

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 607

Introduced by Mello, 5; Bolz, 29; Campbell, 25; Crawford, 45; Davis, 43;
Hilkemann, 4.

Read first time January 21, 2015

Committee:

- 1 A BILL FOR AN ACT relating to health; to adopt the Home Care Consumer
- 2 Bill of Rights Act; and to provide a penalty.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may
2 cited as the Home Care Consumer Bill of Rights Act.

3 Sec. 2. For purposes of the Home Care Consumer Bill of Rights Act:

4 (1) Home care consumer means (a) any person sixty years of age or
5 older or (b) a person with disabilities eighteen years of age or older
6 and younger than sixty years of age, who receives home care services; and

7 (2) Home care services means home and community-based services the
8 purposes of which are to promote independence and reduce the necessity
9 for residence in a long-term care facility, including, but not limited
10 to, personal care services designed to assist an individual in the
11 activities of daily living such as bathing, exercising, personal
12 grooming, and getting in and out of bed, and which are provided under the
13 medicare program under Title XVIII of the federal Social Security Act, as
14 amended, the medicaid program under Title XIX of the federal Social
15 Security Act, as amended, or any other public or private program
16 providing home care services.

17 Sec. 3. A provider of home care services shall:

18 (1) Maintain the confidentiality of all personal, financial, and
19 medical information of the home care consumers to whom it provides
20 services, except that a home care consumer has the right of access to his
21 or her own records and written information from those records;

22 (2) Disclose to each home care consumer in writing and in plain
23 language (a) whether the provider of home care services is an employer, a
24 joint employer, an employee leasing company, or a contractor, as
25 applicable, and (b) that the home care consumer (i) may be considered an
26 employer under law and, if so, that the consumer may be held responsible
27 for the payment of federal and state taxes, including, but not limited
28 to, federal and state income taxes, taxes under the Federal Insurance
29 Contributions Act for purposes of social security and medicare,
30 contributions under the Federal Unemployment Tax Act (FUTA) and the
31 Employment Security Law, payment of overtime and minimum wage, workers'

1 compensation insurance, and any other applicable payments required under
2 state or federal law and (ii) should consult a tax professional if he or
3 she is uncertain about his or her responsibility for such payments; and

4 (3) Provide each home care consumer with a copy of the rights
5 guaranteed by the Home Care Consumer Bill of Rights Act.

6 Sec. 4. In addition to any other rights recognized under state or
7 federal law, a home care consumer has the rights set out in sections 5 to
8 13 of this act.

9 Sec. 5. A home care consumer has the right to be informed of the
10 following by a provider of home care services before the home care
11 consumer begins to receive home care services:

12 (1) The home care consumer's rights under the Home Care Consumer
13 Bill of Rights Act; and

14 (2) The contact information for the entities the home care consumer
15 may contact if his or her rights are violated, including the Consumer
16 Protection Division of the Office of Attorney General, the Department on
17 Aging, the state long-term care ombudsman, and other state and local
18 agencies responsible for or interested in the rights of home care
19 consumers, in order to have grievances addressed in an appropriate and
20 timely manner and without retaliation.

21 Sec. 6. A home care consumer has the right to information about the
22 availability of the home care services provided in his or her community
23 and the right to choose among home care services and providers available
24 in that community.

25 Sec. 7. (1) A home care consumer has the right to participate in
26 the planning of his or her home care services, including, but not limited
27 to, the right to make choices about aspects of his or her home care
28 services that are important to him or her, choosing providers and
29 schedules to the extent practicable, receiving reasonable accommodation
30 of his or her needs and preferences, and involving anyone he or she
31 chooses to participate with him or her in that planning.

1 (2) A home care consumer has the right to sufficient information to
2 make informed decisions, to be fully informed in advance about any
3 proposed changes in home care services, and to be involved in the
4 decisionmaking process regarding those changes.

5 (3) A home care consumer has the right to refuse home care services.

6 Sec. 8. A home care consumer has the right to be informed of the
7 cost of home care services prior to receiving those services, whether the
8 cost of home care services is covered under health insurance, long-term
9 care insurance, or other private or public programs, and any charges the
10 consumer will be expected to pay for such home care services. A home care
11 consumer has the right to thirty days' advance notice of any changes to
12 such costs or services.

13 Sec. 9. (1) A home care consumer has the right to receive care and
14 services provided in a way that promotes his or her dignity and
15 individuality.

16 (2) A home care consumer has the right to (a) express grievances
17 about the quality of his or her home care services, the number of hours
18 of home care services, and any violations of his or her rights under the
19 Home Care Consumer Bill of Rights Act, (b) receive prompt responses from
20 the entity with which the complaint was filed with regard to those
21 concerns, and (c) assert his or her rights under the act without
22 retaliation.

23 Sec. 10. A home care consumer has the right to the assistance of an
24 agent, an attorney, a guardian, an individual designated pursuant to a
25 power of attorney, or an individual otherwise designated in writing by
26 the home care consumer to act on behalf of the home care consumer in
27 securing his or her rights under the Home Care Consumer Bill of Rights
28 Act.

29 Sec. 11. Any individual violating section 3 of this act is guilty
30 of a Class V misdemeanor.