

Title 63 Oklahoma Statutes: “Public Health and Safety”
Chapter 12
Oklahoma State Board of Examiners for Long Term Care Administrators
§§330.51 – 330.65

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Section 330.51 Definitions

For the purposes of this act, and as used herein:

1. “Board” means the Oklahoma State Board of Examiners for Long-Term Care Administrators;
2. “Long-term care administrator” means a person licensed or certified as a nursing facility administrator, an assisted living facility administrator, a residential care facility administrator, or an adult day care center administrator pursuant to this act. A long-term care administrator must devote at least one-half (1/2) of such person’s working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/16, if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of a larger institutional ownership and operation;
3. “Nursing facility administrator” means a person licensed by the State of Oklahoma to perform the duties of an administrator serving in a skilled nursing or nursing or ICF/MR facility;
4. “Assisted living facility administrator” means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in an assisted living facility;
5. “Residential care facility administrator” means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in a residential care facility;
6. “Adult day care center administrator” means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in an adult day care center; and
7. “Nursing home”, “rest home” and “specialized home” shall have the same meaning as the term “nursing facility” as such term is defined in the Nursing Home Care Act; “assisted living center” and “continuum of care facility” shall have the same meaning as such terms are defined in the Continuum of Care and Assisted Living Act; “home” and “residential care home” shall have the same meaning as the terms are used in the Residential Care Act; and “adult day care center” and “center” shall have the same meaning as such terms are used in the Adult Day Care Act.

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Section 330.52 State Board of Examiners

A. There is hereby re-created, to continue until July 1, 2018, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma State Board of Examiners for Long-Term Care Administrators. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall consist of fifteen (15) members, eight of whom shall be representatives of the professions and institutions of long-term care, with representation from each type of administrator defined in Section 330.51 of this title. In order to be eligible to serve as a member, such administrators shall be licensed or certified in their defined facility type, and be in good standing and have at least five (5) years of experience as an administrator. Four members shall represent the general public, of which at least two shall be licensed medical professionals concerned with the care and treatment of critically ill or infirm elderly patients. The preceding twelve members shall be appointed by the Governor, with the advice and consent of the Senate. The final three members shall constitute the State Commissioner of Health and the Director of the Department of Human Services, and the Director of the Department of Mental Health and Substance Abuse Services, or their designees.

B. No members other than the eight licensed or certified administrators shall have a direct or indirect financial interest in long-term care facilities.

C. Effective November 1, 2011, all appointed positions of the current Board shall be deemed vacant. The Governor shall make initial appointments pursuant to the provisions of this subsection. Initial appointments shall become effective on November 1, 2011. The new members of the Board shall be initially appointed as follows:

1. Four of the members representing each administrator type, two members representing the general public and two other members shall be appointed for a term of two (2) years to expire on October 31, 2013;

2. Four of the members representing each administrator type, two members representing the general public and one other member shall be appointed for a term of three (3) years to expire on October 31, 2014.

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

E. Any member of the Board shall recuse himself or herself from voting on any matter that originated from or involves an entity with which the Board member is affiliated.

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Section 330.53 Qualifications for license

A. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall have authority to issue licenses or certifications to qualified persons as long-term care administrators, and shall establish qualification criteria for ~~such~~ each type of long-term care administrators.

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

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

- a. not less than twenty-one (21) years of age, and
- b. of reputable and responsible character; and

2. The person shall have submitted evidence satisfactory to the Board of the person's ability to supervise the defined facility type in which he or she is licensed or certified to serve as a long-term care administrator.

C. All persons currently licensed or certified or lawfully serving as an administrator in their defined facility type shall be permitted to continue to serve in their current capacity under their current terms of authorization. The Board may promulgate rules pursuant to Section 330.57 of this title to address future certification and licensure requirements for all long-term care administrator types without effect on the licensure or certification status of those currently certified or licensed. The Board shall not include a requirement for a four-year degree in any future licensing or certification requirements for assisted living, residential care or adult day care administrators. Until such rules are promulgated, current licensure and certification processes and standards shall remain in place.

Section 330.54 License Fees – Expiration date

Each person licensed or certified as a long-term care administrator pursuant to the provisions of Section 330.53 of this title shall be required to pay an annual license or certification fee which shall be deposited in the Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund. Such fee shall be determined by the Oklahoma State Board of Examiners for Long-Term Care Administrators. Each such license or certification shall expire on the 31st day of December following its issuance, and shall be renewable for a calendar year, upon meeting the renewal requirements and upon payment of the annual license fee.

Section 330.56 - Officers - Rules - Compensation – Personnel

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall elect from its

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membership a chair, vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. Each member shall be allowed necessary travel expenses, as may be approved by the Board pursuant to the State Travel Reimbursement Act. The Board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

Section 330.57 Qualifications of administrator

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall have sole and exclusive authority to determine the qualifications, skill and fitness of any person to serve as ~~an~~ a long-term care administrator under the applicable provisions of the Nursing Home Care Act, the Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act. The Board shall promulgate rules to determine the qualifications for licensure or certification for the long-term care administrator types as defined in Section 330.51 of this title. Such rules may include a requirement for licensure instead of certification for certain long-term care administrator types.

Section 330.58 Duties of Board

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall:

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

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

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

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

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

6. Receive and take appropriate action on any complaint or referral received by the Board from the Department of Human Services or any other regulatory agency. Complaints may also be generated by the Board or staff. A complaint shall not be published on the web site of the Oklahoma State Board of Examiners for Long-Term Care Administrators unless there is a finding by the Board that the complaint has merit. The Board shall promulgate rules that include, but are not limited to, provisions for:

- a. establishing a complaint review process,
- b. creating a formal complaint file, and
- c. establishing a protocol for investigation of complaints;

7. Enforce the provisions of Sections 330.51 through 330.65 of this title against all persons who are in violation thereof including, but not limited to, individuals who are practicing or attempting to practice as long-term care administrators without proper authorization from the Board;

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

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

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

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

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

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

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

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

16. Order a summary suspension of an administrator's license or certification or an Administrator in Training (AIT) permit, if, in the course of an investigation, it is determined that a licensee, certificate holder or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety or welfare of the public, and which conduct necessitates immediate action to prevent further harm; and

17. Promulgate rules governing the employment of assistant administrators for nursing and skilled nursing facilities including, but not limited to, minimum qualifications.

Section 330.59 Penalty

It shall be unlawful and a misdemeanor for any person to act or serve in the capacity as a long-term care administrator unless the person is the holder of a license or certification as a long-term care administrator, issued in accordance with the provisions of this act.

Section 330.60 - Establishment of Rules and Regulations

The Board shall establish such rules and regulations governing operations, reporting of fees, and compensation of employees, the maintenance of books, records and manner and time of employee compensation, all as may be in the public interest.

Section 330.61 - Imposition of Additional Fees

A. In addition to fees necessary to implement the provisions of this act, the Oklahoma State Board of Examiners for Long-Term Care Administrators may impose fees for:

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

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2. Education programs conducted or approved by the Board.

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

Section 330.62 - Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Board of Examiners for Long-Term Care Administrators to be designated the "Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of such sources of income as are provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Board of Examiners for Long-Term Care Administrators to carry out the duties established by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Section 330.64 - Investigation of Complaints - Registry of Complaints

A. Each investigation of a complaint received by the Oklahoma State Board of Examiners for Long-Term Care Administrators shall be initiated within ninety (90) days from the date the complaint is received by the Board. Each complaint investigation shall be completed within twelve (12) months of initiation. The time period may be extended by the Board for good cause

B. Effective May 13, 2005, the Board shall create and maintain a registry of all complaints or referrals, found by the Board to have merit, complaining of acts or omissions of licensed administrators. The registry shall be maintained in both electronic and paper formats and shall be available for inspection by the public. Such registry shall be organized both in chronological order by the date of the complaint and by the name of the licensed administrator. The registry shall contain information about the nature of the complaint and the action, if any, taken by the Board. The registry shall also contain the number of complaints made against an individual administrator.

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Section 330.65 - Complaints - Decision by Quorum of Board - Recusal - Confidentiality - Informal Resolution – Hearing

A. Any decision by the Oklahoma State Board of Examiners for Long-Term Care Administrators pursuant to a complaint received against an individual administrator shall be voted upon by a quorum of the Board in an open meeting.

B. Any person or agency may submit to the Board a complaint against a long-term care administrator. Complaints may also be generated by the Board or staff.

C. A committee or committees of three (3) persons appointed by the chair of the Board shall review complaints to determine if probable cause exists that a violation of this act or the rules of the Board has occurred. No committee shall be composed of a majority of board members who are long-term care administrators or owners. The committee may cause the allegations to be investigated, and, if this committee determines that such probable cause exists, this committee shall file a formal complaint against the long-term care administrator alleged to have committed the violation.

D. To ensure the confidentiality of an investigative file obtained during the investigation, the information in the investigative file shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the information be subject to subpoena or discovery in any civil or criminal proceeding, except that the Board may give the information to law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that will ensure against unauthorized access to the information. The respondent may acquire information obtained during an investigation, unless the disclosure of the information is otherwise prohibited, except for the investigative report, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purpose of defense in the Board proceeding and in any appeal therefrom and agrees not to otherwise disclose the information.

E. Upon completion of an investigation, the probable cause committee may make a recommendation to the Board to set the case for hearing, or for dismissal or other action.

F. The respondent may be given an opportunity to participate in an informal resolution of the case. Discussions to resolve the case without a hearing may be conducted by the Director, the prosecutor of the Board, or both the Director and the prosecutor, in consultation with the probable cause committee. Any recommendation for informal resolution shall be presented to the Board for its consideration and approval.

G. If the case is not resolved, the respondent shall be afforded notice and a hearing in accordance with the provisions of Article II of the Administrative Procedures Act. The members of the probable cause committee that reviewed the complaint shall recuse themselves from any participation in a hearing. Any party aggrieved by a decision of the Board following a hearing may appeal directly to district court pursuant to the provisions of Section 318 of Title 75 of the Oklahoma Statutes.

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