

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: Health and Human Services

- 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.