

Senate Bill 147

By: Senator Shafer of the 48th

A BILL TO BE ENTITLED  
AN ACT

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 Part 8 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,  
9 relating to liens of hospitals and nursing homes, is amended by striking Code Section  
10 44-14-470, relating to lien on causes of action accruing to injured person for costs of care and  
11 treatment of injuries arising out of such causes of action, and inserting in its place the  
12 following:

13 "44-14-470.

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

16 (1) 'Chiropractic practice' means any chiropractic practice that includes one or more  
17 chiropractors licensed to practice chiropractic in this state.

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

20 ~~(2)~~(3) 'Hospital care, treatment, or services' means care, treatment, or services furnished  
21 by a hospital or nursing home.

22 ~~(3)~~(4) 'Nursing home' means any intermediate care home, skilled nursing home, or  
23 intermingled home.

24 ~~(4)~~(5) 'Physician practice' means any medical practice that includes one or more  
25 physicians licensed to practice medicine in this state.

26 ~~(5)~~(6) 'Traumatic burn care medical practice' means care, treatment, or services rendered  
27 by a medical practice with respect to a patient whose burn care, treatment, or services  
28 resulted in charges in excess of \$50,000.00, arising out of a single accident or occurrence.

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

## 15 SECTION 2.

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

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

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

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

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

### 8 SECTION 3.

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

12 "44-14-472.

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

### 25 SECTION 4.

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

29 "44-14-473.

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

1 fees. The action shall be commenced against the person liable for the damages or such  
 2 person's insurer within one year after the date the liability is finally determined by a  
 3 settlement, by a release, by a covenant not to bring an action, or by the judgment of a court  
 4 of competent jurisdiction.

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

18 (c) The affidavit shall affirm:

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

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

## 27 SECTION 5.

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

31 "44-14-475.

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

**SECTION 6.**

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

5 "44-14-476.

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

**SECTION 7.**

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