

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 780

Short Title: Amend Physicians' Liens.

(Public)

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Sponsors: Senator Hartsell.

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Referred to: Judiciary I.

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April 3, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO CLARIFY THE METHOD BY WHICH PHYSICIANS' LIENS ARE  
3 PERFECTED AND THE DUTIES OF ATTORNEYS WITH RESPECT TO  
4 PHYSICIANS' LIENS.

5 The General Assembly of North Carolina enacts:

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

7 **"§ 44-49. Lien created; applicable to persons non sui juris.**

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

18       An attorney filing a civil action for personal injury shall serve, in a manner and  
19 within the time permitted by Rule 4 of the Rules of Civil Procedure, a copy of the initial  
20 summons upon any person, corporation, municipal corporation, or county entitled to a  
21 lien. Notwithstanding the provisions of paragraph one of this section, no lien therein  
22 provided for shall be valid with respect to any claims whatsoever unless the person or  
23 corporation entitled to the lien therein provided for shall file a claim with the clerk of  
24 the court in which said civil action is instituted within 30 days after ~~the institution of~~  
25 ~~such action—~~ service of the summons upon the person or corporation and further  
26 provided that the physician, dentist, trained nurse, hospital or such other person as has a  
27 lien hereunder shall, without charge to the attorney as a condition precedent to the  
28 creation of such lien, perfect the lien by furnish—furnishing upon the request of and

1 without charge to the attorney representing the person in whose behalf the claim for  
2 personal injury is made, an itemized statement, hospital record, or medical report for the  
3 use of ~~such~~the attorney in the negotiation ~~settlement~~settlement, or trial of the claim  
4 arising by reason of the personal injury.

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

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

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

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

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

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

34 "**§ 44-50.1. Disclosure of settlement terms.**

35 Any health care provider in whose favor a lien exists under this Article and who  
36 receives compensation pursuant to the lien in an amount less than the total amount  
37 claimed by the provider as due and payable shall be entitled, upon the provider's  
38 request, to an accounting of all settlement or judgment proceeds distributed by any  
39 person subject to the lien. The accounting shall include the gross amount of the  
40 settlement or judgment, the amount of attorneys' fees, the amounts claimed by all other  
41 health care providers, the amounts actually distributed to all other health care providers,  
42 and the amount received by the injured party. If the person distributing settlement  
43 proceeds is an attorney, the accounting required by this section is not a breach of the  
44 attorney-client privilege."

1           **SECTION 4.** This act is effective when it becomes law.