S. 2021, Section 330.58, as
24 amended by Section 6, Chapter 271, O.S.L. 2023, and as renumbered by

1 Section 14, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-
2 1949.4), is amended to read as follows:

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

5 1. Develop and apply standards for approval of training and
6 education programs for long-term care administrators that meet the
7 accreditation standards of the National Association of Long Term
8 Care Administrator Boards and approve or offer training and
9 education programs, or both, as described in subsection F of ~~Section~~
10 ~~330.53~~ Section 1-1949.3 of this title;

11 2. Develop, impose, and enforce standards which must be met by
12 individuals in order to receive a license or certification as a
13 long-term care administrator, which standards shall be designed to
14 ensure that long-term care administrators will be individuals who
15 are of good character and are otherwise suitable, and who, by
16 training or experience in the field of institutional administration,
17 are qualified to serve as long-term care administrators;

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

21 4. Issue licenses or certifications to individuals determined,
22 after the application of such techniques, to meet such standards.
23 The Department may deny an initial application, deny a renewal
24 application, and revoke or suspend licenses or certifications

1 previously issued by the Department in any case where the individual
2 holding any such license or certification is determined
3 substantially to have failed to conform to the requirements of such
4 standards. The Department may also warn, censure, impose
5 administrative fines, or use other remedies that may be considered
6 to be less than revocation and suspension. Administrative fines
7 imposed pursuant to this section shall not exceed One Thousand
8 Dollars (\$1,000.00) per violation. The Department shall consider
9 the scope, severity, and repetition of the violation and any
10 additional factors deemed appropriate by the Department when issuing
11 a fine. The Department may utilize one or more administrative law
12 judges to conduct administrative proceedings;

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

17 6. Receive, investigate, and take appropriate action with
18 respect to any charge or complaint filed with the Department to the
19 effect that any individual licensed as a long-term care
20 administrator has failed to comply with the requirements of such
21 standards. ~~The long-term care ombudsman program of the Aging~~
22 ~~Services Division of the Department of Human Services~~ Office of the
23 State Long-Term Care Ombudsman shall be notified of all complaint
24 investigations of the Department so that they may be present at any

1 such complaint investigation for the purpose of representing long-
2 term care facility consumers;

3 7. Receive and take appropriate action on any complaint or
4 referral received by the Department from the Department of Human
5 Services or any other regulatory agency. A complaint shall not be
6 published on the website of the Department unless there is a finding
7 by the Department that the complaint has merit. The Commissioner
8 shall promulgate rules that include, but are not limited to,
9 provisions for:

- 10 a. establishing a complaint review process,
- 11 b. creating a formal complaint file,
- 12 c. establishing a protocol for investigation of
13 complaints, and
- 14 d. establishing an independent informal dispute
15 resolution process in accordance with Section ~~9~~ 1-
16 1949.7 of this ~~act~~ title;

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

22 9. Conduct a continuing study and investigation of long-term
23 care facilities and administrators of long-term care facilities
24 within the state with a view toward the improvement of the standards

1 imposed for the licensing or certifying of such administrators and
2 of procedures and methods for the enforcement of such standards with
3 respect to administrators of long-term care facilities who have been
4 licensed or certified;

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

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

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

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

18 14. Impose administrative fines, in an amount to be determined
19 by the Commissioner, against persons who do not comply with the
20 provisions of ~~this act~~ the Long-Term Care Administrator Licensing
21 Act or the rules adopted by the Commissioner. Administrative fines
22 imposed pursuant to this section shall not exceed One Thousand
23 Dollars (\$1,000.00) per violation. The Department shall consider
24 the scope, severity, and repetition of the violation and any

1 additional factors deemed appropriate by the Department when issuing
2 a fine;

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

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

10 17. Promulgate rules governing the employment of assistant
11 administrators including, but not limited to, minimum
12 qualifications; and

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

15 SECTION 13. AMENDATORY 63 O.S. 2021, Section 1-1950.4,
16 is amended to read as follows:

17 Section 1-1950.4. A. 1. The State Department of Health, in
18 conjunction with the Office of the State Long-term Care Ombudsman of
19 the ~~Department of Human Services~~ Office of the Attorney General,
20 shall develop a uniform employment application to be used in the
21 hiring of nurse aide staff by a nursing facility or a specialized
22 facility as such terms are defined in the Nursing Home Care Act, a
23 residential care home, as such term is defined by the Residential
24 Care Act, an assisted living center as such term is defined by the

1 Continuum of Care and Assisted Living Act, a continuum of care
2 facility as defined by the Continuum of Care and Assisted Living
3 Act, a hospice inpatient facility or program providing hospice
4 services as such terms are defined by the Oklahoma Hospice Licensing
5 Act, an adult day care center as such term is defined by the Adult
6 Day Care Act, and a home care agency as defined by the Home Care
7 Act. Such uniform application shall be used as the only application
8 for employment of nurse aides in such facilities on and after
9 January 1, 2001.

10 2. Nothing in this section shall prohibit the State Department
11 of Health or any other state agency from requiring applicants for
12 any position in the classified service to be certified by the state
13 using the State of Oklahoma ~~Employment Application~~ employment
14 application.

15 B. The uniform employment application shall be designed to
16 gather all pertinent information for entry into the nurse aide
17 registry maintained by the State Department of Health. The uniform
18 application shall also contain:

19 1. A signature from the applicant to confirm or deny any
20 previous felony conviction;

21 2. A release statement for the applicant to sign giving the
22 State Department of Health and the Oklahoma State Bureau of
23 Investigation the authority to proceed with the state or national
24 criminal history record checks; and

1 3. Such other information deemed necessary by the Department.

2 C. The Department shall provide implementation training on the
3 use of the uniform employment application.

4 SECTION 14. AMENDATORY 63 O.S. 2021, Section 1-2212, is
5 amended to read as follows:

6 Section 1-2212. As used in the Long-Term Care Ombudsman Act:

7 1. "Office" means the Office of the State Long-Term Care
8 Ombudsman. For purposes of the Long-Term Care Ombudsman Act, any
9 area or local ombudsman entity designated by the State Long-Term
10 Care Ombudsman shall be deemed to be a subdivision of this Office;

11 2. "State Long-Term Care Ombudsman" means the individual
12 employed by the ~~Department of Human Services~~ Office of the Attorney
13 General to be the ~~chief administrative officer~~ head of the Office;

14 3. ~~"Department" means the Department of Human Services;~~

15 4. "Representative" means the State Long-Term Care Ombudsman,
16 and any state, area, or local long-term care ombudsman designated by
17 the State Long-Term Care Ombudsman, whether paid or unpaid; and

18 5. 4. "Resident" means any person residing in a long-term care
19 facility.

20 SECTION 15. AMENDATORY 63 O.S. 2021, Section 1-2213, is
21 amended to read as follows:

22 Section 1-2213. A. There is hereby created within the
23 ~~Department of Human Services~~ Office of the Attorney General the
24 Office of the State Long-Term Care Ombudsman. The Office, under the

1 auspices and general direction of the State Long-Term Care
2 Ombudsman, shall carry out a long-term care ombudsman program in
3 accordance with the Older Americans Act of 1965, as amended, and in
4 accordance with federal regulations issued pursuant to the Older
5 Americans Act or as provided by the Long-Term Care Ombudsman Act.

6 B. The State Long-Term Care Ombudsman shall, personally or
7 through representatives of the Office:

8 1. Identify, investigate, and resolve complaints that:

9 a. are made by, or on behalf of, residents, and

10 b. relate to action, inaction, or decisions, of:

11 (1) providers, or representatives of providers, of
12 long-term care services,

13 (2) public agencies, or

14 (3) health and social service agencies,

15 that may adversely affect the health, safety, welfare, or rights of
16 the residents;

17 2. Provide services to assist the residents in protecting their
18 health, safety, welfare, and rights;

19 3. Inform residents about means of obtaining services offered
20 by providers or agencies;

21 4. Ensure that the residents have regular and timely access to
22 the services provided through the Office;

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1 5. Ensure that the residents and complainant receive timely
2 responses from the Office and representatives of the Office
3 regarding complaints;

4 6. Represent the interests of residents before governmental
5 agencies and seek administrative, legal, and other remedies to
6 protect the health, safety, welfare, and rights of the residents;

7 7. Provide administrative and technical assistance to area or
8 local ombudsman entities to assist the entities in participating in
9 the State Long-Term Care Ombudsman Program;

10 8. a. analyze, comment on, and monitor the development and
11 implementation of federal, state, and local laws,
12 rules, and other government policies and actions that
13 pertain to the health, safety, welfare, and rights of
14 the residents, with respect to the adequacy of long-
15 term care facilities and services in this state,

16 b. recommend any changes in such laws, rules, policies,
17 and actions as the Office determines to be
18 appropriate, and

19 c. facilitate public comment on the laws, rules,
20 policies, and actions;

21 9. a. provide for training representatives of the Office,

22 b. promote the development of citizen organizations, to
23 participate in the State Long-Term Care Ombudsman
24 Program, and

1 c. provide technical support for the development of
2 resident and family councils to protect the well-being
3 and rights of residents; and

4 10. Carry out such other activities as the ~~Commission for Human~~
5 ~~Services~~ Attorney General determines to be appropriate.

6 C. 1. In carrying out the duties of the Office, the State
7 Long-Term Care Ombudsman may designate an entity as an area or local
8 Ombudsman entity, and may designate an employee or volunteer to
9 represent the entity.

10 2. An individual so designated shall, in accordance with the
11 policies and procedures established by the Office and ~~Commission for~~
12 ~~Human Services~~ the Attorney General, carry out such duties and
13 activities as required by the State Long-Term Care Ombudsman
14 pursuant to the authority granted by the Long-Term Care Ombudsman
15 Act and rules promulgated by the ~~Commission~~ Attorney General
16 thereto.

17 3. Entities eligible to be designated as area or local
18 Ombudsman entities, and individuals eligible to be designated as
19 representatives of such entities, shall:

- 20 a. have demonstrated capability to carry out the
- 21 responsibilities of the Office,
- 22 b. be free of conflicts of interest,
- 23 c. in the case of the entities, be public or nonprofit
- 24 private entities, and

1 d. meet such additional requirements as the Ombudsman may
2 specify.

3 D. 1. In accordance with the Older Americans Act of 1965, as
4 amended, and in accordance with federal regulations issued pursuant
5 thereto, or as otherwise provided by the Long-Term Care Ombudsman
6 Act, the State Long-Term Care Ombudsman and representatives of the
7 Office shall have:

8 a. access to long-term care facilities and residents,

9 b. (1) access to review the medical and social records
10 of a resident, if:

11 (a) the representative of the Office has the
12 permission of the resident, or the legal
13 representative of the resident, or

14 (b) the resident is unable to consent to the
15 review and has no legal representative and
16 the representative of the Office obtains the
17 approval of the State Long-Term Care
18 Ombudsman, or

19 (2) access to the records as is necessary to
20 investigate a complaint if:

21 (a) a legal guardian of the resident refuses to
22 give the permission,

23 (b) a representative of the Office has
24 reasonable cause to believe that the

1 guardian is not acting in the best interests
2 of the resident, and

3 (c) the representative obtains the approval of
4 the State Long-Term Care Ombudsman,

5 c. access to the administrative records, policies, and
6 documents, to which the residents have, or the general
7 public has access, of long-term care facilities, and

8 d. access to copies of all licensing and certification
9 records maintained by the ~~Department~~ Office of the
10 Attorney General or any other agency of this state
11 with respect to long-term care facilities.

12 2. For purposes of this subsection, the term ~~“Representative~~
13 “representative of the Office” shall not include any unpaid or
14 volunteer state, area, or local ombudsman.

15 SECTION 16. AMENDATORY 63 O.S. 2021, Section 1-2214, is
16 amended to read as follows:

17 Section 1-2214. A. For purposes of ~~the~~ The Governmental Tort
18 Claims Act, any state, area, or local long-term care ombudsman shall
19 be deemed to be an employee of this state and as such shall not be
20 personally liable for any act or omission made within the “scope of
21 employment”, as such term is defined by ~~the~~ The Governmental Tort
22 Claims Act.

23 B. 1. The ~~Department of Human Services~~ Office of the Attorney
24 General shall assure that adequate legal counsel is available to the

1 Office of the State Long-Term Care Ombudsman for the advice and
2 consultation needed to protect the health, safety, welfare, and
3 rights of residents, and that legal representation is provided to
4 any representative of the Office:

- 5 a. against whom suit or other legal action is brought in
6 connection with any act or omission of a
7 representative made within the scope of employment, or
- 8 b. to assist the ombudsman and representatives of the
9 Office in the performance of their official duties.

10 2. The provisions of this section shall not be construed to
11 require or authorize any legal counsel provided by the ~~Department of~~
12 ~~Human Services~~ Office of the Attorney General to represent any
13 resident of a nursing facility in an individual capacity.

14 SECTION 17. AMENDATORY 63 O.S. 2021, Section 1-2216, is
15 amended to read as follows:

16 Section 1-2216. A. The ~~Commission for Human Services~~ Attorney
17 General shall promulgate rules regarding:

18 1. The powers and official duties of the State Long-Term Care
19 Ombudsman consistent with applicable federal law and rules or as
20 provided by the Long-Term Care Ombudsman Act;

21 2. Minimum qualifications for persons to serve as
22 representatives of the Office of the State Long-Term Care Ombudsman;

23 3. Initial and continuing training requirements for ombudsman
24 staff and volunteers which shall provide for a minimum of eighteen

1 (18) hours of continuing education relevant to the care of the aging
2 and disabled;

3 4. The minimum number of visits that must be made by an
4 ombudsman to the assigned facilities;

5 5. The proper documentation and reporting of visits made to
6 facilities by the ombudsman;

7 6. Procedures to ensure that officers, employees, or other
8 representatives of the Office are not subject to a conflict of
9 interest which would impair their ability to carry out their
10 official duties in an impartial manner; and

11 7. The disclosure by the State Long-Term Care Ombudsman or area
12 or local Ombudsman entities of files maintained by the State Long-
13 Term Care Ombudsman Program. Such rules shall:

14 a. provide that such files and records may be disclosed
15 only at the discretion of the State Long-Term Care
16 Ombudsman or the person designated by the State Long-
17 Term Care Ombudsman to disclose the files and records,
18 and

19 b. prohibit the disclosure of the identity of any
20 complainant or resident with respect to whom the
21 Office maintains such files or records unless:

22 (1) the complainant or resident, or the legal
23 representative of the complainant or resident,
24

1 consents to the disclosure and the consent is
2 given in writing,

3 (2) (a) the complainant or resident gives consent
4 orally, and

5 (b) the consent is documented contemporaneously
6 in a writing made by a State Long-Term Care
7 Ombudsman representative of the Office in
8 accordance with such rules as the ~~Commission~~
9 Attorney General shall promulgate, or

10 (3) the disclosure is required by court order.

11 B. The Oklahoma State Council on Aging and Adult Protective
12 Services, established by the Commission for Human Services to
13 review, monitor, and evaluate programs targeted to older persons,
14 shall serve in an advisory capacity to the State Long-Term Care
15 Ombudsman through establishment of a committee with equal provider
16 and consumer representation.

17 SECTION 18. This act shall become effective November 1, 2024.

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