

Amendment No. 685

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| Assembly Amendment to Assembly Bill No. 183 | (BDR 40-694) |
| Proposed by: Assembly Committee on Judiciary | |
| Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes | |

| ASSEMBLY ACTION | | Initial and Date | SENATE ACTION | | Initial and Date |
|-----------------|--------------------------|-------------------------------|---------------|--------------------------|-------------------------------|
| Adopted | <input type="checkbox"/> | Lost <input type="checkbox"/> | Adopted | <input type="checkbox"/> | Lost <input type="checkbox"/> |
| Concurred In | <input type="checkbox"/> | Not <input type="checkbox"/> | Concurred In | <input type="checkbox"/> | Not <input type="checkbox"/> |
| Receded | <input type="checkbox"/> | Not <input type="checkbox"/> | Receded | <input type="checkbox"/> | Not <input type="checkbox"/> |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MNM/BAW



Date: 5/16/2017

A.B. No. 183—Revises provisions governing the collection of a hospital bill.
(BDR 40-694)



ASSEMBLY BILL NO. 183—ASSEMBLYMAN OHRENSCHALL

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the collection of a hospital bill.
(BDR 40-694)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to hospitals; ~~restricting the enforcement by a hospital of certain statutory liens;~~ limiting the amount that a hospital may collect or attempt to collect from a patient or other responsible party under certain circumstances; ***establishing provisions relating to statutory liens on a judgment or settlement; requiring a hospital to provide notice of intent to file such a lien in certain circumstances; providing for an award of damages for improperly asserting or perfecting such a lien;*** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~1 A hospital has statutory liens for any amount due to the hospital for the reasonable value of the care rendered to a patient. The liens apply to any award of damages or settlement obtained by the patient or the patient's personal representative from a person responsible for the injury causing the hospitalization or, in the case of a county or district hospital, any real property of the patient or other responsible party. (NRS 108.500, 108.662) If a hospital provides care to a person who is covered by a policy of health insurance or may be eligible for coverage under Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the hospital bill, existing law generally requires the hospital to submit its bill to the insurer or public program and await a determination concerning payment of the bill before proceeding with any efforts to collect the bill from the patient or other responsible party. (NRS 449.757) Section 1 of this bill provides that the hospital is likewise barred during this period from asserting, perfecting, foreclosing or otherwise enforcing its statutory liens.)~~

Existing law ~~additionally~~ limits the collection rights of a hospital if a patient is covered by a policy of health insurance issued by a third party and the hospital has a contract with that party. The hospital may not collect or attempt to collect its charges from an insurer other than a health insurer, including an insurer that provides coverage under a policy of casualty or property insurance. These limitations currently do not apply to Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the hospital bill. (NRS 449.758) **Section 2** of this bill limits the amount that the hospital may collect or attempt to collect from the patient or other responsible party to the lesser of: (1) the amounts payable by or on behalf of the patient under the policy; or (2) the amount provided in the contract between the hospital and the third party. **Section 2** also deletes the specific

~~reference to casualty and~~ property insurance and removes the exemption for Medicaid, the Children's Health Insurance Program and other public programs.

~~Finally, where the amount that the hospital may collect or attempt to collect from the patient or other responsible party is limited as described above, sections~~ Section 2 additionally requires a hospital that collects or receives any payments from an insurer that provides medical payment coverage under a policy of casualty insurance to return to the patient or the person identified in the hospital bill as the responsible party any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance not later than 30 days after a determination is made concerning coverage.

Existing law provides that a hospital has statutory liens for any amount due to the hospital for the reasonable value of the care rendered to an injured person. The liens apply to any award of damages or settlement obtained by the injured person or the personal representative of the injured person from a person responsible for the injury causing the hospitalization or, in the case of a county or district hospital, any real property of the injured person or other responsible party. (NRS 108.590, 108.662) Under section 2.5 of this bill, if a hospital provides care to an injured person who has a policy of health insurance issued by a third party and the hospital has a contract with that party and wishes to be able to perfect a statutory lien on a judgment or settlement, the hospital is required to send a notice of intent to file a lien to certain persons after the hospital submits a claim to the third party but not later than 90 days after the termination of the hospitalization of the injured person. After the claim is accepted by the third party or, if the claim is denied, all available appeals have been exhausted, the hospital is required to mail written notice to the injured person or the personal representative of the injured person, specifying the amount due. Section 2.5 authorizes a hospital to perfect the statutory lien for any amount due if, within 30 days after such written notice is mailed, the amount due is not paid or an agreement for a payment plan is not entered into. Section 2.5 additionally provides that if a hospital provides notice of intent to file a lien, the hospital must be provided notice of any judgment, settlement or compromise.

Section 2.7 of this bill provides that a statutory lien on a judgment or settlement is the exclusive method of collection against an injured person and any amount received pursuant to the lien constitutes complete satisfaction of any debt owed by the injured person to the hospital for the care provided.

Section 2.9 of this bill provides that if a hospital improperly asserts or perfects a statutory lien on a judgment or settlement, the injured person is entitled to damages equal to twice the amount of the lien.

Under section 3.7 of this bill, if a hospital perfects a lien and subsequently receives information that the injured person has a policy of health insurance issued by a third party and the hospital has a contract with that party, the hospital is required to file a claim with the third party and wait for the claim to be adjudicated and all available appeals to be exhausted before the hospital is able to collect any amount under the lien.

Sections 3 and 4 of this bill limit the amount of ~~that~~ a hospital's statutory liens ~~accordingly~~ in certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 449.757 is hereby amended to read as follows:~~
~~449.757 1. When a person receives hospital care, the hospital must not~~
~~assert, perfect, foreclose or otherwise enforce or attempt to enforce any lien~~
~~pursuant to NRS 108.590 or 108.662 or otherwise proceed with any efforts to~~
~~collect on any amount owed to the hospital for the hospital care from the~~
~~responsible party, other than for any copayment or deductible, if the responsible~~
~~party has health insurance or may be eligible for Medicaid, the Children's Health~~
~~Insurance Program or any other public program which may pay all or part of the~~
~~bill, until the hospital has submitted a bill to the health insurance company or public~~

~~program and the health insurance company or public program has made a determination concerning payment of the claim.~~

~~2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.~~

~~3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.~~ (Deleted by amendment.)

Sec. 2. NRS 449.758 is hereby amended to read as follows:

449.758 1. Except as otherwise provided in subsection ~~2.~~ 3., if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital and the hospital has a contractual agreement with the third party, the hospital ~~shall~~ :

(a) Shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 . ~~and shall~~

(b) Shall not collect or attempt to collect from the patient or other responsible party more than the lesser of:

(1) The sum of the amounts of any deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance; or

(2) The amount provided in the contractual agreement between the hospital and the third party.

(c) Shall not collect or attempt to collect that amount from:

~~[(a)]~~ *(1)* Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or

~~[(b)]~~ *(2)* An insurer other than ~~[(a health)]~~ an insurer ~~including, without limitation,~~ that provides coverage under a policy of health insurance or an insurer that provides coverage for medical payments under a policy of casualty for property health insurance.

2. If the hospital collects or receives any payments from an insurer that provides coverage for medical payments under a policy of casualty insurance, the hospital shall, not later than 30 days after a determination is made concerning coverage, return to the patient or the person identified in the hospital bill as the responsible party any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient or person under the policy of health insurance.

~~3.~~ This section does not apply to ~~[(a)]~~

~~[(a) Amounts]~~ amounts owed to the hospital under the policy of health insurance that are not collectible . ~~[(b)]~~

~~[(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.]~~

1 ~~3.1~~ 4. This section does not limit any rights of a patient to contest an attempt
2 to collect an amount owed to a hospital, including, without limitation, contesting a
3 lien obtained by a hospital.

4 ~~4.1~~ 5. As used in this section, "third party" ~~has the meaning ascribed to it in~~
5 ~~NRS 439B.260~~ means:

6 (a) An insurer, as defined in NRS 679B.540;

7 (b) A health benefit plan, as defined in NRS 689A.540, for employees which
8 provides coverage for services and care at a hospital;

9 (c) A participating public agency, as defined in NRS 287.04052, and any
10 other local governmental agency of the State of Nevada which provides a system
11 of health insurance for the benefit of its officers and employees, and the
12 dependents of officers and employees, pursuant to chapter 287 of NRS; or

13 (d) Any other insurer or organization providing health coverage or benefits
14 in accordance with state or federal law.

15 Sec. 2.1. Chapter 108 of NRS is hereby amended by adding thereto the
16 provisions set forth as sections 2.3 to 2.9, inclusive, of this act.

17 Sec. 2.3. As used in NRS 108.590 to 108.660, inclusive, and sections 2.3 to
18 2.9, inclusive, of this act, unless the context otherwise requires, "third party" has
19 the meaning ascribed to it in subsection 5 of NRS 449.758.

20 Sec. 2.5. 1. If a hospital provides hospital care to an injured person who
21 has a policy of health insurance issued by a third party that provides health
22 coverage for care provided at the hospital and the hospital has a contractual
23 agreement with the third party and wishes to be able to perfect a lien pursuant to
24 NRS 108.610, the hospital shall, after submitting a claim to the third party but
25 not later than 90 days after the termination of hospitalization, send a notice of
26 intent to file a lien by registered or certified mail to:

27 (a) The insurance carrier, if known, which has insured against liability of
28 the person alleged to be responsible for causing the injury and liable on account
29 thereof and from which damages are claimed and any legal representative of that
30 person; and

31 (b) The injured person or personal representative of the injured person, as
32 applicable, and any legal representative of the injured person or personal
33 representative.

34 2. The notice sent pursuant to subsection 1 must contain the following
35 information:

36 (a) The charges billed by the hospital for the services provided to the injured
37 person;

38 (b) The reasonable estimate by the hospital of the amount to be paid by the
39 third party; and

40 (c) The reasonable estimate by the hospital of the amount of any deductible,
41 copayment or coinsurance to be paid by the injured person.

42 3. After a claim is submitted to a third party and the claim is accepted or, if
43 the claim is denied, all available appeals have been exhausted, the hospital shall
44 deliver written notice by first-class mail to the injured person or the personal
45 representative of the injured person, as applicable, specifying the total amount
46 due.

47 4. If, within 30 days after the date that written notice is mailed pursuant to
48 subsection 3, the total amount due is not paid or the injured person or the
49 personal representative of the injured person does not enter into an agreement
50 with the hospital to make payments toward the amount due, the hospital may
51 perfect the lien for any amount due in accordance with the provisions of NRS
52 108.610.

1 5. If an injured person or the personal representative of an injured person
2 is awarded by judgment or obtains by a settlement or compromise a sum of money
3 after a notice of intent to file a lien is received pursuant to this section;

4 (a) Any person receiving such notice shall provide written notice to the
5 hospital of the judgment, settlement or compromise; and

6 (b) The insurance carrier and any attorney holding the money in trust shall
7 proceed as if the lien is perfected pursuant to NRS 108.610.

8 Sec. 2.7. A lien asserted pursuant to NRS 108.590 to 108.660, inclusive,
9 and sections 2.3 to 2.9, inclusive, of this act is the exclusive method of collection
10 against an injured person, and any amount received pursuant to the lien
11 constitutes complete satisfaction of any debt owed by the injured person to the
12 hospital for the hospital care provided.

13 Sec. 2.9. If a hospital asserts or perfects a lien in violation of NRS 108.590
14 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, the injured
15 person is entitled to damages equal to twice the amount of the lien.

16 Sec. 3. NRS 108.590 is hereby amended to read as follows:

17 108.590 1. ~~Whenever~~ Except as otherwise provided in ~~this~~ subsection
18 ~~2, whenever~~ any person receives hospitalization on account of any injury, and the
19 injured person, or a personal representative after the person's death, claims damages
20 from the person responsible for causing the injury, the hospital has a lien upon any
21 sum awarded the injured person or the personal representative by judgment or
22 obtained by a settlement or compromise to the extent of the amount due the hospital
23 for the reasonable value of the hospitalization rendered before the date of judgment,
24 settlement or compromise. ~~If the provisions of NRS 449.757 or 449.758 are~~
25 ~~applicable, the amount of the lien is limited to the amount the hospital is entitled~~
26 ~~to collect pursuant to those sections.~~

27 2. Except as otherwise provided in subsection 3, if a hospital provides
28 hospital care to an injured person who has a policy of health insurance issued by
29 a third party that provides health coverage for care provided at the hospital and
30 the hospital has a contractual agreement with the third party, the reasonable
31 value of the hospitalization rendered is limited to the lesser of:

32 (a) The sum of the amounts of any deductible, copayment or coinsurance
33 payable by or on behalf of the injured person under the policy of health
34 insurance; or

35 (b) The amount provided in the contractual agreement between the hospital
36 and the third party.

37 3. The provisions of subsection 2 do not apply if the third party denies
38 coverage for the services provided to the injured person and all available appeals
39 provided pursuant to the policy of health insurance have been exhausted. For the
40 purposes of this subsection, a claims adjudication by a third party that another
41 person is responsible for payment is not a denial of coverage.

42 4. The lien provided by this section is:

43 (a) Not valid against anyone coming under the provisions of chapters 616A to
44 616D, inclusive, or chapter 617 of NRS.

45 (b) In addition to the lien provided by NRS 108.662.

46 Sec. 3.3. NRS 108.600 is hereby amended to read as follows:

47 108.600 1. No rights or claims for liens under NRS 108.590 to 108.660,
48 inclusive, and sections 2.3 to 2.9, inclusive, of this act shall be allowed for
49 hospitalization rendered an injured person after a settlement has been effected by or
50 on behalf of the party causing the injury.

51 2. No lien shall apply or be allowed against any sum incurred by the injured
52 party for necessary attorney fees, costs and expenses incurred by the injured party
53 in securing a settlement, compromise or recovering damages by an action at law.

1 **Sec. 3.7. NRS 108.610 is hereby amended to read as follows:**

2 108.610 1. In order to perfect ~~the~~ a lien, ~~it~~ provided by NRS 108.590, the
3 hospital or the owner or operator thereof ~~shall~~
4 ~~it~~ must comply with the provisions of section 2.5 of this act, if applicable,
5 and:

6 (a) Before the payment of any money to the injured person, the personal
7 representative of the injured person or to a legal representative as compensation
8 for injuries received, record a notice of lien, substantially in the form prescribed in
9 NRS 108.620, containing an itemized statement of the amount claimed. The notice
10 of lien must be filed with:

11 ~~(a)~~ (1) The county recorder of the county wherein the hospital is located; and
12 ~~(b)~~ (2) The county recorder of the county wherein the injury was suffered, if
13 the injury was suffered in a county other than that wherein the hospital is located.

14 ~~(b)~~ (b) Before the date of judgment, settlement or compromise, serve a
15 certified copy of the notice of lien by registered or certified mail upon the person
16 alleged to be responsible for causing the injury and liable for damages on account
17 thereof and from which damages are claimed.

18 ~~(c)~~ (c) Before the date of judgment, settlement or compromise, serve a
19 certified copy of the notice of lien by registered or certified mail upon the insurance
20 carrier, if known, which has insured against liability of the person alleged to be
21 responsible for causing the injury and liable for damages on account thereof and
22 from which damages are claimed.

23 2. If a hospital perfects a lien and, before collecting any amount under the
24 lien, receives information that the injured person has a policy of health insurance
25 issued by a third party that provides health coverage for care provided at the
26 hospital and the hospital has a contractual agreement with the third party, the
27 hospital must file a claim with the third party and wait for the claim to be
28 adjudicated and all available appeals to be exhausted before the hospital may
29 collect any amount under the lien.

30 **Sec. 4. NRS 108.662 is hereby amended to read as follows:**

31 108.662 1. Except as otherwise provided in subsection 4, a county or district
32 hospital has a lien upon the real property of a person for charges incurred and
33 unpaid for the care of the owner of the property or a person for whose support the
34 owner is legally responsible. If the provisions of NRS 449.757 or 449.758 are
35 applicable, the amount of the lien is limited to the amount the hospital is entitled
36 to collect pursuant to those sections.

37 2. The notice of the lien must be served upon the owner by certified or
38 registered mail and filed in the office of the county recorder of the county where the
39 real property is located not sooner than 90 days nor later than:

40 (a) Three years after the patient's discharge; or

41 (b) One year after the patient defaults on payments made pursuant to a written
42 contract,

43 ~~whichever is later~~, except that the notice may be served and filed within 6
44 months after any default pursuant to a written contract.

45 3. The notice of the lien must contain:

46 (a) The amount due;

47 (b) The name of the owner of record of the property; and

48 (c) A description of the property sufficient for identification.

49 4. If the amount due as stated in the notice of lien is reduced by payments and
50 any person listed in subsection 2 of NRS 108.665 gives written notice of that
51 reduction to the county or district hospital which recorded the lien, the county or
52 district hospital shall amend the notice of lien stating the amount then due, within
53 10 days after it receives the written notice.

1 5. A county or district hospital shall not assign, sell or transfer the interest of
2 the hospital in a lien created pursuant to this section.

3 **Sec. 4.5. The amendatory provisions of this act apply to a person who is**
4 **admitted to a hospital on or after July 1, 2017.**

5 **Sec. 5.** This act becomes effective on July 1, 2017.