

House Bill 9

By: Representative Mathiak of the 73rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to liens of hospitals and nursing homes, so as to allow a chiropractic
3 practice to have a lien on a cause of action accruing to an injured person for the costs of care
4 and treatment of injuries arising out of the cause of action; to revise definitions; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
9 relating to liens of hospitals and nursing homes, is amended by revising said part as follows:

10 Part 8

11 44-14-470.

12 (a) Except where the context otherwise requires in subsection (b) of this Code section, as
13 used in this part, the term:

14 (1) 'Chiropractic practice' means any chiropractic practice that includes one or more
15 chiropractors licensed to practice chiropractic in this state.

16 ~~(1)~~(2) 'Hospital' means any hospital or nursing home subject to regulation and licensure
17 by the Department of Community Health.

18 ~~(2)~~(3) 'Hospital care, treatment, or services' means care, treatment, or services furnished
19 by a hospital or nursing home.

20 ~~(3)~~(4) 'Nursing home' means any intermediate care home, skilled nursing home, or
21 intermingled home.

22 ~~(4)~~(5) 'Physician practice' means any medical practice that includes one or more
23 physicians licensed to practice medicine in this state.

24 ~~(5)~~(6) 'Traumatic burn care medical practice' means care, treatment, or services rendered
 25 by a medical practice with respect to a patient whose burn care, treatment, or services
 26 resulted in charges in excess of \$50,000.00, arising out of a single accident or occurrence.
 27 (b) Any person, firm, hospital authority, or corporation operating a hospital, nursing home,
 28 ~~or physician practice, or chiropractic practice,~~ or providing traumatic burn care medical
 29 practice in this state shall have a lien for the reasonable charges for hospital, nursing home,
 30 physician practice, chiropractic practice, or traumatic burn care medical practice care and
 31 treatment of an injured person, which lien shall be upon any and all causes of action
 32 accruing to the person to whom the care was furnished or to the legal representative of such
 33 person on account of injuries giving rise to the causes of action and which necessitated the
 34 hospital, nursing home, physician practice, chiropractic practice, or provider of traumatic
 35 burn care medical practice care, subject, however, to any attorney's lien. The lien provided
 36 for in this subsection is only a lien against such causes of action and shall not be a lien
 37 against such injured person, such legal representative, or any other property or assets of
 38 such persons and shall not be evidence of such person's failure to pay a debt. This
 39 subsection shall not be construed to interfere with the exemption from this part provided
 40 by Code Section 44-14-474.

41 44-14-471.

42 (a) In order to perfect the lien provided for in Code Section 44-14-470, the operator of the
 43 hospital, nursing home, physician practice, chiropractic practice, or provider of traumatic
 44 burn care medical practice:

45 (1) Shall, not less than 15 days prior to the date of filing the statement required under
 46 paragraph (2) of this subsection, provide written notice to the patient and, to the best of
 47 the claimant's knowledge, the persons, firms, corporations, and their insurers claimed by
 48 the injured person or the legal representative of the injured person to be liable for
 49 damages arising from the injuries and shall include in such notice a statement that the lien
 50 is not a lien against the patient or any other property or assets of the patient and is not
 51 evidence of the patient's failure to pay a debt. Such notice shall be sent to all such
 52 persons and entities by first-class and certified mail or statutory overnight delivery, return
 53 receipt requested; and

54 (2) Shall file in the office of the clerk of the superior court of the county in which the
 55 hospital, nursing home, physician practice, chiropractic practice, or provider of traumatic
 56 burn care medical practice is located and in the county wherein the patient resides, if a
 57 resident of this state, a verified statement setting forth the name and address of the patient
 58 as it appears on the records of the hospital, nursing home, physician practice, chiropractic
 59 practice, or provider of traumatic burn care medical practice; the name and location of

60 the hospital, nursing home, physician practice, chiropractic practice, or provider of
 61 traumatic burn care medical practice and the name and address of the operator thereof;
 62 the dates of admission and discharge of the patient therefrom or with respect to a
 63 physician practice or chiropractic practice, the dates of treatment; and the amount claimed
 64 to be due for the hospital, nursing home, physician practice, chiropractic practice, or
 65 provider of traumatic burn care medical practice care, which statement must be filed
 66 within the following time period:

67 (A) If the statement is filed by a hospital, nursing home, or provider of traumatic burn
 68 care medical practice, then the statement shall be filed within 75 days after the person
 69 has been discharged from the facility; or

70 (B) If the statement is filed by a physician practice or chiropractic practice, then the
 71 statement shall be filed within 90 days after the person first sought treatment from the
 72 physician practice or chiropractic practice for the injury.

73 (b) The filing of the claim or lien shall be notice thereof to all persons, firms, or
 74 corporations liable for the damages, whether or not they received the written notice
 75 provided for in this Code section. The failure to perfect such lien by timely complying
 76 with the notice and filing provisions of paragraphs (1) and (2) of subsection (a) of this
 77 Code section shall invalidate such lien, except as to any person, firm, or corporation liable
 78 for the damages, which receives prior to the date of any release, covenant not to bring an
 79 action, or settlement, actual notice of a notice and filed statement made under
 80 subsection (a) of this Code section, via hand delivery, certified mail, return receipt
 81 requested, or statutory overnight delivery with confirmation of receipt.

82 44-14-472.

83 The clerk of the superior court shall endorse the date and hour of filing on the statement
 84 filed pursuant to Code Section 44-14-471; and, at the expense of the county, the clerk shall
 85 provide a lien book with a proper index in which the clerk shall enter the date and hour of
 86 the filing; the names and addresses of the hospital, nursing home, physician practice,
 87 chiropractic practice, or provider of traumatic burn care medical practice, the operators
 88 thereof, and the patient; and the amount claimed. The information shall be recorded in the
 89 name of the patient. The clerk shall receive a fee as required by subparagraph (f)(1)(A) of
 90 Code Section 15-6-77 as his or her fee for such filing.

91 44-14-473.

92 (a) No release of the cause or causes of action or of any judgment thereon or any covenant
 93 not to bring an action thereon shall be valid or effectual against the lien created by Code
 94 Section 44-14-470 unless the holder thereof shall join therein or execute a release of the

95 lien; and the claimant or assignee of the lien may enforce the lien by an action against the
 96 person, firm, or corporation liable for the damages or such person, firm, or corporation's
 97 insurer. If the claimant prevails in the action, the court may allow reasonable attorney's
 98 fees. The action shall be commenced against the person liable for the damages or such
 99 person's insurer within one year after the date the liability is finally determined by a
 100 settlement, by a release, by a covenant not to bring an action, or by the judgment of a court
 101 of competent jurisdiction.

102 (b) No release or covenant not to bring an action which is made before or after the patient
 103 was discharged from the hospital, nursing home, chiropractic practice, or provider of
 104 traumatic burn care medical practice or, with respect to a physician practice, which is made
 105 after the patient first sought treatment from the physician practice or chiropractic practice
 106 for the injuries shall be effective against the lien perfected in accordance with Code
 107 Section 44-4-471, if such lien is perfected prior to the date of the release, covenant not to
 108 bring an action, or settlement unless consented to by the lien claimant; provided, however,
 109 that any person, firm, or corporation which consummates a settlement, release, or covenant
 110 not to bring an action with the person to whom hospital, nursing home, physician practice,
 111 chiropractic practice, or traumatic burn care medical practice care, treatment, or services
 112 were furnished and which first procures from the injured party an affidavit as prescribed
 113 in subsection (c) of this Code section shall not be bound or otherwise affected by the lien
 114 except as provided in subsection (c) of this Code section, regardless of when the settlement,
 115 release, or covenant not to bring an action was consummated.

116 (c) The affidavit shall affirm:

117 (1) That all hospital, nursing home, physician practice, chiropractic practice, or provider
 118 of traumatic burn care medical practice bills incurred for treatment for the injuries for
 119 which a settlement is made have been fully paid; and

120 (2) The county of residence of such affiant, if a resident of this state;
 121 provided, however, that the person taking the affidavit shall not be protected thereby where
 122 the affidavit alleges the county of the affiant's residence and the lien of the claimant is at
 123 such time on file in the office of the clerk of the superior court of the county and is
 124 recorded in the name of the patient as it appears in the affidavit.

125 44-14-474.

126 This part shall not apply to any moneys becoming due under Chapter 9 of Title 34.

127 44-14-475.

128 No settlement or release entered into or executed prior to the entry of the injured party into
 129 the hospital, nursing home, or facility which provides traumatic burn care medical practice

130 or prior to the time the patient first sought treatment from the physician practice or
131 chiropractic practice for the injuries shall be affected by or subject to the terms of this part.

132 44-14-476.

133 This part shall not be construed to give any hospital, nursing home, physician practice,
134 chiropractic practice, or provider of traumatic burn care medical practice referred to in this
135 part an independent right of action to determine liability for injuries sustained by a person
136 or firm.

137 44-14-477.

138 Any person who gives any false affidavit as provided by Code Section 44-14-473 commits
139 the offense of false swearing."

140

SECTION 2.

141 All laws and parts of laws in conflict with this Act are hereby repealed.