

By: Ogden

S.B. No. 504

A BILL TO BE ENTITLED

AN ACT

relating to a lien on a cause of action or claim of an individual who receives emergency medical services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 55, Property Code, is amended to read as follows:

CHAPTER 55. HOSPITAL AND EMERGENCY MEDICAL SERVICES LIENS [~~LIEN~~]

Sec. 55.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services" has the meaning assigned by Section 773.003, Health and Safety Code.

(2) "Emergency medical services provider" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Hospital" means a person or institution maintaining a facility that provides hospital services in this state.

(4) [~~(2)~~] "Person" does not include a county, common, or independent school district.

Sec. 55.002. LIEN. (a) A hospital has a lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must be admitted to a hospital not later than 72 hours after the accident.

(b) The lien extends to both the admitting hospital and a hospital to which the individual is transferred for treatment of

1 the same injury.

2 (c) An emergency medical services provider has a lien on a  
3 cause of action or claim of an individual who receives emergency  
4 medical services in a county with a population of 275,000 or less  
5 for injuries caused by an accident that is attributed to the  
6 negligence of another person. For the lien to attach, the  
7 individual must receive the emergency medical services not later  
8 than 72 hours after the accident.

9 Sec. 55.003. PROPERTY TO WHICH LIEN ATTACHES. (a) A [~~The~~]  
10 lien under this chapter attaches to:

11 (1) a cause of action for damages arising from an  
12 injury for which the injured individual is admitted to the hospital  
13 or receives emergency medical services;

14 (2) a judgment of a court in this state or the decision  
15 of a public agency in a proceeding brought by the injured individual  
16 or by another person entitled to bring the suit in case of the death  
17 of the individual to recover damages arising from an injury for  
18 which the injured individual is admitted to the hospital or  
19 receives emergency medical services; and

20 (3) the proceeds of a settlement of a cause of action  
21 or a claim by the injured individual or another person entitled to  
22 make the claim, arising from an injury for which the injured  
23 individual is admitted to the hospital or receives emergency  
24 medical services.

25 (b) The lien does not attach to:

26 (1) a claim under the workers' compensation law of this  
27 state, the Federal Employees Liability Act, or the Federal

1 Longshore and [~~Longshoremen's or~~] Harbor Workers' Compensation Act;  
2 or

3 (2) [~~a claim against the owner or operator of a~~  
4 ~~railroad company that maintains or whose employees maintain a~~  
5 ~~hospital in which the injured individual is receiving hospital~~  
6 ~~services; or~~

7 [~~(3)~~] the proceeds of an insurance policy in favor of  
8 the injured individual or the injured individual's beneficiary or  
9 legal representative, except public liability insurance carried by  
10 the insured that protects the insured against loss caused by an  
11 accident or collision.

12 (c) A hospital lien described by Section 55.002(a) does not  
13 attach to a claim against the owner or operator of a railroad  
14 company that maintains or whose employees maintain a hospital in  
15 which the injured individual is receiving hospital services.

16 Sec. 55.004. AMOUNT OF LIEN. (a) In this section,  
17 "emergency hospital care" means health care services provided in a  
18 hospital to evaluate, stabilize, and treat a serious medical  
19 problem of recent onset or severity, including severe pain that  
20 would lead a prudent layperson possessing an average knowledge of  
21 medicine and health to believe that the condition, illness, or  
22 injury is of such a nature that failure to obtain immediate medical  
23 care would in all reasonable probability:

- 24 (1) seriously jeopardize the patient's health;  
25 (2) seriously impair one or more bodily functions;  
26 (3) seriously harm an organ or other part of the body;  
27 (4) cause serious disfigurement; or

1           (5) in the case of a pregnant woman, seriously  
2 jeopardize the health of the fetus.

3           (b) A hospital [~~The~~] lien described by Section 55.002(a) is  
4 for the amount of the hospital's charges for services provided to  
5 the injured individual during the first 100 days of the injured  
6 individual's hospitalization.

7           (c) A hospital [~~The~~] lien described by Section 55.002(a) may  
8 also include the amount of a physician's reasonable and necessary  
9 charges for emergency hospital care services provided to the  
10 injured individual during the first seven days of the injured  
11 individual's hospitalization. At the request of the physician, the  
12 hospital may act on the physician's behalf in securing and  
13 discharging the lien.

14           (d) A hospital [~~The~~] lien described by Section 55.002(a)  
15 does not cover:

16           (1) charges for other services that exceed a  
17 reasonable and regular rate for the services;

18           (2) charges by the physician related to any services  
19 provided under Subsection (c) for which the physician has accepted  
20 insurance benefits or payment under a private medical indemnity  
21 plan or program, regardless of whether the benefits or payment  
22 equals the full amount of the physician's charges for those  
23 services;

24           (3) charges by the physician for services provided  
25 under Subsection (c) if the injured individual has coverage under a  
26 private medical indemnity plan or program from which the physician  
27 is entitled to recover payment for the physician's services under

1 an assignment of benefits or similar rights; or

2 (4) charges by the physician related to any services  
3 provided under Subsection (c) if the physician is a member of the  
4 legislature.

5 (e) A hospital [The] lien described by Section 55.002(a) is  
6 not affected by a hospital's use of a method of classifying patients  
7 according to their ability to pay that is solely intended to obtain  
8 a lien for services provided to an indigent injured individual.

9 (f) An emergency medical services lien described by Section  
10 55.002(c) is for the amount charged by the emergency medical  
11 services provider for emergency medical services provided to the  
12 injured individual during the 72 hours following the accident that  
13 caused the individual's injuries.

14 (g) An emergency medical services lien described by Section  
15 55.002(c) does not cover:

16 (1) charges for services that exceed a reasonable and  
17 regular rate for the services;

18 (2) charges by the emergency medical services provider  
19 related to any services for which the emergency medical services  
20 provider has accepted insurance benefits or payment under a  
21 private medical indemnity plan or program, regardless of whether  
22 the benefits or payments equal the full amount of the charges for  
23 those services; or

24 (3) charges by the emergency medical services provider  
25 for services provided if the injured individual has coverage under  
26 a private medical indemnity plan or program from which the provider  
27 is entitled to recover payment for the provider's services under an

1 assignment of benefits or similar right.

2           Sec. 55.005. SECURING LIEN. (a) To secure the lien, a  
3 hospital or emergency medical services provider must file written  
4 notice of the lien with the county clerk of the county in which the  
5 [~~hospital~~] services were provided. The notice must be filed before  
6 money is paid to an entitled person because of the injury.

7           (b) The notice must contain:

8                   (1) the injured individual's name and address;

9                   (2) the date of the accident;

10                   (3) the name and location of the hospital or emergency  
11 medical services provider claiming the lien; and

12                   (4) the name of the person alleged to be liable for  
13 damages arising from the injury, if known.

14           (c) The county clerk shall record the name of the injured  
15 individual, the date of the accident, and the name and address of  
16 the hospital or emergency medical services provider and shall index  
17 the record in the name of the injured individual.

18           Sec. 55.006. DISCHARGE OF LIEN. (a) To discharge a [~~the~~]  
19 lien under this chapter, the [~~hospital~~] authorities of the hospital  
20 or emergency medical services provider claiming the lien or the  
21 person in charge of the finances of the hospital or emergency  
22 medical services provider must execute and file with the county  
23 clerk of the county in which the lien notice was filed a certificate  
24 stating that the debt covered by the lien has been paid or released  
25 and authorizing the clerk to discharge the lien.

26           (b) The county clerk shall record a memorandum of the  
27 certificate and the date it was filed.

1 (c) The filing of the certificate and recording of the  
2 memorandum discharge the lien.

3 Sec. 55.007. VALIDITY OF RELEASE. (a) A release of a cause  
4 of action or judgment to which a [the] lien under this chapter may  
5 attach is not valid unless:

6 (1) the ~~[hospital's]~~ charges of the hospital or  
7 emergency medical services provider claiming the lien were paid in  
8 full before the execution and delivery of the release;

9 (2) the ~~[hospital's]~~ charges of the hospital or  
10 emergency medical services provider claiming the lien were paid  
11 before the execution and delivery of the release to the extent of  
12 any full and true consideration paid to the injured individual by or  
13 on behalf of the other parties to the release; or

14 (3) the hospital or emergency medical services  
15 provider claiming the lien is a party to the release.

16 (b) A judgment to which a [the] lien under this chapter has  
17 attached remains in effect until the ~~[hospital's]~~ charges of the  
18 hospital or emergency medical services provider claiming the lien  
19 are paid in full or to the extent set out in the judgment.

20 Sec. 55.008. ~~[HOSPITAL]~~ RECORDS. (a) On request by an  
21 attorney for a party by, for, or against whom a claim is asserted  
22 for damages arising from an injury, a hospital or emergency medical  
23 services provider shall as promptly as possible make available for  
24 the attorney's examination its records concerning the services  
25 provided to the injured individual.

26 (b) The hospital or emergency medical services provider may  
27 issue reasonable rules for granting access to its records under

1 this section, but it may not deny access because a record is  
2 incomplete.

3 (c) The records are admissible, subject to applicable rules  
4 of evidence, in a civil suit arising from the injury.

5 SECTION 2. (a) This Act takes effect September 1, 2003.

6 (b) The change in law made by this Act applies only to  
7 emergency medical services provided by an emergency medical  
8 services provider on or after the effective date of this Act.  
9 Emergency medical services provided by an emergency medical  
10 services provider before the effective date of this Act are  
11 governed by the law in effect at the time the services were  
12 provided, and the former law is continued in effect for that  
13 purpose.