

Amendment No. 1107

Senate Amendment to Assembly Bill No. 183 First Reprint (BDR 40-694)

Proposed by: Senate Committee on Judiciary

Amendment Box: Replaces Amendment No. 1062.

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.

NCA



Date: 6/2/2017

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; 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:

Existing law 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, ***1***; or (2) the amount provided in the contract between the hospital and the third party;~~ **Section 2** also deletes the specific reference to property insurance, ~~and removes the exemption for Medicaid, the Children's Health Insurance Program and other public programs.~~

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 ~~for 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.)~~ Within 30 days after sending such a notice, section 2.5 requires a hospital to proceed with any efforts to collect on any amount owed to the hospital in accordance with existing law. 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~~ Section 3.7 of this bill ~~1,~~ 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 2 and 4 of this bill limit the amount of a hospital's statutory liens in certain circumstances.)~~ makes conforming changes.

Section 2.6 of this bill prohibits the hospital from receiving an amount more than 55 percent of the charges billed by the hospital if an injured person may be eligible for Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

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

Section 1. (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

~~1 (b) (2) An insurer other than a health insurer including, without~~
~~2 limitation, that provides coverage under a policy of health insurance or an~~
~~3 insurer that provides coverage for medical payments under a policy of casualty or~~
~~4 property insurance.~~

~~5 2. If the hospital collects or receives any payments from an insurer that~~
~~6 provides coverage for medical payments under a policy of casualty insurance, the~~
~~7 hospital shall, not later than 30 days after a determination is made concerning~~
~~8 coverage, return to the patient for the person identified in the hospital bill as the~~
~~9 responsible party any amount collected or received that is in excess of the~~
~~10 deductible, copayment or coinsurance payable by or on behalf of the patient for~~
~~11 person under the policy of health insurance.~~

~~12 3. This section does not apply to :~~
~~13 (a) Amounts amounts owed to the hospital which are not covered under the~~
~~14 policy of health insurance that are not collectible ; or~~

~~15 (b) Medicaid, Medicare, the Children's Health Insurance Program or any other~~
~~16 public program which may pay all or part of the bill.~~

~~17 4. This section does not limit any rights of a patient to contest an attempt~~
~~18 to collect an amount owed to a hospital, including, without limitation, contesting a~~
~~19 lien obtained by a hospital.~~

~~20 4. 5. As used in this section, "third party" has the meaning ascribed to it in~~
~~21 NRS 439B.260 ; means:~~

~~22 (a) An insurer, as defined in NRS 679B.540;~~
~~23 (b) A health benefit plan, as defined in NRS 689A.540, for employees which~~
~~24 provides coverage for services and care at a hospital;~~

~~25 (c) A participating public agency, as defined in NRS 287.04052, and any~~
~~26 other local governmental agency of the State of Nevada which provides a system~~
~~27 of health insurance for the benefit of its officers and employees, and the~~
~~28 dependents of officers and employees, pursuant to chapter 287 of NRS; or~~

~~29 (d) Any other insurer or organization providing health coverage or benefits~~
~~30 in accordance with state or federal law.~~

~~31 Sec. 2.1. Chapter 108 of NRS is hereby amended by adding thereto the~~
~~32 provisions set forth as sections 2.3 to 2.9, inclusive, of this act.~~

~~33 Sec. 2.3. As used in NRS 108.590 to 108.660, inclusive, and sections 2.3 to~~
~~34 2.9, inclusive, of this act, unless the context otherwise requires, "third party" has~~
~~35 the meaning ascribed to it in subsection 5 of NRS 449.758.~~

~~36 Sec. 2.5. 1. If a hospital provides hospital care to an injured person who~~
~~37 has a policy of health insurance issued by a third party that provides health~~
~~38 coverage for care provided at the hospital and the hospital has a contractual~~
~~39 agreement with the third party and wishes to be able to perfect a lien pursuant to~~
~~40 NRS 108.610, the hospital shall, after submitting a claim to the third party but~~
~~41 not later than 90 days after the termination of hospitalization, send a notice of~~
~~42 intent to file a lien by registered or certified mail to:~~

~~43 (a) The insurance carrier, if known, which has insured against liability of~~
~~44 the person alleged to be responsible for causing the injury and liable on account~~
~~45 thereof and from which damages are claimed and any legal representative of that~~
~~46 person; and~~

~~47 (b) The injured person or personal representative of the injured person, as~~
~~48 applicable, and any legal representative of the injured person or personal~~
~~49 representative.~~

~~50 2. That Within 30 days after sending a notice sent pursuant to subsection~~
~~51 1 must contain the following information:~~

~~52 (a) The charges billed by the hospital for the services provided to the injured~~
~~53 person;~~

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

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

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

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

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

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

~~(b) The insurance carrier and any attorney holding the money in trust shall proceed as if the lien is perfected pursuant to NRS 108.610 ~~if~~ unless the hospital fails to comply with subsection 2.~~

~~4. If the hospital fails to comply with subsection 2, the notice of intent to file a lien shall be deemed void ab initio.~~

~~5. This section does not apply to Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.~~

Sec. 2.6. If an injured person may be eligible for Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, the hospital shall not receive any amount pursuant to a lien asserted pursuant to NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act which is equal to more than 55 percent of the charges billed by the hospital.

~~Sec. 2.7. If a lien asserted pursuant to NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act 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 hospital care provided, (Deleted by amendment.)~~

~~Sec. 2.9. If a hospital asserts or perfects a lien in violation of NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, the injured person is entitled to damages equal to twice the amount of the lien. (Deleted by amendment.)~~

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

~~108.590 1. [Whenever] Except as otherwise provided in subsection 2, whenever any person receives hospitalization on account of any injury, and the injured person, or a personal representative after the person's death, claims damages from the person responsible for causing the injury, the hospital has a lien upon any sum awarded the injured person or the personal representative by judgment or obtained by a settlement or compromise to the extent of the amount~~

1 due the hospital for the reasonable value of the hospitalization rendered before the
2 date of judgment, settlement or compromise.

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

8 ~~(a) The sum of the amounts of any deductible, copayment or coinsurance~~
9 ~~payable by or on behalf of the injured person under the policy of health~~
10 ~~insurance; or~~

11 ~~(b) The amount provided in the contractual agreement between the hospital~~
12 ~~and the third party.~~

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

18 ~~4. The lien provided by this section is:~~

19 ~~(a) Not valid against anyone coming under the provisions of chapters 616A to~~
20 ~~616D, inclusive, or chapter 617 of NRS.~~

21 ~~(b) In addition to the lien provided by NRS 108.662.~~ (Deleted by
22 amendment.)

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

24 108.600 1. No rights or claims for liens under NRS 108.590 to 108.660,
25 inclusive, and sections 2.3 to 2.9, inclusive, of this act shall be allowed for
26 hospitalization rendered an injured person after a settlement has been effected by or
27 on behalf of the party causing the injury.

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

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

32 108.610 ~~1.~~ In order to perfect ~~the~~ a lien ~~1.~~ provided by NRS 108.590,
33 the hospital or the owner or operator thereof ~~shall:~~

34 ~~1.~~ must comply with the provisions of section 2.5 of this act, if applicable,
35 and:

36 ~~(a) 1.~~ Before the payment of any money to the injured person, the personal
37 representative of the injured person or to a legal representative as compensation
38 for injuries received, record a notice of lien, substantially in the form prescribed in
39 NRS 108.620, containing an itemized statement of the amount claimed. The notice
40 of lien must be filed with:

41 ~~(a) 1.~~ (a) 1. The county recorder of the county wherein the hospital is located; and

42 ~~(b) 2.~~ (b) 2. The county recorder of the county wherein the injury was suffered, if
43 the injury was suffered in a county other than that wherein the hospital is located.

44 2. ~~1.~~ Before the date of judgment, settlement or compromise, serve a
45 certified copy of the notice of lien by registered or certified mail upon the person
46 alleged to be responsible for causing the injury and liable for damages on account
47 thereof and from which damages are claimed.

48 3. ~~2.~~ Before the date of judgment, settlement or compromise, serve a
49 certified copy of the notice of lien by registered or certified mail upon the insurance
50 carrier, if known, which has insured against liability of the person alleged to be
51 responsible for causing the injury and liable for damages on account thereof and
52 from which damages are claimed.

~~1. 2. If a hospital perfects a lien and, before collecting any amount under the lien, receives information that the injured person has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party, the hospital must 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 may collect any amount under the lien.~~

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

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

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

~~(a) Three years after the patient's discharge; or
(b) One year after the patient defaults on payments made pursuant to a written contract,~~

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

~~3. The notice of the lien must contain:~~

~~(a) The amount due;
(b) The name of the owner of record of the property; and
(c) A description of the property sufficient for identification.~~

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

~~5. A county or district hospital shall not assign, sell or transfer the interest of the hospital in a lien created pursuant to this section.] (Deleted by amendment.)~~

Sec. 4.5. 1. The amendatory provisions of section 2.6 of this act apply to a person who is admitted to a hospital on or after July 1, 2017.

2. The amendatory provisions of sections 2, 2.3, 2.5 and 2.7 to 4, inclusive, of this act apply to a person who is admitted to a hospital on or after October 1, 2017.

Sec. 5. 1. This act becomes section and sections 2.1, 2.6 and 4.5 of this act become effective on July 1, 2017.

2. Sections 1, 2, 2.3, 2.5 and 2.7 to 4, inclusive, of this act become effective on October 1, 2017.