

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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

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

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

15 **"§ 44-50.1. Accounting of disbursements; attorney's fees to enforce lien rights.**

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

21 (1) The total amount of the settlement.

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

24 (3) The total attorney's fees.

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

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

32 (c) Nothing in this section shall be construed to require any person to act  
33 contrary to the requirements of the Health Insurance Portability and Accountability Act  
34 of 1996, P.L. 104-191, and regulations adopted pursuant to that act.

35 (d) Notwithstanding any confidentiality agreement entered into between the  
36 injured person and the payor of proceeds as compensation for or settlement of injuries,  
37 the provisions of this Article shall preempt that confidentiality agreement, but only in  
38 cases where the claimed lienholders under this Article would receive less than their  
39 claimed lien amount."

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