

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.

~

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:

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

14 **Section 2** additionally requires a hospital that collects or receives any payments
15 from an insurer that provides medical payment coverage under a policy of casualty
16 insurance to return to the patient or the person identified in the hospital bill as the
17 responsible party any amount collected or received that is in excess of the
18 deductible, copayment or coinsurance payable by or on behalf of the patient under



* A B 1 8 3 R 1 *

19 the policy of health insurance not later than 30 days after a determination is made
20 concerning coverage.

21 Existing law provides that a hospital has statutory liens for any amount due to
22 the hospital for the reasonable value of the care rendered to an injured person. The
23 liens apply to any award of damages or settlement obtained by the injured person or
24 the personal representative of the injured person from a person responsible for the
25 injury causing the hospitalization or, in the case of a county or district hospital, any
26 real property of the injured person or other responsible party. (NRS 108.590,
27 108.662) Under **section 2.5** of this bill, if a hospital provides care to an injured
28 person who has a policy of health insurance issued by a third party and the hospital
29 has a contract with that party and wishes to be able to perfect a statutory lien on a
30 judgment or settlement, the hospital is required to send a notice of intent to file a
31 lien to certain persons after the hospital submits a claim to the third party but not
32 later than 90 days after the termination of the hospitalization of the injured person.
33 After the claim is accepted by the third party or, if the claim is denied, all available
34 appeals have been exhausted, the hospital is required to mail written notice to the
35 injured person or the personal representative of the injured person, specifying the
36 amount due. **Section 2.5** authorizes a hospital to perfect the statutory lien for any
37 amount due if, within 30 days after such written notice is mailed, the amount due is
38 not paid or an agreement for a payment plan is not entered into. **Section 2.5**
39 additionally provides that if a hospital provides notice of intent to file a lien, the
40 hospital must be provided notice of any judgment, settlement or compromise.

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

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

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

54 **Sections 3 and 4** of this bill limit the amount of a hospital's statutory liens in
55 certain circumstances.

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

1 **Section 1.** (Deleted by amendment.)

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

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

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



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

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

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

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

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

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

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

25 3. This section does not apply to ~~[(~~

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

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

30 ~~3.]~~ 4. This section does not limit any rights of a patient to
31 contest an attempt to collect an amount owed to a hospital,
32 including, without limitation, contesting a lien obtained by a
33 hospital.

34 ~~[(4)]~~ 5. As used in this section, "third party" ~~[(has the meaning~~
35 ~~ascribed to it in NRS 439B.260.)]~~ means:

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

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

40 (c) A participating public agency, as defined in NRS
41 287.04052, and any other local governmental agency of the State
42 of Nevada which provides a system of health insurance for the
43 benefit of its officers and employees, and the dependents of
44 officers and employees, pursuant to chapter 287 of NRS; or



1 *(d) Any other insurer or organization providing health*
2 *coverage or benefits in accordance with state or federal law.*

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

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

10 **Sec. 2.5.** *1. If a hospital provides hospital care to an*
11 *injured person who has a policy of health insurance issued by a*
12 *third party that provides health coverage for care provided at the*
13 *hospital and the hospital has a contractual agreement with the*
14 *third party and wishes to be able to perfect a lien pursuant to NRS*
15 *108.610, the hospital shall, after submitting a claim to the third*
16 *party but not later than 90 days after the termination of*
17 *hospitalization, send a notice of intent to file a lien by registered or*
18 *certified mail to:*

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

23 *(b) The injured person or personal representative of the*
24 *injured person, as applicable, and any legal representative of the*
25 *injured person or personal representative.*

26 *2. The notice sent pursuant to subsection 1 must contain the*
27 *following information:*

28 *(a) The charges billed by the hospital for the services provided*
29 *to the injured person;*

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

32 *(c) The reasonable estimate by the hospital of the amount of*
33 *any deductible, copayment or coinsurance to be paid by the*
34 *injured person.*

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

40 *4. If, within 30 days after the date that written notice is*
41 *mailed pursuant to subsection 3, the total amount due is not paid*
42 *or the injured person or the personal representative of the injured*
43 *person does not enter into an agreement with the hospital to make*
44 *payments toward the amount due, the hospital may perfect the lien*



1 *for any amount due in accordance with the provisions of*
2 *NRS 108.610.*

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

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

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

13 *Sec. 2.7. A lien asserted pursuant to NRS 108.590 to*
14 *108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act is*
15 *the exclusive method of collection against an injured person, and*
16 *any amount received pursuant to the lien constitutes complete*
17 *satisfaction of any debt owed by the injured person to the hospital*
18 *for the hospital care provided.*

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

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

24 *108.590 1. ~~Whenever~~ Except as otherwise provided in*
25 *subsection 2, whenever any person receives hospitalization on*
26 *account of any injury, and the injured person, or a personal*
27 *representative after the person's death, claims damages from the*
28 *person responsible for causing the injury, the hospital has a lien*
29 *upon any sum awarded the injured person or the personal*
30 *representative by judgment or obtained by a settlement or*
31 *compromise to the extent of the amount due the hospital for the*
32 *reasonable value of the hospitalization rendered before the date of*
33 *judgment, settlement or compromise.*

34 *2. Except as otherwise provided in subsection 3, if a hospital*
35 *provides hospital care to an injured person who has a policy of*
36 *health insurance issued by a third party that provides health*
37 *coverage for care provided at the hospital and the hospital has a*
38 *contractual agreement with the third party, the reasonable value*
39 *of the hospitalization rendered is limited to the lesser of:*

40 *(a) The sum of the amounts of any deductible, copayment or*
41 *coinsurance payable by or on behalf of the injured person under*
42 *the policy of health insurance; or*

43 *(b) The amount provided in the contractual agreement*
44 *between the hospital and the third party.*



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

7 **4.** The lien provided by this section is:

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

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

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

12 108.600 1. No rights or claims for liens under NRS 108.590
13 to 108.660, inclusive, **and sections 2.3 to 2.9, inclusive, of this act**
14 shall be allowed for hospitalization rendered an injured person after
15 a settlement has been effected by or on behalf of the party causing
16 the injury.

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

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

22 108.610 **1.** In order to perfect ~~the~~ a lien ~~is~~ **provided by**
23 **NRS 108.590**, the hospital or the owner or operator thereof ~~shall:~~
24 ~~—~~ **must comply with the provisions of section 2.5 of this act, if**
25 **applicable, and:**

26 **(a)** Before the payment of any money to the injured person, **the**
27 **personal representative of the injured person** or to a legal
28 representative as compensation for injuries received, record a notice
29 of lien, substantially in the form prescribed in NRS 108.620,
30 containing an itemized statement of the amount claimed. The notice
31 of lien must be filed with:

32 ~~(a)~~ **(1)** The county recorder of the county wherein the hospital
33 is located; and

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

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

42 ~~(c)~~ **(c)** Before the date of judgment, settlement or compromise,
43 serve a certified copy of the notice of lien by registered or certified
44 mail upon the insurance carrier, if known, which has insured against
45 liability of the person alleged to be responsible for causing the



1 injury and liable for damages on account thereof and from which
2 damages are claimed.

3 **2. If a hospital perfects a lien and, before collecting any**
4 **amount under the lien, receives information that the injured**
5 **person has a policy of health insurance issued by a third party that**
6 **provides health coverage for care provided at the hospital and the**
7 **hospital has a contractual agreement with the third party,**
8 **the hospital must file a claim with the third party and wait for the**
9 **claim to be adjudicated and all available appeals to be exhausted**
10 **before the hospital may collect any amount under the lien.**

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

12 108.662 1. Except as otherwise provided in subsection 4, a
13 county or district hospital has a lien upon the real property of a
14 person for charges incurred and unpaid for the care of the owner of
15 the property or a person for whose support the owner is legally
16 responsible. **If the provisions of NRS 449.757 or 449.758 are**
17 **applicable, the amount of the lien is limited to the amount the**
18 **hospital is entitled to collect pursuant to those sections.**

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

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

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

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

28 3. The notice of the lien must contain:

29 (a) The amount due;

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

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

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

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

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

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

