

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 780
Judiciary I Committee Substitute Adopted 4/23/01

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 lien 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 drugs, medical supplies, ambulance services, and medical services rendered by any physician, dentist, ~~trained-nurse~~, or hospitalization, or hospital attention and/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 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 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 entitled to the lien shall, 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 ~~such~~ the attorney in the negotiation settlement or trial of the claim arising by reason of the

1 personal ~~injury-injury~~, accompanied by a written notice to the attorney of the lien
2 claimed.

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

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

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

14 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose**
15 **stated; evidence; attorney's fees; charges.**

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

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