

House Bill 1303 (AS PASSED HOUSE AND SENATE)

By: Representative Jamieson of the 22<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to liens of hospitals and nursing homes, so as to allow a physician practice to have a lien on a cause of action accruing to an injured person for the costs of care and treatment arising out of the cause of action; to define a term; to change certain provisions regarding notice; to provide for related matters relative to filing a lien; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to liens of hospitals and nursing homes, is amended by striking Code Section 44-14-470, relating to lien on causes of action accruing to injured person for costs of care and treatment of injuries arising out of such causes of action, and inserting in its place the following:

"44-14-470.

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

(1) 'Hospital' means any hospital or nursing home subject to regulation and licensure by the Department of Human Resources.

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

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

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

~~(4)~~(5) 'Traumatic burn care medical practice' means care, treatment, or services rendered by a medical practice with respect to a patient whose burn care, treatment, or services resulted in charges in excess of \$50,000.00, arising out of a single accident or occurrence.

(b) Any person, firm, hospital authority, or corporation operating a hospital, ~~or nursing home, or physician practice~~ or providing traumatic burn care medical practice in this state shall have a lien for the reasonable charges for hospital, nursing home, physician practice, or traumatic burn care medical practice care and treatment of an injured person, which lien shall be upon any and all causes of action accruing to the person to whom the care was furnished or to the legal representative of such person on account of injuries giving rise to the causes of action and which necessitated the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice care, subject, however, to any attorney's lien. The lien provided for in this subsection is only a lien against such causes of action and shall not be a lien against such injured person, such legal representative, or any other property or assets of such persons and shall not be evidence of such person's failure to pay a debt. This subsection shall not be construed to interfere with the exemption from this part provided by Code Section 44-14-474."

## SECTION 2.

Said part is further amended in Code Section 44-14-471, relating to the perfection of hospital, nursing home, and traumatic burn care medical practice liens, is amended by striking subsection (a) and inserting in its place the following:

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

(1) ~~Within 30 days after the person has been discharged therefrom, shall~~ Shall, not less than 30 days prior to the date of filing the statement required under paragraph (2) of this subsection, provide written notice to the patient and, to the best of the claimant's knowledge, the persons, firms, corporations, and their insurers claimed by the injured person or the legal representative of the injured person to be liable for damages arising from the injuries and shall include in such notice a statement that the lien is not a lien against the patient or any other property or assets of the patient and is not evidence of the patient's failure to pay a debt. Such notice shall be sent to all such persons and entities by first-class and certified mail or statutory overnight delivery, return receipt requested; and

(2) Shall file, no sooner than ~~15~~ 30 days after the date of the written notice provided for in this Code section, in the office of the clerk of the superior court of the county in which the hospital, nursing home, physician practice, or provider of traumatic burn care medical practice is located and in the county wherein the patient resides, if a resident of this state, a verified statement setting forth the name and address of the patient as it appears on the records of the hospital, nursing home, physician practice, or provider of traumatic burn

1 care medical practice; the name and location of the hospital, nursing home, physician  
2 practice, or provider of traumatic burn care medical practice and the name and address  
3 of the operator thereof; the dates of admission and discharge of the patient therefrom or  
4 with respect to a physician practice, the dates of treatment; and the amount claimed to be  
5 due for the hospital, nursing home, physician practice, or provider of traumatic burn care  
6 medical practice care."

### 7 SECTION 3.

8 Said part is further amended by striking Code Section 44-14-472, relating to the duties of the  
9 clerk of the superior court with respect to liens of hospital, nursing home, and traumatic burn  
10 care medical practice liens, and inserting in its place the following:

11 "44-14-472.

12 The clerk of the superior court shall endorse the date and hour of filing on the statement  
13 filed pursuant to Code Section 44-14-471; and, at the expense of the county, the clerk shall  
14 provide a lien book with a proper index in which the clerk shall enter the date and hour of  
15 the filing; the names and addresses of the hospital, nursing home, physician practice, or  
16 provider of traumatic burn care medical practice, the operators thereof, and the patient; and  
17 the amount claimed. Notwithstanding the provisions in Code Section 44-2-2, a lien  
18 provided for in Code Section 44-14-470 shall be filed in a separate docket from and shall  
19 not be commingled with judgment liens, materialmen's liens, mechanics' liens, tax liens,  
20 lis pendens notices, or any other liens that attach to the person or property of an individual.  
21 The information shall be recorded in the name of the patient. The clerk shall receive a fee  
22 as required by subparagraph (f)(1)(A) of Code Section 15-6-77 as his or her fee for such  
23 filing."

### 24 SECTION 4.

25 Said part is further amended by striking Code Section 44-14-473, relating to the effect of a  
26 covenant not to bring an action, actions to enforce liens, and affidavits of payment, and  
27 inserting in its place the following:

28 "44-14-473.

29 (a) No release of the cause or causes of action or of any judgment thereon or any covenant  
30 not to bring an action thereon shall be valid or effectual against the lien created by Code  
31 Section 44-14-470 unless the holder thereof shall join therein or execute a release of the  
32 lien; and the claimant or assignee of the lien may enforce the lien by an action against the  
33 person, firm, or corporation liable for the damages or such person, firm, or corporation's  
34 insurer. If the claimant prevails in the action, the court may allow reasonable attorney's  
35 fees. The action shall be commenced against the person liable for the damages or such

1 person's insurer within one year after the date the liability is finally determined by a  
2 settlement, by a release, by a covenant not to bring an action, or by the judgment of a court  
3 of competent jurisdiction.

4 (b) No release or covenant not to bring an action which is made before or after the patient  
5 was discharged from the hospital, nursing home, physician practice, or provider of  
6 traumatic burn care medical practice shall be effective against the lien perfected in due time  
7 as provided in subsection (a) of this Code section, regardless of whether the release,  
8 covenant not to bring an action, or settlement was made prior to the time of the filing of the  
9 lien as specified in Code Sections 44-14-470 and 44-14-471; provided, however, that any  
10 person, firm, or corporation which consummates a settlement, release, or covenant not to  
11 bring an action with the person to whom hospital, nursing home, physician practice, or  
12 traumatic burn care medical practice care, treatment, or services were furnished and which  
13 first procures therefrom an affidavit as prescribed in subsection (c) of this Code section  
14 shall not be bound or otherwise affected by the lien except as provided in subsection (c) of  
15 this Code section, regardless of when the settlement, release, or covenant not to bring an  
16 action was consummated.

17 (c) The affidavit shall affirm:

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

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

## 26 SECTION 5.

27 Said part is further amended by striking Code Section 44-14-475, relating to the effect of this  
28 part on settlement before entry into a hospital, nursing home, or traumatic burn care medical  
29 facility, and inserting in its place the following:

30 "44-14-475.

31 No settlement or release entered into or executed prior to the entry of the injured party into  
32 the hospital, nursing home, physician practice, or facility which provides traumatic burn  
33 care medical practice shall be affected by or subject to the terms of this part."

**SECTION 6.**

Said part is further amended by striking Code Section 44-14-476, relating to independent rights of action of a hospital, nursing home, or traumatic burn care medical facility, and inserting in its place the following:

"44-14-476.

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

**SECTION 7.**

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