

1 **SENATE FLOOR VERSION**

2 February 14, 2024

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1709

By: Rosino of the Senate

and

Echols of the House

6  
7  
8 [ Department of Human Services - transfers - group  
9 homes - personnel - allegations - abuse teams - long-  
term care - codification - effective date ]

10  
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

15 A. Upon the effective date of this act, the Office of Client  
16 Advocacy within the Department of Human Services shall transfer to  
17 the State Department of Health. The Office of Client Advocacy and  
18 the Advocate General shall continue to exercise their statutory  
19 powers and duties.

20 B. All equipment, supplies, records, matters pending, assets,  
21 future liabilities, fund balances, encumbrances, obligations,  
22 indebtedness, and legal and contractual rights and responsibilities  
23 of the Office of Client Advocacy shall be transferred to the State  
24 Department of Health.

1 C. Any monies accruing to or in the name of the Office of  
2 Client Advocacy on and after the effective date of this act, or any  
3 monies that accrue in any funds or accounts or are maintained for  
4 the benefit of the Office of Client Advocacy on and after the  
5 effective date of this act, shall be transferred to the State  
6 Department of Health.

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

18 E. The Director of the Office of Management and Enterprise  
19 Services shall coordinate the transfer of funds, allotments,  
20 purchase orders, and outstanding financial obligations or  
21 encumbrances as provided for in this section.

22 F. Upon the effective date of this act, all administrative  
23 rules promulgated by the Director of Human Services for the Office  
24 of Client Advocacy shall be transferred to and become a part of the

1 administrative rules of the State Department of Health. The Office  
2 of Administrative Rules in the Office of the Secretary of State  
3 shall provide adequate notice in "The Oklahoma Register" of the  
4 transfer of such rules and shall place the transferred rules under  
5 the Oklahoma Administrative Code title of the State Department of  
6 Health. Such rules shall continue in force and effect as rules of  
7 the State Department of Health from and after the effective date of  
8 this act, and any amendment, repeal, or addition to the transferred  
9 rules shall be under the jurisdiction of the State Commissioner of  
10 Health.

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

14 A. Upon the effective date of this act, the Office of the State  
15 Long-Term Care Ombudsman within the Department of Human Services  
16 shall transfer to the State Department of Health. The Office of the  
17 State Long-Term Care Ombudsman shall continue to exercise its  
18 statutory powers and duties.

19 B. All equipment, supplies, records, matters pending, assets,  
20 future liabilities, fund balances, encumbrances, obligations,  
21 indebtedness, and legal and contractual rights and responsibilities  
22 of the Office of the State Long-Term Care Ombudsman shall be  
23 transferred to the State Department of Health.

24

1 C. Any monies accruing to or in the name of the Office of the  
2 State Long-Term Care Ombudsman on and after the effective date of  
3 this act, or any monies that accrue in any funds or accounts or are  
4 maintained for the benefit of the Office on and after the effective  
5 date of this act, shall be transferred to the State Department of  
6 Health.

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

18 E. The Director of the Office of Management and Enterprise  
19 Services shall coordinate the transfer of funds, allotments,  
20 purchase orders, and outstanding financial obligations or  
21 encumbrances as provided for in this section.

22 F. Upon the effective date of this act, all administrative  
23 rules promulgated by the Director of Human Services for the Office  
24 of the State Long-Term Care Ombudsman shall be transferred to and

1 become a part of the administrative rules of the State Department of  
2 Health. The Office of Administrative Rules in the Office of the  
3 Secretary of State shall provide adequate notice in "The Oklahoma  
4 Register" of the transfer of such rules and shall place the  
5 transferred rules under the Oklahoma Administrative Code title of  
6 the State Department of Health. Such rules shall continue in force  
7 and effect as rules of the State Department of Health from and after  
8 the effective date of this act, and any amendment, repeal, or  
9 addition to the transferred rules shall be under the jurisdiction of  
10 the State Commissioner of Health.

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

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

20 B. The Department shall at least annually and whenever it deems  
21 necessary inspect, survey, and evaluate each group home to determine  
22 compliance with applicable licensure and program requirements and  
23 standards.

24

1 C. Any inspection, investigation, survey, or evaluation may be  
2 conducted without prior notice to the home. At least one inspection  
3 per group home shall be unannounced. Any licensee or applicant for  
4 a license shall be deemed to have given consent to any duly  
5 authorized employee or agent of the Department to enter and inspect  
6 the group home in accordance with the provisions of the Group Homes  
7 for Persons with Developmental or Physical Disabilities Act.

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

10 D. The Department shall maintain a log, updated at least  
11 monthly and available for public inspection, which shall at a  
12 minimum detail:

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

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

17 3. The date a notice of violation, license denial, nonrenewal,  
18 suspension, or revocation was issued or other enforcement action  
19 occurred;

20 4. Proposed dates for the resolution of deficiencies;

21 5. The date corrections were completed, as verified by an  
22 inspection; and

23 6. If the inspection or investigation was made pursuant to the  
24 receipt of a complaint, the date such complaint was received and the

1 date the group home was notified of the results of the inspection or  
2 investigation.

3 E. The Department shall require periodic reports and shall have  
4 access to books, records, and other documents maintained by the  
5 group home to the extent necessary to implement the provisions of  
6 the Group Homes for Persons with Developmental or Physical  
7 Disabilities Act and the rules promulgated by the ~~Commission for~~  
8 ~~Human Services~~ Director pursuant thereto.

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

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

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

3 Section 1-9-112. A. 1. ~~The Director of Human Services is~~  
4 ~~authorized and directed to~~ State Commissioner of Health shall  
5 establish the Office of Client Advocacy within the ~~Department of~~  
6 ~~Human Services~~ State Department of Health and ~~to~~ shall employ  
7 personnel necessary to carry out the ~~purposes of this section and~~  
8 ~~the duties listed in~~ provisions of this section. ~~Personnel may be~~  
9 ~~dismissed only for cause.~~

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

19 ~~3.~~ The duties and responsibilities of the Advocate General are  
20 to:

- 21 a. supervise personnel assigned to the Office of Client  
22 Advocacy,  
23 b. monitor and review grievance procedures and hearings,  
24



1 c. establish and maintain a fair, simple, and expeditious  
2 system for resolution of grievances of:

3 (1) all children in the custody of the Department of  
4 Human Services regarding:

5 (a) the substance or application of any written  
6 or unwritten policy or rule of the  
7 Department or agent of the Department, or

8 (b) any decision or action by an employee or  
9 agent of the Department, or of any child in  
10 the custody of the Department,

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

14 (3) all persons receiving services from the  
15 Developmental Disabilities Services Division of  
16 the Department of Human Services,

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

21 (1) residing outside ~~their~~ his or her own homes home  
22 other than children in foster care or children in  
23 the custody of the Office of Juvenile Affairs and  
24

1 placed in an Office of Juvenile Affairs secure  
2 facility,

3 (2) in a day treatment program as defined in Section  
4 175.20 of Title 10 of the Oklahoma Statutes, and  
5 submit a report of the results of the

6 investigation to the appropriate district  
7 attorney and to the State Department of Health,

8 (3) receiving services from a community services  
9 worker as that term is defined in Section 1025.1  
10 of Title 56 of the Oklahoma Statutes, and

11 (4) residing in a state institution listed in Section  
12 1406 of Title 10 of the Oklahoma Statutes,

13 e. establish a system for investigating allegations of  
14 misconduct, by a person responsible for a child, not  
15 rising to the level of abuse, neglect, sexual abuse,  
16 or sexual exploitation with regard to any child or  
17 resident listed in subparagraph d of this paragraph,

18 f. coordinate any hearings or meetings of ~~Departmental~~  
19 departmental administrative review committees  
20 conducted as a result of unresolved grievances or as a  
21 result of investigations,

22 g. make recommendations to the State Commissioner of  
23 Health, who shall then make recommendations to the  
24 Director of Human Services, and provide regular or

1 special reports regarding grievance procedures,  
2 hearings and investigations to the Director, the  
3 ~~Commission~~ Commissioner, the Office of Juvenile System  
4 Oversight, and other appropriate persons as necessary,

5 h. forward to the Office of Juvenile System Oversight,  
6 for the information of the Director of that office, a  
7 copy of the final report of any grievance which is not  
8 resolved in the favor of the complainant,

9 i. perform such other duties as required by the ~~Director~~  
10 ~~of the Department or the Commission~~ State Commissioner  
11 of Health, and

12 j. develop policies and procedures as necessary to  
13 implement the duties and responsibilities assigned to  
14 the Office of Client Advocacy.

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

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

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

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

14           4. Nothing in this section shall be construed as prohibiting  
15 the Office of Client Advocacy or the Department of Human Services  
16 from disclosing such confidential information as may be necessary to  
17 secure appropriate care, treatment, or protection of a child alleged  
18 to be abused or neglected.

19           D. 1. The Office of Client Advocacy shall investigate any  
20 complaint received by the Office of Juvenile System Oversight  
21 alleging that an employee of the Department of Human Services or a  
22 child-placing agency has threatened a foster parent with removal of  
23 a child from the foster parent, harassed a foster parent, or refused  
24 to place a child in a licensed or certified foster home, or

1 disrupted a child placement as retaliation or discrimination towards  
2 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-placement  
15 agency in conformity with the result of any such proceeding.

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

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

22 Section 1-9-117. A. 1. A foster parent may report to the  
23 Office of Client Advocacy ~~of the Department of Human Services~~ within  
24 the State Department of Health an allegation that an employee of the

1 Department of Human Services or of a child-placing agency has  
2 threatened the foster parent with removal of a child from the foster  
3 parent, harassed or refused to place a child in a licensed or  
4 certified foster home, or disrupted a child placement as retaliation  
5 or discrimination towards a foster parent who has:

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

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

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

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

1 B. 1. The Office of Client Advocacy shall prepare and maintain  
2 written records from the reporting source that shall contain the  
3 following information to the extent known at the time the report is  
4 made:

5 a. the names and addresses of the child and the person  
6 responsible for the child's welfare,

7 b. the nature of the complaint, and

8 c. the names of the persons or agencies responsible for  
9 the allegations contained in the complaint.

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

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

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

1 D. Any person who knowingly and willfully makes a false or  
2 frivolous report or complaint or a report that the person knows  
3 lacks factual foundation, pursuant to the provisions of this  
4 section, may be subject to loss of foster parent certification.

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

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

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

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

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

24



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

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

5           5. Office of Client Advocacy workers within the State  
6 Department of Health;

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

9           ~~6.~~ 7. The district attorney or assistant district attorney.

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

12           a. whenever feasible, joint investigations by law  
13 enforcement and Adult Protective Services, Office of  
14 Client Advocacy, or long-term care staff to  
15 effectively respond to reports of abuse against  
16 elderly or vulnerable adult victims,

17           b. the development of a written protocol for  
18 investigation of sexual abuse, abuse, neglect, or  
19 exploitation cases of elderly or vulnerable adults and  
20 for the interview of victims to ensure coordination  
21 and cooperation between all agencies involved. Such  
22 protocol shall include confidentiality statements and  
23 interagency agreements signed by member agencies that

24

1 specify the cooperative effort of the member agencies  
2 to the team,

3 c. communication and collaboration among the  
4 professionals responsible for the reporting,  
5 investigation, prosecution, and treatment of elderly  
6 and vulnerable adult abuse and neglect cases,

7 d. elimination of duplicative efforts in the  
8 investigation and the prosecution of abuse and neglect  
9 cases committed against elderly or vulnerable adult  
10 victims,

11 e. identification of gaps in service or untapped  
12 resources within the community to improve the delivery  
13 of services to the victim and family,

14 f. development of expertise through training. Each team  
15 member and those conducting investigations and  
16 interviews of ~~elder~~ elderly or vulnerable adult abuse  
17 victims shall be trained in the multidisciplinary team  
18 approach, conduction of legally sound developmentally  
19 and age-appropriate interviews, effective  
20 investigation techniques and joint investigations as  
21 provided through the State Department of Health, the  
22 District Attorneys Council, the Department of Human  
23 Services, or other resources,

24

- 1 g. formalization of a case review process and provision  
2 of data as requested, and  
3 h. standardization of investigative procedures for the  
4 handling of elderly and vulnerable adult abuse and  
5 neglect cases.

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

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

19 D. A multidisciplinary ~~elder~~ elderly or vulnerable adult abuse  
20 team shall have full access to any service or treatment plan and any  
21 personal data known to the Department of Human Services that is  
22 directly related to the implementation of the requirements of this  
23 section.  
24

1 E. Each member of the team shall protect the confidentiality of  
2 the elderly or vulnerable adult and any information made available  
3 to the team member. The multidisciplinary team and any information  
4 received by the team shall be exempt from the Oklahoma Open Meeting  
5 Act and the Oklahoma Open Records Act.

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

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

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

18 2. An inspection, investigation, survey, or evaluation shall be  
19 either announced or unannounced. The ~~State Board of Health~~  
20 Commissioner shall promulgate rules determining the criteria when an  
21 inspection, investigation, survey, or evaluation shall be  
22 unannounced or may be announced by the Department. Any licensee,  
23 applicant for a license, or operator of any unlicensed facility  
24 shall be deemed to have given consent to any duly authorized

1 employee, or agent of the Department to enter and inspect the home  
2 in accordance with the provisions of the Residential Care Act.  
3 Refusal to permit such entry or inspection shall constitute grounds  
4 for the denial, nonrenewal, suspension, or revocation of a license  
5 as well as emergency transfer of all residents.

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

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

16 C. The Department shall maintain a log, updated at least  
17 monthly and available for public inspection, which shall at a  
18 minimum detail:

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

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

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24

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

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

6 5. The date corrections were completed, as verified by an  
7 inspection; and

8 6. If the inspection or investigation was made pursuant to the  
9 receipt of a complaint, the date such complaint was received and the  
10 date the complainant was notified of the results of the inspection  
11 or investigation.

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

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

1 charge a reasonable fee to cover the cost of copying and mailing the  
2 report.

3 F. ~~A state or local ombudsman as that term is defined by the~~  
4 ~~Special Unit on Aging within the Department of Human Services~~  
5 ~~pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et~~  
6 ~~seq., as amended, representative of the Office of the State Long-~~  
7 ~~Term Care Ombudsman or case manager employed by the Department of~~  
8 ~~Mental Health and Substance Abuse Services or one of its contract~~  
9 ~~agencies is authorized to accompany and shall be notified by the~~  
10 ~~Department of any inspection conducted of any home licensed pursuant~~  
11 ~~to the provisions of the Residential Care Act. ~~Any state or local~~~~  
12 ~~ombudsman~~ The State Long-Term Care Ombudsman or a representative of  
13 the Office is authorized to enter any home licensed pursuant to the  
14 provisions of the Residential Care Act, communicate privately and  
15 without unreasonable restriction with any resident of a home who  
16 consents to such communication, to seek consent to communicate  
17 privately and without restriction with any resident of a home, and  
18 to observe all areas of a home that directly pertain to the care of  
19 a resident of a home.

20 G. Following any inspection by the Department, pursuant to the  
21 provisions of this section, all reports relating to the inspection  
22 shall be filed in the county office of the Department of Human  
23 Services in which the home is located and with the Department of  
24 Mental Health and Substance Abuse Services.

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

3 Section 1-1902. As used in the Nursing Home Care Act:

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

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

23 3. "Administrator" means the person licensed by the State of  
24 Oklahoma who is in charge of a facility. An administrator must



1 devote at least one-third (1/3) of such person's working time to on-  
2 the-job supervision of the facility; provided, that this requirement  
3 shall not apply to an administrator of an intermediate care facility  
4 for individuals with intellectual disabilities with sixteen or fewer  
5 beds (ICF/IID-16), in which case the person licensed by the state  
6 may be in charge of more than one such ICF/IID-16 facility, if such  
7 facilities are located within a circle that has a radius of not more  
8 than fifteen (15) miles, the total number of facilities and beds  
9 does not exceed six facilities and sixty-four beds, and each such  
10 ICF/IID-16 facility is supervised by a qualified professional. The  
11 facilities may be free-standing in a community or may be on campus  
12 with a parent institution. The ICF/IID-16 facility may be  
13 independently owned and operated or may be part of a larger  
14 institutional operation;

15 4. "Advisory Board" means the Long-Term Care Facility Advisory  
16 Board;

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

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

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

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

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

4 10. "Nursing facility" means a home, an establishment, or an  
5 institution, a distinct part of which is primarily engaged in  
6 providing:

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

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

24

1 7 of subsection B of Section 6201 of Title 74 of the Oklahoma  
2 Statutes contains such a nursing care component;

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

17 12. "Residential care home" means any home, establishment, or  
18 institution licensed pursuant to the provisions of the Residential  
19 Care Act other than a hotel, motel, fraternity or sorority house, or  
20 college or university dormitory, which offers or provides  
21 residential accommodations, food service, and supportive assistance  
22 to any of its residents or houses any resident requiring supportive  
23 assistance. The residents shall be persons who are ambulatory and  
24 essentially capable of managing their own affairs, but who do not

1 routinely require nursing care; provided, the term "~~residential care~~  
2 ~~home~~" residential care home shall not mean a hotel, motel,  
3 fraternity or sorority house, or college or university dormitory, if  
4 the facility operates in a manner customary to its description and  
5 does not house any person who requires supportive assistance from  
6 the facility in order to meet an adequate level of daily living;

7 13. "Licensee" means the person, a corporation, partnership, or  
8 association who is the owner of the facility which is licensed by  
9 the Department pursuant to the provisions of the Nursing Home Care  
10 Act;

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

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

14 16. "Owner" means a person, corporation, partnership,  
15 association, or other entity which owns a facility or leases a  
16 facility. The person or entity that stands to profit or lose as a  
17 result of the financial success or failure of the operation shall be  
18 presumed to be the owner of the facility. Notwithstanding the  
19 foregoing, any nonstate governmental entity that has acquired and  
20 owns or leases a facility and that has entered into an agreement  
21 with the Oklahoma Health Care Authority to participate in the  
22 nursing facility supplemental payment program ("UPL Owner") shall be  
23 deemed the owner of such facility and shall be authorized to obtain  
24 management services from a management services provider ("UPL

1 Manager"), and to delegate, allocate, and assign as between the UPL  
2 Owner and UPL Manager, compensation, profits, losses, liabilities,  
3 decision-making authority, and responsibilities, including  
4 responsibility for the employment, direction, supervision, and  
5 control of the facility's administrator and staff;

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

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

14 19. "Representative of a resident" means a court-appointed  
15 guardian or, if there is no court-appointed guardian, the parent of  
16 a minor, a relative, or other person, designated in writing by the  
17 resident; provided, that any owner, operator, administrator, or  
18 employee of a facility subject to the provisions of the Nursing Home  
19 Care Act, the Residential Care Act, or the Group Homes for ~~the~~  
20 ~~Developmentally Disabled or Physically Handicapped Persons~~ with  
21 Developmental or Physical Disabilities Act shall not be appointed  
22 guardian or limited guardian of a resident of the facility unless  
23 the owner, operator, administrator, or employee is the spouse of the  
24

1 resident, or a relative of the resident within the second degree of  
2 consanguinity and is otherwise eligible for appointment; and

3 20. "Supportive assistance" means the service rendered to any  
4 person which is less than the service provided by a nursing facility  
5 but which is sufficient to enable the person to meet an adequate  
6 level of daily living. Supportive assistance includes but is not  
7 limited to housekeeping, assistance in the preparation of meals,  
8 assistance in the safe storage, distribution, and administration of  
9 medications, and assistance in personal care as is necessary for the  
10 health and comfort of such person. Supportive assistance shall not  
11 include medical service.

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

14 Section 1-1911. A. 1. Every building, institution, or  
15 establishment for which a license has been issued, including any  
16 facility operated by the Oklahoma Department of Veterans Affairs,  
17 shall be periodically inspected by a duly appointed representative  
18 of the State Department of Health, pursuant to rules promulgated by  
19 the State ~~Board~~ Commissioner of Health with the advice and counsel  
20 of the Long-Term Care Facility Advisory Board, created in Section 1-  
21 1923 of this title.

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

24

1 B. 1. The Department, whenever it deems necessary, shall  
2 inspect, survey, and evaluate every facility, including any facility  
3 operated by the Oklahoma Department of Veterans Affairs, to  
4 determine compliance with applicable licensure and certification  
5 requirements and standards. All inspections of facilities shall be  
6 unannounced. The Department may have as many unannounced  
7 inspections as it deems necessary.

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

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

18 4. a. The Department may periodically visit a facility for  
19 the purpose of consultation and may notify the  
20 facility in advance of such a visit. An inspection,  
21 survey, or evaluation, other than an inspection of  
22 financial records or a consultation visit, shall be  
23 conducted without prior notice to the facility.

24

1           b. One person shall be invited by the Department ~~from a~~  
2           ~~statewide organization of the elderly~~ to act as a  
3           citizen observer in unannounced inspections. The  
4           individual may be ~~a state or local ombudsman as~~  
5           ~~defined by the Aging Services Division of the~~  
6           ~~Department of Human Services, acting pursuant to the~~  
7           ~~provisions of the Older Americans Act of 1965, Public~~  
8           ~~Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as~~  
9           ~~amended~~ a representative of a statewide organization  
10           of the elderly or a representative of the Office of  
11           the State Long-Term Care Ombudsman.

12           c. The citizen observer shall be reimbursed for expenses  
13           in accordance with the provisions of the State Travel  
14           Reimbursement Act.

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

23           C. The Department shall hold open meetings, as part of its  
24           routine licensure survey, in each of the licensed facilities to



1 advise and to facilitate communication and cooperation between  
2 facility personnel and the residents of facilities in their mutual  
3 efforts to improve patient care. Administrators, employees of the  
4 facility, residents, residents' relatives, friends, residents'  
5 representatives, and employees from appropriate state and federal  
6 agencies shall be encouraged to attend these meetings to contribute  
7 to this process.

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

12 2. Any holder of a license or applicant for a license shall be  
13 deemed to have given consent to any authorized officer, employee, or  
14 agent of the Department to enter and inspect the facility in  
15 accordance with the provisions of the Nursing Home Care Act.  
16 Refusal to permit ~~said~~ such entry or inspection, except for good  
17 cause, shall constitute grounds for remedial action or  
18 administrative penalty or both such action and penalty as provided  
19 in the Nursing Home Care Act.

20 E. The Department shall maintain a file on each facility in the  
21 state. All conditions and practices not in compliance with  
22 applicable standards shall be specifically stated. If a violation  
23 is corrected or is subject to an approved plan of correction, such  
24 action shall be contained in the file. Upon receiving a written

1 request for a copy of the file documents, the Department shall send  
2 a copy of the document to any person making the written request.

3 The Department may charge a reasonable fee for copying costs.

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

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

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

13 Section 1-1945. For purposes of the Long-term Care Security  
14 Act:

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

16 a. a nursing facility, or specialized facility, ~~or~~  
17 ~~residential care home~~ as defined by Section 1-1902 of  
18 this title,

19 b. an adult day care center as defined by Section 1-872  
20 of this title,

21 c. skilled nursing care provided in a distinct part of a  
22 hospital as defined by Section 1-701 of this title,

23 d. an assisted living center as defined by Section 1-  
24 890.2 of this title,

1 e. the nursing care component of a continuum of care  
2 facility as defined under the Continuum of Care and  
3 Assisted Living Act,

4 f. the nursing care component of a life care community as  
5 defined by the Long-term Care Insurance Act, or

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

8 2. "Ombudsman" means the individual employed by the ~~Department~~  
9 ~~of Human Services~~ State Department of Health as the State Long-Term  
10 Care Ombudsman;

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

21 4. "Employer" means any of the following facilities, homes,  
22 agencies, or programs which are subject to the provisions of Section  
23 1-1947 of this title:

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

1 recipients of one or more of the other employers  
2 listed in this paragraph, and

3 k. an independent contractor where the independent  
4 contractor has a contracted relationship to provide  
5 staff or services with direct patient access to  
6 service recipients for one or more of the employers  
7 listed in this paragraph;

8 5. "Home health or home care agency" means any person,  
9 partnership, association, corporation, or other organization which  
10 administers, offers, or provides health care services or supportive  
11 assistance for compensation to three or more ill, disabled, or  
12 infirm persons in the temporary or permanent residence of such  
13 persons, and includes any subunits or branch offices of a parent  
14 home health or home care agency;

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

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

17 8. "Applicant" means an individual who applies for employment  
18 with an employer, applies to work as an independent contractor to an  
19 employer, applies to provide services to service recipients through  
20 the granting of clinical privileges by an employer, or applies to a  
21 nurse aide scholarship program;

22 9. "Direct patient access" means access to a service recipient  
23 of an employer, through employment, independent contract, or the  
24 granting of clinical privileges, in which the performance of duties

1 involves, or may involve one-on-one contact with a service recipient  
2 of the employer on an ongoing basis. The term shall include access  
3 to a service recipient's property, medical information, or financial  
4 information. The term does not include a volunteer unless the  
5 volunteer has duties that are equivalent to the duties of a direct  
6 patient access employee and those duties involve one-on-one contact  
7 with a service recipient of an employer, without line-of-sight  
8 supervision by employer staff;

9 10. "Independent contract" means a contract entered into by an  
10 employer with an individual who provides the contracted services  
11 independently or a contract entered into by an employer with an  
12 organization or agency that employs or contracts with an individual  
13 after complying with the requirements of this section to provide the  
14 contracted services to the employer on behalf of the organization or  
15 agency;

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

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

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

22 14. "Nurse aide scholarship program" means a nurse aide  
23 training program operated under contract with the Oklahoma Health  
24 Care Authority for the purpose of providing free training to

1 prospective nurse aides in exchange for employment in a SoonerCare  
2 contracted facility; and

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

5 SECTION 12. AMENDATORY 63 O.S. 2021, Section 330.58, as  
6 amended by Section 6, Chapter 271, O.S.L. 2023, and as renumbered by  
7 Section 14, Chapter 271, O.S.L. 2023 (63 O.S. Supp. 2023, Section 1-  
8 1949.4), is amended to read as follows:

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

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

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

24

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

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

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

24



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

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

- 18           a. establishing a complaint review process,
- 19           b. creating a formal complaint file,
- 20           c. establishing a protocol for investigation of  
21           complaints, and
- 22           d. establishing an independent informal dispute  
23           resolution process in accordance with Section ~~9~~ 1-  
24           1949.7 of this ~~act~~ title;

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

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

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

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

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

24

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

3 14. Impose administrative fines, in an amount to be determined  
4 by the Commissioner, against persons who do not comply with the  
5 provisions of ~~this act~~ the Long-Term Care Administrator Licensing  
6 Act or the rules adopted by the Commissioner. 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;

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

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

19 17. Promulgate rules governing the employment of assistant  
20 administrators including, but not limited to, minimum  
21 qualifications; and

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

24

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

3 Section 1-1950.4. A. 1. The State Department of Health, in  
4 conjunction with the Office of the State Long-term Care Ombudsman of  
5 the Department ~~of Human Services~~, shall develop a uniform employment  
6 application to be used in the hiring of nurse aide staff by a  
7 nursing facility or a specialized facility as such terms are defined  
8 in the Nursing Home Care Act, a residential care home, as such term  
9 is defined by the Residential Care Act, an assisted living center as  
10 such term is defined by the Continuum of Care and Assisted Living  
11 Act, a continuum of care facility as defined by the Continuum of  
12 Care and Assisted Living Act, a hospice inpatient facility or  
13 program providing hospice services as such terms are defined by the  
14 Oklahoma Hospice Licensing Act, an adult day care center as such  
15 term is defined by the Adult Day Care Act, and a home care agency as  
16 defined by the Home Care Act. Such uniform application shall be  
17 used as the only application for employment of nurse aides in such  
18 facilities on and after January 1, 2001.

19 2. Nothing in this section shall prohibit the State Department  
20 of Health or any other state agency from requiring applicants for  
21 any position in the classified service to be certified by the state  
22 using the State of Oklahoma ~~Employment Application~~ employment  
23 application.

24

1 B. The uniform employment application shall be designed to  
2 gather all pertinent information for entry into the nurse aide  
3 registry maintained by the State Department of Health. The uniform  
4 application shall also contain:

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

7 2. A release statement for the applicant to sign giving the  
8 State Department of Health and the Oklahoma State Bureau of  
9 Investigation the authority to proceed with the state or national  
10 criminal history record checks; and

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

12 C. The Department shall provide implementation training on the  
13 use of the uniform employment application.

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

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

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

21 2. "State Long-Term Care Ombudsman" means the individual  
22 employed by the ~~Department of Human Services~~ State Department of  
23 Health to be the ~~chief administrative officer~~ head of the Office;

24

1 3. "Department" means the ~~Department of Human Services~~ State  
2 Department of Health;

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

6 5. "Resident" means any person residing in a long-term care  
7 facility.

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

10 Section 1-2213. A. There is hereby created within the  
11 ~~Department of Human Services~~ State Department of Health the Office  
12 of the State Long-Term Care Ombudsman. The Office, under the  
13 auspices and general direction of the State Long-Term Care  
14 Ombudsman, shall carry out a long-term care ombudsman program in  
15 accordance with the Older Americans Act of 1965, as amended, and in  
16 accordance with federal regulations issued pursuant to the Older  
17 Americans Act or as provided by the Long-Term Care Ombudsman Act.

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

- 20 1. Identify, investigate, and resolve complaints that:  
21 a. are made by, or on behalf of, residents, and  
22 b. relate to action, inaction, or decisions, of:  
23 (1) providers, or representatives of providers, of  
24 long-term care services,

1                   (2) public agencies, or  
2                   (3) health and social service agencies,  
3 that may adversely affect the health, safety, welfare, or rights of  
4 the residents;

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

7           3. Inform residents about means of obtaining services offered  
8 by providers or agencies;

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

11           5. Ensure that the residents and complainant receive timely  
12 responses from the Office and representatives of the Office  
13 regarding complaints;

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

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

20           8. a. analyze, comment on, and monitor the development and  
21 implementation of federal, state, and local laws,  
22 rules, and other government policies and actions that  
23 pertain to the health, safety, welfare, and rights of  
24

1 the residents, with respect to the adequacy of long-  
2 term care facilities and services in this state,  
3 b. recommend any changes in such laws, rules, policies,  
4 and actions as the Office determines to be  
5 appropriate, and

6 c. facilitate public comment on the laws, rules,  
7 policies, and actions;

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

9 b. promote the development of citizen organizations, to  
10 participate in the State Long-Term Care Ombudsman  
11 Program, and

12 c. provide technical support for the development of  
13 resident and family councils to protect the well-being  
14 and rights of residents; and

15 10. Carry out such other activities as the ~~Commission for Human~~  
16 ~~Services~~ State Commissioner of Health determines to be appropriate.

17 C. 1. In carrying out the duties of the Office, the State  
18 Long-Term Care Ombudsman may designate an entity as an area or local  
19 Ombudsman entity, and may designate an employee or volunteer to  
20 represent the entity.

21 2. An individual so designated shall, in accordance with the  
22 policies and procedures established by the Office and ~~Commission for~~  
23 ~~Human Services~~ the Commissioner, carry out such duties and  
24 activities as required by the State Long-Term Care Ombudsman



1 pursuant to the authority granted by the Long-Term Care Ombudsman  
2 Act and rules promulgated by the ~~Commission~~ Commissioner thereto.

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

- 6 a. have demonstrated capability to carry out the  
7 responsibilities of the Office,
- 8 b. be free of conflicts of interest,
- 9 c. in the case of the entities, be public or nonprofit  
10 private entities, and
- 11 d. meet such additional requirements as the Ombudsman may  
12 specify.

13 D. 1. In accordance with the Older Americans Act of 1965, as  
14 amended, and in accordance with federal regulations issued pursuant  
15 thereto, or as otherwise provided by the Long-Term Care Ombudsman  
16 Act, the State Long-Term Care Ombudsman and representatives of the  
17 Office shall have:

- 18 a. access to long-term care facilities and residents,
- 19 b. (1) access to review the medical and social records  
20 of a resident, if:
  - 21 (a) the representative of the Office has the  
22 permission of the resident, or the legal  
23 representative of the resident, or

24

1 (b) the resident is unable to consent to the  
2 review and has no legal representative and  
3 the representative of the Office obtains the  
4 approval of the State Long-Term Care  
5 Ombudsman, or

6 (2) access to the records as is necessary to  
7 investigate a complaint if:

8 (a) a legal guardian of the resident refuses to  
9 give the permission,

10 (b) a representative of the Office has  
11 reasonable cause to believe that the  
12 guardian is not acting in the best interests  
13 of the resident, and

14 (c) the representative obtains the approval of  
15 the State Long-Term Care Ombudsman,

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

19 d. access to copies of all licensing and certification  
20 records maintained by the Department or any other  
21 agency of this state with respect to long-term care  
22 facilities.

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

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

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

12           B. 1. The ~~Department of Human Services~~ State Department of  
13 Health shall assure that adequate legal counsel is available to the  
14 Office of the State Long-Term Care Ombudsman for the advice and  
15 consultation needed to protect the health, safety, welfare, and  
16 rights of residents, and that legal representation is provided to  
17 any representative of the Office:

18           a. against whom suit or other legal action is brought in  
19 connection with any act or omission of a  
20 representative made within the scope of employment, or

21           b. to assist the ombudsman and representatives of the  
22 Office in the performance of their official duties.

23           2. The provisions of this section shall not be construed to  
24 require or authorize any legal counsel provided by the Department ~~of~~

1 ~~Human Services~~ to represent any resident of a nursing facility in an  
2 individual capacity.

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

5 Section 1-2216. A. The ~~Commission for Human Services~~ State  
6 Commissioner of Health shall promulgate rules regarding:

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

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

12 3. Initial and continuing training requirements for ombudsman  
13 staff and volunteers which shall provide for a minimum of eighteen  
14 (18) hours of continuing education relevant to the care of the aging  
15 and disabled;

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

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

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

24

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

4           a. provide that such files and records may be disclosed  
5           only at the discretion of the State Long-Term Care  
6           Ombudsman or the person designated by the State Long-  
7           Term Care Ombudsman to disclose the files and records,  
8           and

9           b. prohibit the disclosure of the identity of any  
10           complainant or resident with respect to whom the  
11           Office maintains such files or records unless:

12           (1) the complainant or resident, or the legal  
13           representative of the complainant or resident,  
14           consents to the disclosure and the consent is  
15           given in writing,

16           (2) (a) the complainant or resident gives consent  
17           orally, and

18           (b) the consent is documented contemporaneously  
19           in a writing made by a State Long-Term Care  
20           Ombudsman representative of the Office in  
21           accordance with such rules as the ~~Commission~~  
22           Commissioner shall promulgate, or

23           (3) the disclosure is required by court order.  
24

1 B. The Oklahoma State Council on Aging and Adult Protective  
2 Services, established by the ~~Commission for Human Services~~  
3 Commissioner to review, monitor, and evaluate programs targeted to  
4 older persons, shall serve in an advisory capacity to the State  
5 Long-Term Care Ombudsman through establishment of a committee with  
6 equal provider and consumer representation.

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
9 February 14, 2024 - DO PASS AS AMENDED BY CS

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