

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS45242-LR-120A

Short Title: Protecting Properly Insured Individuals. (Public)

Sponsors: Senators Britt, Perry, and Galey (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING RULE 414 OF THE NORTH CAROLINA RULES OF EVIDENCE
3 AND RELATED STATUTES REGARDING THE VALIDITY OF CERTAIN LIENS FOR
4 MEDICAL 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.

13 (b) ~~The testimony of a person pursuant to subsection (a) of this section establishes a~~
14 ~~rebuttable presumption of the reasonableness of the amount paid or required to be paid in full~~
15 ~~satisfaction of the charges. However, in the event that the provider of hospital, medical, dental,~~
16 ~~pharmaceutical, or funeral services gives sworn testimony that the charge for that provider's~~
17 ~~service either was satisfied by payment of an amount less than the amount charged, or can be~~
18 ~~satisfied by payment of an amount less than the amount charged, then with respect to that~~
19 ~~provider's charge only, the presumption of the reasonableness of the amount charged is rebutted~~
20 ~~and a rebuttable presumption is established that the lesser satisfaction amount is the reasonable~~
21 ~~amount of the charges for the testifying provider's services. If the injured party has health~~
22 ~~insurance that will, if filed by a particular provider, result in a reduction in the charge due to a~~
23 ~~contractual adjustment being taken by the provider, and such insurance is filed and no lien as set~~
24 ~~forth in G.S. 44-49 or G.S. 44-50 has been asserted, then the evidence as to the amount of the bill~~
25 ~~shall be the amount paid by all sources and all amounts remaining to be paid. If a lien under~~
26 ~~G.S. 44-49 or G.S. 44-50 has been asserted, and the injured party has no health insurance or no~~
27 ~~insurance has been filed, then the evidence as to the amount of the charge that may be introduced~~
28 ~~in an action tried in the courts of North Carolina is the amount of the claimed lien. If the injured~~
29 ~~party is covered by Medicare or Medicaid, and such benefit provider chooses to pay the claim,~~
30 ~~the evidence of the amount of the charge shall be the amount actually paid by the benefit provider~~
31 ~~and, if any, the amount paid by or on behalf of the injured party from any source and any amount~~
32 ~~left unpaid. Nothing contained herein shall change, modify, or alter the provisions of NCGS §~~
33 ~~44-50. For the purposes of this subsection, the word "provider" shall include the agent or~~
34 ~~employee of a provider of hospital, medical, dental, pharmaceutical, or funeral services, or a~~
35 ~~person with responsibility to pay a provider of hospital, medical, dental, pharmaceutical, or~~
36 ~~funeral services on behalf of an injured party.~~



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

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

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

9 (1) If the physician, dentist, nurse, hospital, corporation, or other person entitled
 10 to the lien furnishes, does not furnish, without charge to the attorney as a
 11 condition precedent to the creation of the lien, upon request to the attorney
 12 representing the person in whose behalf the claim for personal injury is made,
 13 an itemized statement, hospital record, or medical report for the use of the
 14 attorney in the negotiation, settlement, or trial of the claim arising by reason
 15 of the personal injury, and a written notice to the attorney of the lien claimed.

16 (2) If a physician, dentist, nurse, hospital, corporation, or other health care
 17 provider does not timely submit a claim to an injured party's health insurer or
 18 health plan, including, but not limited to, an employer self-funded health plan,
 19 or any other applicable health insurance plan, within the allotted time
 20 requirements of the health insurer, health plan, or health program."

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

22 "§ 58-63-15. **Unfair methods of competition and unfair or deceptive acts or practices**
 23 **defined.**

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

26 ...
 27 (11) Unfair Claim Settlement Practices. – Committing or performing with such
 28 frequency as to indicate a general business practice of any of the following:
 29 Provided, however, that no violation of this subsection shall of itself create
 30 any cause of action in favor of any person other than the Commissioner:

- 31 ...
- 32 l. Delaying the investigation or payment of claims by requiring an
 33 insured claimant, or the physician, ~~or~~ either, to submit a preliminary
 34 claim report and then requiring the subsequent submission of formal
 35 proof-of-loss forms, both of which submissions contain substantially
 36 the same information;
 - 37 m. Failing to promptly settle claims where liability has become
 38 reasonably clear, under one portion of the insurance policy coverage
 39 in order to influence settlements under other portions of the insurance
 40 policy ~~coverage; and coverage;~~
 - 41 n. Failing to promptly provide a reasonable explanation of the basis in
 42 the insurance policy in relation to the facts or applicable law for denial
 43 of a claim or for the offer of a compromise ~~settlement; settlement;~~
 - 44 o. Attempting to calculate the amount of a health care provider charge by
 45 any method other than that set forth in G.S. 8-58.1; and
 - 46 p. Attempting to calculate the amount of a medical provider charge for a
 47 purpose other than an action tried in the courts of North Carolina, with
 48 the exception of arbitrations or other matters where the Rules of
 49 Evidence do not apply, by any method other than that set forth in
 50 G.S. 8-58.1.

51"

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