

Amendment No. 107

Senate Amendment to Senate Bill No. 192	(BDR 53-781)
Proposed by: Senate Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 192—SENATORS SPEARMAN, PARKS; DONDERO LOOP, HARRIS,
OHRENSCHALL AND WOODHOUSE

FEBRUARY 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to health care. (BDR 53-781)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; prescribing certain requirements for health benefits for the purpose of determining the minimum wage required to be paid to employees in private employment in this State; ~~creating the Office of the Ombudsman for Hospital Patients to advocate for the protection of the health, safety, welfare and rights of hospital patients and to investigate acts, practices, policies and procedures of hospitals and governmental agencies which relate to the care provided by hospitals, providing penalties;~~ requiring a hospital to provide notice to a patient of certain rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 16 of Article 15 of the Nevada Constitution requires each employer in this State to pay a certain minimum wage to each employee of the employer. Under this provision of Nevada Constitution, if an employer offers health benefits to an employee and his or her dependents, the minimum wage required to be paid to the employee is lower than the minimum wage otherwise required to be paid to the employee. (Nev. Const. Art. 15, § 16) **Section 1** of this bill establishes the minimum level of health benefits that an employer is required to make available to an employee and his or her dependents for the purpose of determining whether the employer is authorized to pay the lower minimum wage to the employee.

~~Section 11 of this bill creates the Office of the Ombudsman for Hospital Patients within the Aging and Disability Services Division of the Department of Health and Human Services to advocate for the protection of the health, safety, welfare and rights of patients of hospitals. Section 11 also directs the Ombudsman, under the direction of the Administrator of the Division, to train advocates to receive and investigate complaints made by or on behalf of patients of hospitals, investigate acts, practices, policies or procedures of any hospital and certain governmental agencies and take certain other acts related to the well-being and rights of patients of hospitals. Under section 11, the expenses of the Office are required to be paid from money received from the licensing of medical facilities and facilities for the dependent. Section 18 of this bill makes a conforming change to enable the expenses of the Office to be paid from this money.~~

~~Section 12 of this bill authorizes the Ombudsman to appoint advocates to assist the Ombudsman. Section 13 of this bill authorizes the Ombudsman or an advocate appointed by~~

~~the Ombudsman to investigate certain acts or policies upon a complaint by or on behalf of a patient, to make periodic visits to any hospital and to enter any hospital or area of a hospital at reasonable times. Section 13 also authorizes the imposition of an administrative fine for the act of willfully interfering with the investigation or visit to a hospital of the Ombudsman or an advocate and requires that money collected from such fines be deposited the State General Fund. Section 13 provides that the Ombudsman or an advocate is not liable civilly for the good faith performance of any investigation.~~

~~— Section 14 of this bill prohibits an officer, director or employee of a hospital from retaliating against any person for having filed a complaint with or provided information to the Ombudsman or an advocate.~~

~~— Section 15 of this bill authorizes the Ombudsman or an advocate to inspect any hospital and any records of a hospital, to interview certain persons and to obtain assistance and information from any agency of the State or its political subdivisions.~~

~~— Section 16 of this bill authorizes the Ombudsman or an advocate, under the direction of the Administrator, to refer the results of an investigation for enforcement by the appropriate governmental agencies and to notify the complainant of the ultimate disposition of the matter raised in his or her complaint.~~

~~— Section 17 of this bill authorizes the Aging and Disability Services Division to adopt certain regulations relating to the Office of the Ombudsman for Hospital Patients.~~

~~— Section 2 of this bill authorizes the Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition to provide certain assistance, training and support to the Ombudsman.~~

~~— Section 3 of this bill makes a conforming change.]~~

Existing law requires a hospital to provide certain information, including notice of certain rights of a patient, notice of the existence of the Bureau for Hospital Patients and an explanation of the services offered by the Bureau, to a patient upon admission. (NRS 449A.118) Section 18.5 of this bill additionally requires a hospital to provide notice of the patient's right to: (1) make a complaint to certain persons and entities; and (2) designate a caregiver to whom the hospital must provide instructions concerning aftercare. (NRS 449A.300-449A.330)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

For the purpose of determining the minimum wage that may be paid per hour to an employee in private employment pursuant to Section 16 of Article 15 of the Nevada Constitution and NRS 608.250, an employer:

1. Provides health benefits as described in Section 16 of Article 15 of the Nevada Constitution only if the employer makes available to the employee and the employee's dependents:

(a) At least one health ~~insurance~~ benefit plan that provides:

(1) Coverage for services in each of the following categories and the items and services covered within the following categories:

(I) Ambulatory patient services;

(II) Emergency services;

(III) Hospitalization;

(IV) Maternity and newborn care;

(V) Mental health and substance use disorder services, including, without limitation, behavioral health treatment;

(VI) Prescription drugs;

(VII) Rehabilitative and habilitative services and devices;

(VIII) Laboratory services;

(IX) Preventative and wellness services and chronic disease management;

(X) Pediatric services, ~~including, without limitation,~~ which are not required to include oral and vision care; and

(XI) Any other health care service or coverage level required to be included in an individual or group health ~~insurance~~ benefit plan pursuant to any applicable provision of ~~chapter 690A or 690B~~ title 57 of NRS; and

(2) A level of coverage that is designed to provide benefits that are actuarially equivalent to at least 60 percent of the full actuarial value of the benefits provided under the plan; or

(b) Health benefits pursuant to a Taft-Hartley trust which is formed pursuant to 29 U.S.C. § 186(c)(5) and qualifies as an employee welfare benefit plan pursuant to:

(1) The Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.; or

(2) The provisions of the Internal Revenue Code; and

2. Does not provide health benefits as described in Section 16 of Article 15 of the Nevada Constitution if the employer makes available to the employee and the employee's dependents a hospital-indemnity insurance plan or fixed-indemnity insurance plan unless the employer separately makes available to the employee and the employee's dependents at least one health ~~insurance~~ benefit plan that complies with the requirements of subsection 1.

3. As used in this section, "health benefit plan" has the meaning ascribed to it in NRS 687B.470.

Sec. 2. ~~[NRS 427A.1234 is hereby amended to read as follows:~~

~~427A.1234 1. The Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition shall:~~

~~(a) Provide advocacy and education relating to the legal rights of older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition and shall facilitate the development of legal services to assist those persons in securing and maintaining their legal rights;~~

~~(b) Provide, upon request, technical assistance, training and other support relating to the legal rights of older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition, as appropriate, to:~~

~~(1) An attorney who is providing legal services for an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition;~~

~~(2) An employee of a law enforcement agency;~~

~~(3) The State Long Term Care Ombudsman or an advocate [-] appointed by the State Long Term Care Ombudsman;~~

~~(4) The Ombudsman for Hospital Patients appointed pursuant to section 11 of this act or an advocate appointed by the Ombudsman for Hospital Patients pursuant to section 12 of this act;~~

~~(5) An employee of an office for protective services of any county;~~

~~[(5)] (6) An employee of the Division; and~~

~~[(6)] (7) Groups that advocate for older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition.~~

~~(c) Review existing and proposed policies, legislation and regulations that affect older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition and make recommendations as appropriate to the Administrator.~~

~~— (d) Review and analyze information relating to the nature and extent of abuse, neglect, exploitation, isolation and abandonment of older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition to identify services that need to be provided, including, without limitation;~~

~~— (1) Methods of intervening on behalf of an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition to protect the older person, person with a physical disability, person with an intellectual disability or person with a related condition from abuse, neglect, exploitation, isolation or abandonment; and~~

~~— (2) Enforcing the laws of this state governing abuse, neglect, exploitation, isolation and abandonment of older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition;~~

~~2. The Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition may:~~

~~— (a) Have access to, inspect, copy and subpoena all records in the possession of any clerk of a court, law enforcement agency or public or private institution, wherever situated, that relate to the abuse, neglect, exploitation, isolation or abandonment of an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition;~~

~~— (b) Have access to all written records in the possession of any person, government, governmental agency or political subdivision of a government that relate to the abuse, neglect, exploitation, isolation or abandonment of an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition;~~

~~— (c) Represent and assist any incapacitated older person, person with a physical disability, person with an intellectual disability or person with a related condition until a guardian is appointed for that person;~~

~~— (d) Use the information obtained pursuant to paragraphs (a) and (b) to resolve complaints relating to the abuse, neglect, exploitation, isolation or abandonment of an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition;~~

~~— (e) Develop services relating to financial management for an older person, a person with a physical disability, a person with an intellectual disability or a person with a related condition who is at risk of having a guardian appointed by a court to manage his or her property;~~

~~— (f) Act as the state legal assistance developer as described in 42 U.S.C. § 3058j;~~

~~— (g) Appear as amicus curiae on behalf of older persons, persons with a physical disability, persons with an intellectual disability or persons with a related condition in any court in this state;~~

~~— (h) Perform such other functions as are necessary to carry out the duties and the functions of the office of the Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.] (Deleted by amendment.)~~

Sec. 3. NRS 444.300 is hereby amended to read as follows:

444.300 Any person employed by a children's camp on a written contract basis for a specified term longer than 1 week is exempt from the provisions of NRS 608.250 to 608.290, inclusive, *and section 1 of this act* and chapter 609 of NRS relating to daily and weekly hours of labor only if such camp is operated by a nonprofit organization which is exempt from federal income tax under I.R.C. § 501.

1 Sec. 4. ~~[Chapter 449A of NRS is hereby amended by adding thereto the~~
2 ~~provisions set forth as sections 5 to 17, inclusive, of this act.]~~ (Deleted by
3 amendment.)

4 Sec. 5. ~~[As used in sections 5 to 17, inclusive, of this act, unless the context~~
5 ~~otherwise requires, the words and terms defined in sections 6 to 10, inclusive, of~~
6 ~~this act have the meanings ascribed to them in those sections.]~~ (Deleted by
7 amendment.)

8 Sec. 6. ~~["Administrator" means the Administrator of the Aging and~~
9 ~~Disability Services Division of the Department of Health and Human Services.]~~
10 (Deleted by amendment.)

11 Sec. 7. ~~["Advocate" means an advocate appointed by the Ombudsman~~
12 ~~pursuant to section 12 of this act.]~~ (Deleted by amendment.)

13 Sec. 8. ~~["Department" means the Department of Health and Human~~
14 ~~Services.]~~ (Deleted by amendment.)

15 Sec. 9. ~~["Division" means the Aging and Disability Services Division of the~~
16 ~~Department.]~~ (Deleted by amendment.)

17 Sec. 10. ~~["Ombudsman" means the Ombudsman for Hospital Patients~~
18 ~~appointed by the Administrator pursuant to section 11 of this act.]~~ (Deleted by
19 amendment.)

20 Sec. 11. ~~[1. The Office of the Ombudsman for Hospital Patients is hereby~~
21 ~~created within the Division.~~

22 ~~2. The Administrator shall appoint the Ombudsman for Hospital Patients to~~
23 ~~advocate for the protection of the health, safety, welfare and rights of patients of~~
24 ~~hospitals. The Ombudsman is in the classified service of the State. The~~
25 ~~Ombudsman shall, under direction of the Administrator:~~

26 ~~(a) Train advocates to:~~

27 ~~(1) Receive, investigate and attempt to resolve complaints made by or on~~
28 ~~behalf of patients of hospitals.~~

29 ~~(2) Investigate acts, practices, policies or procedures of any hospital or~~
30 ~~any governmental agency which relates to the care provided at hospitals and may~~
31 ~~adversely affect the health, safety, welfare or civil rights of patients of hospitals,~~
32 ~~and report the results of the investigations to the Ombudsman and the~~
33 ~~Administrator.~~

34 ~~(3) Record and analyze information and complaints about hospitals to~~
35 ~~identify problems affecting their patients.~~

36 ~~(4) Provide for the support and development of patient and family~~
37 ~~councils to protect the well being and rights of patients of hospitals.~~

38 ~~(b) Coordinate services within the Department which may affect patients and~~
39 ~~prospective patients of hospitals to ensure that such services are made available~~
40 ~~to eligible persons.~~

41 ~~(c) Provide information to interested persons and to the general public~~
42 ~~concerning the functions and activities of the Ombudsman.~~

43 ~~(d) Report annually to the Administrator.~~

44 ~~3. The Ombudsman may:~~

45 ~~(a) Analyze, provide comment on and monitor the development and~~
46 ~~implementation of any federal, state or local governmental action, activity or~~
47 ~~program that relates to the protection of the health, safety, welfare and rights of~~
48 ~~patients of hospitals; and~~

49 ~~(b) Recommend changes to any federal, state or local governmental action,~~
50 ~~activity or program described in paragraph (a) without the prior approval of the~~
51 ~~Administrator.~~

52 ~~4. The expenses of the Office of the Ombudsman for Hospital Patients~~
53 ~~must, to the extent of the amount authorized and appropriated by the Legislature,~~

~~be paid from money received from licensing medical facilities and facilities for the dependent and deposited in the State General Fund pursuant to NRS 449.0206.] (Deleted by amendment.)~~

Sec. 12. ~~[1. The Ombudsman may appoint one or more advocates to assist the Ombudsman who are within the Division and in the classified service of the State. Each advocate shall perform his or her duties at the direction of the Ombudsman.~~

~~2. The Ombudsman may:~~

~~(a) Create a volunteer advocacy program within the Office of the Ombudsman to be administered by the Ombudsman; and~~

~~(b) Appoint volunteer advocates who may act as representatives of the Ombudsman.] (Deleted by amendment.)~~

Sec. 13. ~~[1. The Ombudsman or an advocate may:~~

~~(a) Upon a complaint by or on behalf of a patient, investigate any act or policy which the Ombudsman or advocate has reason to believe may adversely affect the health, safety, welfare or civil rights of any patient of a hospital; and~~

~~(b) Make periodic visits to any hospital to provide information to the patients of the hospital and to review generally any act, practice, policy, procedure or condition which may adversely affect the health, safety, welfare or civil or other rights of any patient of the hospital.~~

~~2. The Ombudsman or an advocate may enter any hospital and any area within the hospital at reasonable times with or without prior notice and must be permitted access to patients of the hospital at all times. Upon arrival at the hospital, the Ombudsman or advocate shall make his or her presence known to the staff of the hospital and shall present appropriate identification.~~

~~3. A person shall not willfully interfere with the Ombudsman or an advocate in the performance of any investigation or visitation pursuant to this section. If any person is found, after notice and a hearing, to have willfully violated any provision of this subsection, the Director of the Department, at the request of the Administrator, may refer the matter to the Division for the imposition of an administrative fine of not more than \$1,000 for each violation.~~

~~4. Any money collected as a result of an administrative fine imposed pursuant to this section must be deposited in the State General Fund.~~

~~5. Each patient has the right to request, deny or terminate visits with the Ombudsman or an advocate.~~

~~6. The Ombudsman or an advocate is not liable civilly for the good faith performance of any investigation.] (Deleted by amendment.)~~

Sec. 14. ~~[1. An officer, director or employee of a hospital shall not retaliate against any person for having filed a complaint with, or provided information to, the Ombudsman or an advocate.~~

~~2. If any person is found, after notice and a hearing, to have violated any provision of subsection 1, the Director of the Department, at the request of the Administrator, may refer the matter to the Division for the imposition of an administrative fine of not more than \$1,000 for each violation.~~

~~3. Any money collected as a result of an administrative fine imposed pursuant to this section must be deposited in the State General Fund.] (Deleted by amendment.)~~

Sec. 15. ~~[In conducting an investigation, the Ombudsman or an advocate may:~~

~~1. Inspect any hospital and any records maintained by the hospital. Except as otherwise provided in this subsection, medical and personal financial records may be inspected only with the informed consent of the patient, the legal guardian of the patient or the person or persons designated as responsible for~~

~~decisions regarding the patient. Such consent may be obtained orally, visually, in writing or through the use of auxiliary aids and services, as long as such consent is documented by the Ombudsman or the advocate.~~

~~2. Interview:~~

~~(a) Officers, directors and employees of any hospital, including any licensed provider of health care as defined in NRS 629.031, who renders services to the hospital or its patients.~~

~~(b) Any patient of the hospital and the legal guardian of the patient, if any, and the family of the patient or the person or persons designated as responsible for decisions regarding his or her care if the patient consents to the interview.~~

~~3. Obtain such assistance and information from any agency of the State or its political subdivisions as is necessary properly to perform the investigation.]~~
(Deleted by amendment.)

Sec. 16. ~~[1. In appropriate cases and under the Administrator's direction, the Ombudsman or an advocate shall refer the results of an investigation to the governmental agencies with authority to enforce applicable laws and regulations through administrative, civil or criminal proceedings.~~

~~2. The Ombudsman or an advocate shall notify the complainant of the ultimate disposition of the matter raised in his or her complaint.]~~ (Deleted by amendment.)

Sec. 17. ~~[The Division may adopt regulations regarding the requirement, contents, posting and distribution of a notice which describes the purpose of the Ombudsman and an advocate and sets forth the procedure for making a complaint to the Ombudsman or an advocate.]~~ (Deleted by amendment.)

Sec. 18. ~~[NRS 449.0306 is hereby amended to read as follows:~~

~~449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund to the credit of the Division [.] of Public and Behavioral Health of the Department of Health and Human Services and, to the extent of the amount authorized and appropriated by the Legislature, the Aging and Disability Services Division of the Department.~~

~~2. The Division shall enforce the provisions of NRS 449.029 to 449.245, inclusive, and may incur any necessary expenses not in excess of money authorized for that purpose by the State or received from the Federal Government.]~~ (Deleted by amendment.)

Sec. 18.5. NRS 449A.118 is hereby amended to read as follows:

449A.118 1. Every medical facility and facility for the dependent shall inform each patient or the patient's legal representative, upon the admission of the patient to the facility, of the patient's rights as listed in NRS 449A.100 and 449A.106 to 449A.115, inclusive.

2. In addition to the requirements of subsection 1, if a person with a disability is a patient at a facility, as that term is defined in NRS 449A.218, the facility shall inform the patient of his or her rights pursuant to NRS 449A.200 to 449A.263, inclusive.

3. In addition to the requirements of subsections 1 and 2, every hospital shall, upon the admission of a patient to the hospital, provide to the patient or the patient's legal representative ~~the~~ :

(a) Notice of the right of the patient to:

(1) Designate a caregiver pursuant to NRS 449A.300 to 449A.330, inclusive; and

(2) Express complaints and grievances as described in paragraphs (b) to (f), inclusive;

(b) The name and contact information for persons to whom such complaints and grievances may be expressed, including, without limitation, a patient representative or hospital social worker;

(c) Instructions for filing a complaint with the Division;

(d) The name and contact information of any entity responsible for accrediting the hospital;

(e) A written disclosure approved by the Director of the Department of Health and Human Services, which written disclosure must set forth:

~~[(e)]~~ (1) Notice of the existence of the Bureau for Hospital Patients created pursuant to NRS 232.462;

~~[(e)]~~ (2) The address and telephone number of the Bureau; and

~~[(e)]~~ (3) An explanation of the services provided by the Bureau, including, without limitation, the services for dispute resolution described in subsection 3 of NRS 232.462 ~~[(3)]~~; and

(f) Contact information for any other state or local entity that investigates complaints concerning the abuse or neglect of patients.

4. In addition to the requirements of subsections 1, 2 and 3, every hospital shall, upon the discharge of a patient from the hospital, provide to the patient or the patient's legal representative a written disclosure approved by the Director, which written disclosure must set forth:

(a) If the hospital is a major hospital:

(1) Notice of the reduction or discount available pursuant to NRS 439B.260, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount under that section; and

(2) Notice of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons, which policies and procedures are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260. The notice required by this subparagraph must describe the criteria a patient must satisfy to qualify for the additional reduction or discount, including, without limitation, any relevant limitations on income and any relevant requirements as to the period within which the patient must arrange to make payment.

(b) If the hospital is not a major hospital, notice of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons. The notice required by this paragraph must describe the criteria a patient must satisfy to qualify for the reduction or discount, including, without limitation, any relevant limitations on income and any relevant requirements as to the period within which the patient must arrange to make payment.

➤ As used in this subsection, "major hospital" has the meaning ascribed to it in NRS 439B.115.

5. In addition to the requirements of subsections 1 to 4, inclusive, every hospital shall post in a conspicuous place in each public waiting room in the hospital a legible sign or notice in 14-point type or larger, which sign or notice must:

(a) Provide a brief description of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons, including, without limitation:

(1) Instructions for receiving additional information regarding such policies and procedures; and

(2) Instructions for arranging to make payment;

(b) Be written in language that is easy to understand; and

(c) Be written in English and Spanish.

1 **Sec. 19.** 1. This act becomes effective upon passage and approval for the
2 purpose of adopting regulations and performing any other administrative tasks that
3 are necessary to carry out the provisions of this act and on January 1, 2020, for all
4 other purposes.

5 2. The amendatory provisions of section 1 of this act expire by limitation on
6 November 24, 2020, if the provisions of Senate Joint Resolution No. 6 of the 79th
7 Session of the Nevada Legislature (2017) are agreed to and passed by the 2019
8 Legislature and approved and ratified by the voters at the 2020 General Election.