

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 161
Committee Substitute Favorable 4/19/23

Short Title: Protecting Properly Insured Individuals.

(Public)

Sponsors:

Referred to:

February 22, 2023

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE NORTH CAROLINA RULES OF EVIDENCE AND RELATED
3 STATUTES REGARDING THE VALIDITY OF CERTAIN LIENS FOR MEDICAL
4 CHARGES IN CIVIL ACTIONS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Evidence. – G.S. 8-58.1 reads as rewritten:

7 **"§ 8-58.1. Injured party as witness when medical charges at issue.**

8 (a) Whenever an issue of hospital, medical, dental, pharmaceutical, or funeral charges
9 arises in any civil proceeding, the injured party or ~~his~~ the injured party's guardian, administrator,
10 or executor is competent to give evidence regarding the amount paid or required to be paid in full
11 satisfaction of such charges, provided that records or copies of such charges showing the amount
12 paid or required to be paid in full satisfaction of such charges accompany such testimony. The
13 testimony of a person pursuant to this section establishes a rebuttable presumption of the
14 reasonableness of the amount paid or required to be paid in full satisfaction of the charges.

15 (b) ~~The testimony of a person pursuant to subsection (a) of this section establishes a~~
16 ~~rebuttable presumption of the reasonableness of the amount paid or required to be paid in full~~
17 ~~satisfaction of the charges. However, in the event that the provider of hospital, medical, dental,~~
18 ~~pharmaceutical, or funeral services gives sworn testimony that the charge for that provider's~~
19 ~~service either was satisfied by payment of an amount less than the amount charged, or can be~~
20 ~~satisfied by payment of an amount less than the amount charged, then with respect to that~~
21 ~~provider's charge only, the presumption of the reasonableness of the amount charged is rebutted~~
22 ~~and a rebuttable presumption is established that the lesser satisfaction amount is the reasonable~~
23 ~~amount of the charges for the testifying provider's services. If the injured party has health~~
24 ~~insurance that will, if filed by a particular health care provider, result in a reduction in the charge~~
25 ~~due to a contractual adjustment being taken by the provider, and such health insurance is filed~~
26 ~~and no lien as set forth in G.S. 44-49 or G.S. 44-50 has been asserted, then the evidence as to the~~
27 ~~amount of the bill shall be the amount paid by all sources and all amounts remaining to be paid.~~
28 ~~If a lien under G.S. 44-49 or G.S. 44-50 has been asserted, regardless of any defenses against the~~
29 ~~lien, and the injured party has no health insurance or no health insurance has been filed, then the~~
30 ~~evidence as to the amount of the charge that may be introduced in an action tried in the courts of~~
31 ~~North Carolina is the amount of the claimed lien plus any amounts paid toward the balance of~~
32 ~~the original charges and any amounts due not included in the lien. If the injured party is covered~~
33 ~~by Medicare, Medicaid, or any health plan or program, and such benefit provider chooses to pay~~
34 ~~the claim, the evidence of the amount of the charge shall be the amount actually paid by the~~
35 ~~benefit provider and, if any, the amount paid by or on behalf of the injured party from any source~~
36 ~~and any amount left unpaid. Nothing contained herein shall change, modify, or alter the~~



1 provisions of G.S. 44-50. For the purposes of this subsection, the word "provider" shall include
 2 the agent or employee of a provider of hospital, medical, dental, pharmaceutical, or funeral
 3 services, or a person with responsibility to pay a provider of hospital, medical, dental,
 4 pharmaceutical, or funeral services on behalf of an injured party. This rule does not impose upon
 5 the injured party an affirmative duty to seek a reduction in billed charges or submission of charges
 6 to a health insurer.

7 (c) The fact that a provider charged for services provided to the injured person establishes
 8 a permissive presumption that the services provided were reasonably necessary but no
 9 presumption is established that the services provided were necessary because of injuries caused
 10 by the acts or omissions of an alleged tortfeasor."

11 **SECTION 2.** Liens. – G.S. 44-49(b) reads as rewritten:

12 "(b) Notwithstanding subsection (a) of this section, no lien provided for under subsection
 13 (a) of this section is valid ~~with respect to any claims whatsoever unless~~ under any of the following
 14 circumstances:

15 (1) If the physician, dentist, nurse, hospital, corporation, or other person entitled
 16 to the lien furnishes, does not furnish clear written notice to the injured party's
 17 attorney of the lien claimed and the amount of the lien claimed.

18 (2) If the physician, dentist, nurse, hospital, corporation, or other person entitled
 19 to the lien does not furnish without charge to the attorney as a condition
 20 precedent to the creation of the lien, upon request to the attorney representing
 21 the person in whose behalf the claim for personal injury is made, an itemized
 22 statement, hospital record, or medical report an itemized statement and either
 23 a hospital record or medical report for the use of the attorney in the
 24 negotiation, settlement, or trial of the claim arising by reason of the personal
 25 injury, and a written notice to the attorney of the lien claimed injury.

26 (3) If a physician, dentist, nurse, hospital, corporation, or other health care
 27 provider does not timely submit a claim to an injured party's health insurer or
 28 health plan, including, but not limited to, an employer self-funded health plan,
 29 or any other applicable health insurance plan or program, within the allotted
 30 time requirements of the health insurer, health plan, or health program.

31 The validity of the lien shall be determined at the time funds are recovered or paid to any
 32 person in compensation for or settlement of injuries whether in litigation or otherwise. Only the
 33 person receiving the funds or their representative shall be entitled to assert defenses to a lien
 34 under this subsection."

35 **SECTION 3.** Insurance. – G.S. 58-63-15 reads as rewritten:

36 "**§ 58-63-15. Unfair methods of competition and unfair or deceptive acts or practices**
 37 **defined.**

38 The following are hereby defined as unfair methods of competition and unfair and deceptive
 39 acts or practices in the business of insurance:

40 ...

41 (11) Unfair Claim Settlement Practices. – Committing or performing with such
 42 frequency as to indicate a general business practice of any of the following:
 43 Provided, however, that no violation of this subsection shall of itself create
 44 any cause of action in favor of any person other than the Commissioner:

45 ...

46 l. Delaying the investigation or payment of claims by requiring an
 47 insured claimant, or the physician, ~~of or~~ either, to submit a preliminary
 48 claim report and then requiring the subsequent submission of formal
 49 proof-of-loss forms, both of which submissions contain substantially
 50 the same information;

- 1 m. Failing to promptly settle claims where liability has become
- 2 reasonably clear, under one portion of the insurance policy coverage
- 3 in order to influence settlements under other portions of the insurance
- 4 policy ~~coverage; and~~coverage;
- 5 n. Failing to promptly provide a reasonable explanation of the basis in
- 6 the insurance policy in relation to the facts or applicable law for denial
- 7 of a claim or for the offer of a compromise ~~settlement.~~settlement;
- 8 o. Attempting to calculate the amount of a health care provider charge by
- 9 any method other than that set forth in G.S. 8-58.1;
- 10 p. Attempting to calculate the amount of a health care provider charge
- 11 for the purpose of determining damages in a claim by a method other
- 12 than that set forth in G.S. 8-58.1; and
- 13 q. Applying G.S. 8C-1, Rule 414 or G.S. 8-58.1 to calculate a health care
- 14 provider charge in any matter governed by Article 45C of Chapter 1
- 15 of the General Statutes, Revised Uniform Arbitration Act, or not
- 16 governed by the Rules of Evidence.

...."

18 **SECTION 4.** Effective Date. – This act is effective when it becomes law and applies
19 to civil actions pending on or after that date.