

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1011
Judiciary I Committee Substitute Adopted 4/23/03

Short Title: Health Care Provider Liens.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DUTIES OF PERSONS WHO RECEIVE FOR DISTRIBUTION SUMS RECOVERED FOR PERSONAL INJURY WITH RESPECT TO LIENS IN FAVOR OF PROVIDERS OF HEALTH-RELATED GOODS AND SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44-50 reads as rewritten:

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

(a) A lien ~~as provided~~ under G.S. 44-49 shall also attach upon all funds paid to any person in compensation for or settlement of the injuries, whether in litigation or otherwise. If an attorney represents the injured person, the lien is perfected as provided under G.S. 44-49. The lien claimant shall provide the attorney or other holder of funds with an itemized statement, hospital record, or medical report as provided in G.S. 44-49(b), and that statement shall have the same effect as in G.S. 44-49(b). Before their disbursement, any person that receives those funds shall retain out of any recovery or any compensation so received a sufficient amount to pay the just and bona fide claims for any drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services, after having received notice of those claims. Evidence as to the amount of the charges shall be competent in the trial of the action. Nothing in this section or in G.S. 44-49 shall ~~be construed so as to~~ interfere with any amount due for attorney's services. The lien provided for shall ~~in no case, not,~~ exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages recovered.

(b) The funds subject to a lien under this Article shall be distributed to each lienholder according to that lienholder's pro rata share of those funds under this Article. The pro rata share of funds shall be based on the remaining balance due of the itemized statements, hospital records, or medical reports furnished to the attorney under G.S. 44-49(b) or subsection (a) of this section as the lienholder's charges to the injured

1 person for supplies or services. Except as provided in G.S. 44-51, a client's instructions
2 for the disbursement of settlement or judgment proceeds are not binding on the
3 disbursing attorney to the extent that the instructions conflict with the requirements of
4 this Article. An attorney subject to this Article shall not be liable for payment to a
5 lienholder as long as the attorney makes a pro rata distribution based on the balance due
6 itemized statements, hospital records, or medical reports furnished to the attorney under
7 G.S. 44-49(b) or subsection (a) of this section, nor shall the attorney be liable in the
8 event of a good faith miscalculation of the perfected lien amount owing at the time of
9 distribution. If the attorney's client or any other party disputes a claim as provided in
10 G.S. 44-51, the attorney is not liable for pro rata distribution to the lienholder of the
11 claim disputed under G.S. 44-51 until the dispute is resolved."

12 **SECTION 2.** Article 9 of Chapter 44 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 44-50.1. Accounting of disbursements; attorney's fees to enforce lien rights.**

15 (a) Any person distributing funds to a lienholder under this Article in an amount
16 less than the amount claimed by that lienholder shall provide to that lienholder upon
17 written request a certification with sufficient information to demonstrate that the
18 distribution was pro rata and consistent with this Article, including a statement of all of
19 the following:

20 (1) The total amount of the settlement.

21 (2) The total distribution to lienholders and the percentage of each lien
22 paid but not the identity of other lienholders.

23 (3) The total attorney's fees.

24 If the person distributing settlement or judgment proceeds is an attorney, the
25 accounting required by this section is not a breach of the attorney-client privilege. The
26 lienholder shall have the same duty of confidentiality with the contents of the
27 accounting as the attorney of the injured party.

28 (b) In an action brought by any party to enforce its rights under this Article, the
29 presiding judge may award reasonable attorney's fees to be taxed against the
30 nonprevailing party as part of court costs and payable to the prevailing party."

31 **SECTION 3.** This act is effective when it becomes law and applies to any
32 liens perfected on or after that date.