

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 780
Judiciary I Committee Substitute Adopted 4/23/01
House Committee Substitute Favorable 7/25/01

Short Title: Amend Physicians' Liens Statutes.

(Public)

Sponsors:

Referred to:

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE METHOD BY WHICH PHYSICIANS' LIENS ARE
PERFECTED AND THE DUTIES OF ATTORNEYS WITH RESPECT TO
PHYSICIANS' LIENS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44-49 reads as rewritten:

"§ 44-49. **Lien created; applicable to persons non sui juris.**

(a) From and after March 26, 1935, there is hereby created a lien upon any sums recovered as damages for personal injury in any civil action in this State, ~~the said State.~~ This lien is in favor of any person, corporation, municipal corporation or county to whom the person so recovering, or the person in whose behalf the recovery has been made, may be indebted for any drugs, medical supplies, ambulance services, and medical services rendered by any physician, dentist, trained nurse, or hospitalization, hospital, or hospital attention and/or services attention or services rendered in connection with the injury in compensation for which the said damages have been recovered. Where damages are recovered for and in behalf of minors or persons non compos mentis, such the liens shall attach to the sum recovered as fully as if the said person were sui juris.

(b) ~~Notwithstanding the provisions of paragraph one subsection (a) of this section, no lien therein provided for under subsection (a) of this section shall be is valid with respect to any claims whatsoever unless the person or corporation entitled to the lien therein provided for shall file a claim with the clerk of the court in which said civil action is instituted within 30 days after the institution of such action and further provided that the physician, dentist, trained nurse, hospital hospital, corporation, or such other person as has a lien hereunder shall, entitled to the lien furnishes, without charge to the attorney as a condition precedent to the creation of such the lien, furnish upon request to the attorney representing the person in whose behalf the claim for personal injury is made, an itemized statement, hospital record, or medical report for the use of~~

1 ~~such the~~ attorney in the ~~negotiation settlement negotiation~~, settlement, or trial of the
2 claim arising by reason of the personal ~~injury injury~~, and a written notice to the attorney
3 of the lien claimed.

4 ~~No liens of the character provided for in the first paragraph of this section shall~~
5 ~~hereafter be valid with respect to money that may be recovered in any pending civil~~
6 ~~actions in this State unless claims based on such liens are filed with the clerk of the~~
7 ~~court in which the action is pending within 90 days after April 5, 1947.~~

8 (c) No action shall lie against any clerk of court or any surety on any clerk's bond
9 to recover any claims based upon any lien or liens created ~~by the first paragraph under~~
10 subsection (a) of this section when recovery has ~~heretofore~~ been had by the person
11 injured, and no claims against ~~such the~~ recovery were filed with the clerk by any person
12 or corporation, and the clerk has otherwise disbursed according to law the money
13 recovered in ~~such the~~ action for personal injuries."

14 **SECTION 2.** G.S. 44-50 reads as rewritten:

15 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose**
16 **stated; evidence; attorney's fees; charges.**

17 ~~Such a lien as provided for in A~~ lien as provided under G.S. 44-49 shall also attach
18 upon all funds paid to any person in compensation for or settlement of the ~~said~~ injuries,
19 whether in litigation or otherwise; and it shall be the duty of any person receiving the
20 ~~same before disbursement thereof to otherwise.~~ If an attorney represents the injured
21 person, the lien is perfected as provided under G.S. 44-49. Before their disbursement,
22 any person that receives those funds shall retain out of any recovery or any
23 compensation so received a sufficient amount to pay the just and bona fide claims for
24 such any drugs, medical supplies, ambulance service and services, medical attention
25 and/or services rendered by any physician, dentist, nurse, or hospital, or hospital
26 service, attention or services, after having received and accepted notice thereof:
27 Provided, that evidence of those claims. Evidence as to the amount of such the charges
28 shall be competent in the trial of any such action: Provided, further, that nothing herein
29 contained the action. Nothing in this section or in G.S. 44-49 shall be construed so as to
30 interfere with any amount due for attorney's services: Provided, further, that the lien
31 hereinbefore services. The lien provided for shall in no case, exclusive of attorneys'
32 fees, exceed fifty percent (50%) of the amount of damages recovered. Except as
33 provided in G.S. 44-51, a client's instructions for the disbursement of settlement or
34 judgment proceeds are not binding on the disbursing attorney to the extent that the
35 instructions conflict with the requirements of this Article."

36 **SECTION 3.** This act becomes effective October 1, 2001, and applies to
37 liens perfected on or after that date.