

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS85176-LD-41D (03/13)

Short Title: Health Care Provider Liens.

(Public)

Sponsors: Senator Berger.

Referred to:

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 HEALTH CARE PROVIDERS.

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. 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 liens under this Article shall be distributed to each health care provider that holds a lien according to that provider's pro rata share of these funds. If the injured person is represented by an attorney, the pro rata share of these funds shall be based on the remaining balance due of the itemized statements furnished to the attorney under G.S. 44-49(b) as the provider's charges to the injured person for medical supplies or services. Except as provided in G.S. 44-51, a client's instructions for the

1 disbursement of settlement or judgment proceeds are not binding on the disbursing
2 attorney to the extent that the instructions conflict with the requirements of this Article."

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

5 **"§ 44-50.1. Accounting of disbursements; attorney's fees to enforce lien rights.**

6 (a) Any health care provider who holds a lien under this Article and who receives
7 payment in an amount less than the amount claimed by the provider as due and payable
8 shall be entitled, upon the provider's request, to receive from the person who under G.S.
9 44-50 received any funds for distribution, a written accounting of all settlement or
10 judgment proceeds distributed. The accounting shall include the total amount recovered
11 from the settlement or judgment, the amount of attorneys' fees, the amount of any costs
12 associated with the negotiation or litigation of the claims that are paid from the total
13 amount recovered, the amounts claimed by all other health care providers, the amounts
14 actually distributed to all other health care providers, and the amount received by the
15 injured party. If the person distributing settlement or judgment proceeds is an attorney,
16 the accounting required by this section is not a breach of the attorney-client privilege.

17 (b) In any action brought by a health care provider to enforce its lien rights under
18 this Article, the presiding judge may award reasonable attorney's fees to be taxed as part
19 of court costs and payable to the prevailing party."

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