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Long-Term Care Admin Licensure in Oklahoma

By Luke Tucker

Long-term care administrators are regulated by the Oklahoma State Board of Examiners for Long-Term Care Administrators, which sunsets July 1, 2022.

Current Law

Long-term care administrators (LTCAs) are healthcare management specialists in charge of long-term care facilities (nursing homes, adult day care centers, etc.). Their job is to ensure a facility complies with federal and state regulations and that residents are getting needed health and personal care. LTCAs supervise daily operations (housekeeping, meal preparation, therapy and treatment schedules), hire staff, maintain finances, keep resident/patient records, oversee medical supplies, and foster good external relations.

Oklahoma law requires a license to work as an LTCA. All LTCA types (described below) are governed by a Board with fifteen members. Eight are licensed and experienced LTCAs (at least one of each type); with four members are from the general public; the State Commissioner of Health, the Director of the Department of Human Services, and the Director of the Department of Mental Health and Substance Abuse are also members. While the final agency heads are permanent members, the first twelve serve staggered, governor-appointed terms.¹

The Board awards five types of LTCA licenses: nursing home administrator, certified assistant administrator, residential care/assisted living, residential care, and adult day care. All types must meet eight general requirements: (1) be 21 years old, (2) be a reputable and responsible person, (3) be a U.S. citizen/legal alien, (4) submit a background check, (5) report all adverse actions taken against the applicant by previous licensing entities, (6) comply with state income tax requirements, (7) pay all fees, and (8) speak and write English. The Act imposes requirements (1) and (2); the rest are requirements of the Board, which has discretion to levy added criteria.

Added Board-imposed requirements vary by license type.² Applicants must pass exams, have experience, and complete formal education and training, but the quantity and extent of qualifying criteria depend on the license. Nursing home administrators (NHAs) are the most stringently regulated; they must have a bachelor's degree (of any kind), pass a state exam

plus the National Association of LTCA Boards (NAB) exam (which costs \$425), complete a 100-hour course, complete a 560 to 700-hour unpaid training program, and pay \$200 in annual renewal fees. By contrast, adult day care administrators must pass only a state exam, complete Board-approved training, and either have five consecutive years of supervisory experience in a long-term care setting, a bachelor's degree plus one year of supervisory experience, or an active nursing license plus two years of nursing experience, and pay \$100 in annual renewal fees.

The Law's Unnecessary Burden

Consider two representative examples of unnecessarily burdensome LTCA licensing requirements. First, the Board requires Nursing Home Administrators to have a bachelor's degree in *any* field. A degree in public health or general administration is not required, which means the college degree is merely a four-year hazing requirement.

Though lawmakers debated removing the degree requirement in 2017, they surrendered to the argument that stringent education criteria promote public health.³ The supposed proof was an industry-funded study that found more highly educated NHAs tend to achieve better health standards.⁴ However, a different study from 2015 found more educated NHAs had *worse* rates of pressure ulcers (bed sores).⁵ A 2007 study found that management experience matters much more to NHA success than education.⁶ A 2011 study suggests that NHAs perform noticeably better with a graduate degree (Masters or PhD), but zero states require that much education.⁷

Two separate studies found that better educated NHAs had higher turnover rates because more educated NHAs advance to better jobs faster.⁸ Numerous studies show that higher NHA turnover harms overall health standards in nursing homes.⁹ Constant management transitions cause turmoil and disorder, so while highly educated NHAs achieve better health standards while they remain, their turnover causes residents to suffer.

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Eight states require just an associate's degree for an NHA license. Nine (including Colorado and Missouri) require just a high school diploma. Oklahoma did not require a bachelor's until 2001.

Second, consider residential care/assisted living administrators (RCALs). Among other things, they must have either one year of healthcare experience, 30 college credits in a health field, or a bachelor's degree (in any field). That means a college graduate with no relevant experience would qualify for a license over an applicant with a decade of restaurant management experience but no degree. The regulation does not promote health. Meanwhile, 23 other states have no RCAL license at all.¹⁰

Lawmakers should be alarmed that the Board so willingly introduces new regulations with no obvious health justification.

No Justification for Long-Term Care Admin Licensing

Elder abuse and neglect are real problems, but it is difficult to find tangible evidence that LTCA licensing addresses those them. It might actually worsen them. In addition, it has been thoroughly documented that licensing raises costs for consumers and disadvantages the poor.¹¹ LTCA licensing likely has the same unjust and uneconomical effects.

1889 has argued that requiring a license for a job or profession is unjust and unnecessary unless both of two conditions hold: (1) the occupation presents real and likely danger to patrons or the general public, and (2) a civil law or market failure makes it almost impossible for consumers to assess the quality of their purchases.¹²

Do Long-Term Care Administrators present a probable risk of significant harm to the public or patrons if practitioners fail to act properly?

No. While LTCAs can harm residents, harm is rare and criminal. The trouble LTCAs occasionally get into typically involves financial fraud or failure to report abuse. In 2006, an NHA in Claremore was charged with nine felony counts of caretaker exploitation after illegally siphoning thousands of dollars from residents' accounts.¹³ In 2007, an NHA in Tulsa neglected to report an incident in which two residents were scalded with hot water while being bathed by nurses.¹⁴

In both cases, the NHA had an active license, and the Board played no part in uncovering their wrongdoing. The fraud case was spotted by another employee who called police, and the reporting failure was found by a Health Department inspection. The crucial question becomes, if both wrongdoers were validly licensed, and if neither wrongdoing was detected by the Board,

what protection for patrons and the public does licensing provide that criminal and civil law does not?

Is there a civil law or market failure that makes it difficult for patrons of LTCA services to obtain information, educate themselves, and judge whether an occupation's practitioners are competent?

No. Consumers do not hire LTCAs directly. Facility owners who hire have financial and legal incentives to make a quality hire. The consumer decides which facility to use, and countless resources exist to aid in this choice, including tours, staff interview, and tenant testimonials. If they have concerns about abuse, they can access state and federal inspection reports, which are user-friendly, constantly updated, and open to the public.¹⁵

Conclusion

The regulations governing LTCAs sorely need review. A brief scan reveals that the Board has acted rashly in imposing excessive criteria on all types of license applicants that secure no obvious health benefits. Lawmakers must intervene to restore common sense to the law.

It might be the case that the wording of some federal statutes (e.g. the 1987 *Nursing Home Reform Act*) requires all states to have an NHA license, but they do not specify license criteria that states must impose. So, lawmakers should not hesitate to dramatically reduce the license criteria for NHAs, which presently do more to keep newcomers out of the profession than to protect the elderly. Lawmakers should abolish the four other licenses, such as the residential care/assisted living administrators license (RCAL), which 23 other states do not have.

The 1889 Institute has outlined a solution to the problem of occupational licensing, including a model bill, in its paper *A Win-Win for Consumers and Professionals Alike: An Alternative to Occupational Licensing*.¹⁶ The proposal would allow the state to register multiple private certification organizations, who then compete for professionals and the attention of consumers. This allows a state to keep the one and only valuable aspect of licensing, the shorthand information consumers get about which practitioners are competent, while discarding the market distortions of monopolized industry. The law keeps certifying agencies honest by allowing additional certifiers to enter the market if those already in place behave badly. Private certifiers are given the protection of criminal fraud laws to lower the cost of defending their credentials. State licenses are not eliminated, instead anyone certified by a qualified certifying agency is exempted from the relevant licensing laws.

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