

By Senators Lee, Miller, Sebesta and Crist

23-467-01

See HB 885

1 A bill to be entitled
2 An act relating to Hillsborough County;
3 amending chapter 98-499, Laws of Florida,
4 relating to liens authorized by ordinance in
5 favor of hospitals providing medical care,
6 treatment, or maintenance to a patient, and in
7 favor of the County when it pays for medical
8 care, treatment, or maintenance of a patient;
9 providing definitions; providing optional and
10 mandatory components, both substantive and
11 procedural, of any such implementing ordinance
12 including establishing limitations on lien
13 amounts, and providing for the treatment of
14 other claims, noneconomic damages, and
15 attorney's fees; requiring the ordinance to
16 provide identical procedural remedies to
17 hospitals and the County; providing for an
18 offset for the cost of an insurance policy
19 resulting in payment of any part of the lien
20 amount; barring a lienholder or the
21 lienholder's legal representative from
22 additional compensation from the patient and
23 others in relation to the charges covered by a
24 lien; providing penalties; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Chapter 98-499, Laws of Florida, is amended
30 to read:

31 Section 1. As used in this act:

1 (1) "Applicable lien rate" means charges arising from
2 a covered event in effect at the time the care and treatment
3 were delivered for the covered event, which shall in no event
4 exceed:

5 (a) The amount that a lienholder has contracted to
6 accept from all sources for the care and treatment of the
7 patient whether the source is commercial, nongovernmental
8 health insurance coverage through a health maintenance
9 organization, or other nongovernmental entity that is under
10 contract with the lienholder;

11 (b) For uninsured patients, a rate not exceeding that
12 rate which is customarily paid to a lienholder for services
13 provided to a patient, in compliance with the payment
14 provisions established by the Medicare Act; or

15 (c) If the patient is covered by the County Indigent
16 Health Care Plan, all amounts payable by the county in
17 connection with services provided to the patient pursuant to
18 the county's indigent health care plan.

19 (2) "Board" means the Board of County Commissioners of
20 Hillsborough County.

21 (3) "County" means Hillsborough County.

22 (4) "Covered event" means an illness, injury,
23 deformity, infirmity, abnormality, disease, or pregnancy that
24 results in medical care, treatment, or maintenance of a person
25 and forms the basis for a cause of action, suit, claim,
26 counterclaim, demand, judgment, settlement, or settlement
27 agreement pursued by the patient against a third party.

28 (5) "Hospital" means any establishment operating in
29 the county that:

30 (a) Offers services more intensive than those required
31 for room, board, personal services, and general nursing care

1 and offers facilities and beds for use beyond 24 hours by
2 individuals requiring diagnosis, treatment, or care for
3 illness, injury, deformity, infirmity, abnormality, disease,
4 or pregnancy.

5 (b) Regularly makes available at least clinical
6 laboratory services, diagnostic x-ray services, and treatment
7 facilities for surgery or obstetrical care, or other
8 definitive medical treatment of similar extent, but does not
9 include any institution conducted by or for the adherents of
10 any well-recognized church or religious denomination that
11 depends exclusively upon prayer or spiritual means to heal,
12 care for, or treat any person.

13 (6) "Lienholder" means a hospital or the county having
14 a claim of lien pursuant to this act.

15 (7) "Medicare Act" means the law embodied at 42 U.S.C.
16 s. 426, as amended.

17 (8) "Patient" means a person who receives medical
18 care, treatment, or maintenance from a lienholder in the
19 county in connection with a covered event or the patient's
20 legal representatives.

21 (9) "Patient's claims" means the total of all claims
22 attributable to medical care, treatment, or maintenance not
23 provided by a lienholder and includes lost wages, noneconomic
24 damages, and future medical costs, as applicable, and
25 reasonable attorney's fees and reasonable collection costs
26 except as otherwise provided in paragraph (1)(g) of section 2.

27 (10) "Pro rata share" means a percentage amount of the
28 recovery proceeds, which shall be derived by dividing the
29 total amounts claimed by either a lienholder, the patient, or
30 when applicable, the patient's attorney, by the total sum of
31 all claims arising out of the covered event which are payable

1 from the recovery proceeds including all of the patient's
2 claims, and multiplying the resulting percentage by the total
3 recovery proceeds. For the purpose of calculating pro rata
4 share, if the patient is uninsured, a lienholder hospital may
5 calculate its lien amount as an amount equal to its full
6 billed charges for services provided in connection with a
7 covered event. However, in no event may the hospital's pro
8 rata share of the recovery proceeds exceed the payment amount
9 established by the Medicare Act for all services provided.

10 (11) "Recovery proceeds" means the total amount of all
11 settlement, settlement agreement, and/or judgment proceeds
12 along with any other remuneration for damages arising directly
13 or indirectly from a covered event, minus amounts secured by
14 statutory liens having priority over liens created by this
15 act, an offset for insurance proceeds as provided herein, and,
16 in the event litigation is filed, the patient's attorney's
17 fees as provided in paragraph (1)(g) of section 2.

18 Section 2.

19 (1) The board of ~~county commissioners of Hillsborough~~
20 County may provide by ordinance for:

21 (a) Liens in favor of hospitals for medical care,
22 treatment, or maintenance provided to a patient, and in favor
23 of the county when the county pays for medical care, treatment
24 or maintenance of qualifying residents of the county, upon
25 causes of action, suits, claims, counterclaims, and demands in
26 connection with a covered event and accruing to a patient, and
27 upon all judgments, settlements, and settlement agreements
28 entered into by virtue thereof.

29 (b) The attachment, perfection, priority, and
30 enforcement of any such lien and for such procedural and other
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1 matters as may be necessary or appropriate to carry out the
2 purposes of the ordinance.

3 (c) Limiting the amount of a lien to the applicable
4 lien rate.

5 (d) Establishing an equitable distribution plan that
6 includes a provision that, in the event the recovery proceeds
7 are not adequate to cover the amount actually due and owing
8 the lienholder, as well as the patient's attorney's fees, the
9 recovery proceeds will be equitably distributed on a pro rata
10 share basis.

11 (e) An offset from the recovery proceeds for the costs
12 of any insurance policy which resulted in payment in whole or
13 in part of any lien amounts. These amounts shall not exceed 1
14 year's premium amount for any such policy.

15 (f) Procedures for determining the amount of
16 noneconomic damages and future medical costs related to the
17 covered event to be used in calculating pro rata shares when
18 noneconomic damages and future medical costs are not itemized
19 in the settlement, settlement agreement, or judgment. The
20 procedures shall provide a mechanism for resolution of
21 disputes related to this determination.

22 (g) Providing that in the event litigation is filed to
23 recover a plaintiff's damages through settlement or judgment,
24 instead of prorating the plaintiff's attorney's fees, in
25 determining the lienholder's recovery, plaintiff's attorney's
26 fees shall be calculated at an amount not to exceed 25 percent
27 of the recovery proceeds.

28 (2) Any ordinance enacted in accordance with this act
29 shall:

30 (a) Include a procedure by which a patient may bring a
31 claim of alleged abuse by a lienholder in the exercise of the

1 lien privilege granted by this act and the manner in which the
2 claim will be considered and resolved.

3 (b) Provide ~~all operators of hospitals in Hillsborough~~
4 ~~County and in favor of Hillsborough County when it pays for~~
5 ~~medical care, treatment, or maintenance of qualifying~~
6 ~~residents of the county upon all causes of action, suits,~~
7 ~~claims, counterclaims, and demands accruing to persons to whom~~
8 ~~care, treatment, or maintenance is furnished by such hospital~~
9 ~~or is paid for by Hillsborough County on behalf of a~~
10 ~~qualifying resident of the county, or accruing to the legal~~
11 ~~representatives of such persons, and upon all judgments,~~
12 ~~settlements, and settlement agreements entered into by virtue~~
13 ~~thereof on account of illness, injury, deformity, infirmity,~~
14 ~~abnormality, disease, or pregnancy giving rise to such causes~~
15 ~~of action, suits, claims, counterclaims, demands, judgments,~~
16 ~~settlements, and settlement agreements, and which necessitated~~
17 ~~such care, treatment, or maintenance; and may provide by~~
18 ~~ordinance for the attachment, perfection, priority, and~~
19 ~~enforcement of such liens and for such procedural and other~~
20 ~~matters as may be necessary or appropriate to carry out the~~
21 ~~purposes of the ordinance. If the patient is covered by or is~~
22 ~~a beneficiary of commercial, nongovernmental health insurance~~
23 ~~coverage through a health maintenance organization or other~~
24 ~~nongovernmental entity that is under contract with the~~
25 ~~hospital to provide care to the patient at the time care and~~
26 ~~treatment are delivered, then the lien shall be limited to the~~
27 ~~covered charges in effect at the time care and treatment were~~
28 ~~delivered, and the lien shall not exceed the amount that the~~
29 ~~hospital has contracted to accept from all sources for the~~
30 ~~care and treatment of the patient. In the event of a claim or~~
31 ~~action by the patient against a third party for which the~~

1 ~~settlement or judgment is less than or equal to a sum of the~~
2 ~~debt actually due and owing the hospital, the settlement or~~
3 ~~judgment will be equitably distributed based on the pro rata~~
4 ~~reduction in the amount due the hospital and the patient,~~
5 ~~including a pro rata reduction in the amount of reasonable~~
6 ~~attorney's fees and costs due the patient's attorney on that~~
7 ~~portion of the settlement or judgment attributable to the~~
8 ~~hospital lien. In the event of a claim or action by the~~
9 ~~patient against a third party for which the settlement or~~
10 ~~judgment exceeds the debt actually due and owing the hospital~~
11 ~~but is not adequate to cover the amount actually due and owing~~
12 ~~the hospital, as well as the patient's attorney's fees, then~~
13 ~~the settlement or judgment will be equitably distributed based~~
14 ~~on a pro rata share of the amount due the hospital and the~~
15 ~~patient, including a pro rata share for the amount of~~
16 ~~reasonable attorney's fees and costs due the patient's~~
17 ~~attorney and the hospital's attorney. In the event litigation~~
18 ~~is filed to recover a plaintiff's damages through settlement~~
19 ~~or judgment, then the hospital's lien actually collected shall~~
20 ~~be subject to assessment, by reduction, for plaintiff's~~
21 ~~attorney's fees, which for the lien assessment shall be capped~~
22 ~~at 25 percent. Any ordinance adopted by Hillsborough County~~
23 ~~under this act must grant, without exception, for all~~
24 ~~lienholders both to every hospital operating in the county and~~
25 ~~to the County Indigent Health Care Plan the identical~~
26 ~~procedural remedies.~~

27 Section 3. Any lienholder or the legal representative
28 of that lienholder who enforces a lien in accordance with this
29 act and the implementing ordinance of the county is barred
30 from seeking any additional compensation in relation to the
31 covered event from the patient, any family member of the

1 patient, or any other individual authorized to make decisions
2 concerning the providing or withholding of the patient's care
3 or treatment in relation to the charges covered by the lien.
4 Further, any lienholder or the legal representative of that
5 lienholder who collects a lien in whole or in part pursuant to
6 this act is prohibited from enforcing the terms of a letter of
7 protection issued in connection with services rendered in
8 connection with the covered event.

9 Section 2. This act shall take effect July 1, 2001.

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