

*

S.B. 192

SENATE BILL NO. 192—SENATORS SPEARMAN, PARKS; DONDERO
LOOP, D. 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.

~

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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

10 **Section 11** of this bill creates the Office of the Ombudsman for Hospital
11 Patients within the Aging and Disability Services Division of the Department of
12 Health and Human Services to advocate for the protection of the health, safety,
13 welfare and rights of patients of hospitals. **Section 11** also directs the Ombudsman,
14 under the direction of the Administrator of the Division, to train advocates to
15 receive and investigate complaints made by or on behalf of patients of hospitals,
16 investigate acts, practices, policies or procedures of any hospital and certain



* S B 1 9 2 *

17 governmental agencies and take certain other acts related to the well-being and
18 rights of patients of hospitals. Under **section 11**, the expenses of the Office are
19 required to be paid from money received from the licensing of medical facilities
20 and facilities for the dependent. **Section 18** of this bill makes a conforming change
21 to enable the expenses of the Office to be paid from this money.

22 **Section 12** of this bill authorizes the Ombudsman to appoint advocates to assist
23 the Ombudsman. **Section 13** of this bill authorizes the Ombudsman or an advocate
24 appointed by the Ombudsman to investigate certain acts or policies upon a
25 complaint by or on behalf of a patient, to make periodic visits to any hospital and to
26 enter any hospital or area of a hospital at reasonable times. **Section 13** also
27 authorizes the imposition of an administrative fine for the act of willfully
28 interfering with the investigation or visit to a hospital of the Ombudsman or an
29 advocate and requires that money collected from such fines be deposited the State
30 General Fund. **Section 13** provides that the Ombudsman or an advocate is not liable
31 civilly for the good faith performance of any investigation.

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

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

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

43 **Section 17** of this bill authorizes the Aging and Disability Services Division to
44 adopt certain regulations relating to the Office of the Ombudsman for Hospital
45 Patients.

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

49 **Section 3** of this bill makes a conforming change.

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

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

3 *For the purpose of determining the minimum wage that may be*
4 *paid per hour to an employee in private employment pursuant to*
5 *Section 16 of Article 15 of the Nevada Constitution and NRS*
6 *608.250, an employer:*

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

10 *(a) At least one health insurance plan that provides:*

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



- 1 (I) *Ambulatory patient services;*
2 (II) *Emergency services;*
3 (III) *Hospitalization;*
4 (IV) *Maternity and newborn care;*
5 (V) *Mental health and substance use disorder services,*
6 *including, without limitation, behavioral health treatment;*
7 (VI) *Prescription drugs;*
8 (VII) *Rehabilitative and habilitative services and*
9 *devices;*
10 (VIII) *Laboratory services;*
11 (IX) *Preventative and wellness services and chronic*
12 *disease management;*
13 (X) *Pediatric services, including, without limitation, oral*
14 *and vision care; and*
15 (XI) *Any other health care service or coverage level*
16 *required to be included in an individual or group health insurance*
17 *plan pursuant to any applicable provision of chapter 689A or*
18 *689B of NRS; and*

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

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

25 (1) *The Employee Retirement Income Security Act of 1974,*
26 *29 U.S.C. §§ 1001 et seq.; or*

27 (2) *The provisions of the Internal Revenue Code; and*
28 2. *Does not provide health benefits as described in Section 16*
29 *of Article 15 of the Nevada Constitution if the employer makes*
30 *available to the employee and the employee's dependents a*
31 *hospital-indemnity insurance plan or fixed-indemnity insurance*
32 *plan unless the employer separately makes available to the*
33 *employee and the employee's dependents at least one health*
34 *insurance plan that complies with the requirements of*
35 *subsection 1.*

36 **Sec. 2.** NRS 427A.1234 is hereby amended to read as follows:
37 427A.1234 1. The Attorney for the Rights of Older Persons
38 and Persons with a Physical Disability, an Intellectual Disability or a
39 Related Condition shall:

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



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

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

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

9 (3) The *State Long-Term Care* Ombudsman or an advocate
10 ~~§~~ *appointed by the State Long-Term Care Ombudsman;*

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

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

17 ~~§(5)~~ (6) An employee of the Division; and

18 ~~§(6)~~ (7) Groups that advocate for older persons, persons
19 with a physical disability, persons with an intellectual disability or
20 persons with a related condition.

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

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

31 (1) Methods of intervening on behalf of an older person, a
32 person with a physical disability, a person with an intellectual
33 disability or a person with a related condition to protect the older
34 person, person with a physical disability, person with an intellectual
35 disability or person with a related condition from abuse, neglect,
36 exploitation, isolation or abandonment; and

37 (2) Enforcing the laws of this state governing abuse, neglect,
38 exploitation, isolation and abandonment of older persons, persons
39 with a physical disability, persons with an intellectual disability or
40 persons with a related condition.

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

44 (a) Have access to, inspect, copy and subpoena all records in the
45 possession of any clerk of a court, law enforcement agency or public



1 or private institution, wherever situated, that relate to the abuse,
2 neglect, exploitation, isolation or abandonment of an older person, a
3 person with a physical disability, a person with an intellectual
4 disability or a person with a related condition.

5 (b) Have access to all written records in the possession of any
6 person, government, governmental agency or political subdivision
7 of a government that relate to the abuse, neglect, exploitation,
8 isolation or abandonment of an older person, a person with a
9 physical disability, a person with an intellectual disability or a
10 person with a related condition.

11 (c) Represent and assist any incapacitated older person, person
12 with a physical disability, person with an intellectual disability or
13 person with a related condition until a guardian is appointed for that
14 person.

15 (d) Use the information obtained pursuant to paragraphs (a) and
16 (b) to resolve complaints relating to the abuse, neglect, exploitation,
17 isolation or abandonment of an older person, a person with a
18 physical disability, a person with an intellectual disability or a
19 person with a related condition.

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

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

27 (g) Appear as amicus curiae on behalf of older persons, persons
28 with a physical disability, persons with an intellectual disability or
29 persons with a related condition in any court in this state.

30 (h) Perform such other functions as are necessary to carry out
31 the duties and the functions of the office of the Attorney for the
32 Rights of Older Persons and Persons with a Physical Disability, an
33 Intellectual Disability or a Related Condition.

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

35 444.300 Any person employed by a children's camp on a
36 written contract basis for a specified term longer than 1 week is
37 exempt from the provisions of NRS 608.250 to 608.290, inclusive,
38 **and section 1 of this act** and chapter 609 of NRS relating to daily
39 and weekly hours of labor only if such camp is operated by a
40 nonprofit organization which is exempt from federal income tax
41 under I.R.C. § 501.



1 **Sec. 4.** Chapter 449A of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 5 to 17, inclusive, of this
3 act.

4 **Sec. 5.** *As used in sections 5 to 17, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 6 to 10, inclusive, of this act have the meanings*
7 *ascribed to them in those sections.*

8 **Sec. 6.** *“Administrator” means the Administrator of the*
9 *Aging and Disability Services Division of the Department of*
10 *Health and Human Services.*

11 **Sec. 7.** *“Advocate” means an advocate appointed by the*
12 *Ombudsman pursuant to section 12 of this act.*

13 **Sec. 8.** *“Department” means the Department of Health and*
14 *Human Services.*

15 **Sec. 9.** *“Division” means the Aging and Disability Services*
16 *Division of the Department.*

17 **Sec. 10.** *“Ombudsman” means the Ombudsman for Hospital*
18 *Patients appointed by the Administrator pursuant to section 11 of*
19 *this act.*

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

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

27 (a) *Train advocates to:*

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

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

36 (3) *Record and analyze information and complaints about*
37 *hospitals to identify problems affecting their patients.*

38 (4) *Provide for the support and development of patient and*
39 *family councils to protect the well-being and rights of patients of*
40 *hospitals.*

41 (b) *Coordinate services within the Department which may*
42 *affect patients and prospective patients of hospitals to ensure that*
43 *such services are made available to eligible persons.*



1 (c) Provide information to interested persons and to the
2 general public concerning the functions and activities of the
3 Ombudsman.

4 (d) Report annually to the Administrator.

5 3. The Ombudsman may:

6 (a) Analyze, provide comment on and monitor the development
7 and implementation of any federal, state or local governmental
8 action, activity or program that relates to the protection of the
9 health, safety, welfare and rights of patients of hospitals; and

10 (b) Recommend changes to any federal, state or local
11 governmental action, activity or program described in paragraph
12 (a) without the prior approval of the Administrator.

13 4. The expenses of the Office of the Ombudsman for Hospital
14 Patients must, to the extent of the amount authorized and
15 appropriated by the Legislature, be paid from money received from
16 licensing medical facilities and facilities for the dependent and
17 deposited in the State General Fund pursuant to NRS 449.0306.

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

22 2. The Ombudsman may:

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

25 (b) Appoint volunteer advocates who may act as
26 representatives of the Ombudsman.

27 **Sec. 13. 1.** The Ombudsman or an advocate may:

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

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

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

44 3. A person shall not willfully interfere with the Ombudsman
45 or an advocate in the performance of any investigation or



1 *visitation pursuant to this section. If any person is found, after*
2 *notice and a hearing, to have willfully violated any provision of*
3 *this subsection, the Director of the Department, at the request of*
4 *the Administrator, may refer the matter to the Division for the*
5 *imposition of an administrative fine of not more than \$1,000 for*
6 *each violation.*

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

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

12 *6. The Ombudsman or an advocate is not liable civilly for the*
13 *good faith performance of any investigation.*

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

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

22 *3. Any money collected as a result of an administrative fine*
23 *imposed pursuant to this section must be deposited in the State*
24 *General Fund.*

25 **Sec. 15. In conducting an investigation, the Ombudsman or**
26 **an advocate may:**

27 *1. Inspect any hospital and any records maintained by the*
28 *hospital. Except as otherwise provided in this subsection, medical*
29 *and personal financial records may be inspected only with the*
30 *informed consent of the patient, the legal guardian of the patient*
31 *or the person or persons designated as responsible for decisions*
32 *regarding the patient. Such consent may be obtained orally,*
33 *visually, in writing or through the use of auxiliary aids and*
34 *services, as long as such consent is documented by the*
35 *Ombudsman or the advocate.*

36 *2. Interview:*

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

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



1 **3. Obtain such assistance and information from any agency**
2 **of the State or its political subdivisions as is necessary properly to**
3 **perform the investigation.**

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

9 **2. The Ombudsman or an advocate shall notify the**
10 **complainant of the ultimate disposition of the matter raised in his**
11 **or her complaint.**

12 **Sec. 17. The Division may adopt regulations regarding the**
13 **requirement, contents, posting and distribution of a notice which**
14 **describes the purpose of the Ombudsman and an advocate and sets**
15 **forth the procedure for making a complaint to the Ombudsman or**
16 **an advocate.**

17 **Sec. 18.** NRS 449.0306 is hereby amended to read as follows:
18 449.0306 1. Money received from licensing medical facilities
19 and facilities for the dependent must be forwarded to the State
20 Treasurer for deposit in the State General Fund to the credit of the
21 Division **of Public and Behavioral Health of the Department of**
22 **Health and Human Services and, to the extent of the amount**
23 **authorized and appropriated by the Legislature, the Aging and**
24 **Disability Services Division of the Department.**

25 2. The Division shall enforce the provisions of NRS 449.029 to
26 449.245, inclusive, and may incur any necessary expenses not in
27 excess of money authorized for that purpose by the State or received
28 from the Federal Government.

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

33 2. The amendatory provisions of section 1 of this act expire by
34 limitation on November 24, 2020, if the provisions of Senate Joint
35 Resolution No. 6 of the 79th Session of the Nevada Legislature
36 (2017) are agreed to and passed by the 2019 Legislature and
37 approved and ratified by the voters at the 2020 General Election.

