

SUBJECT: Requiring written notice of hospital liens for emergency medical services

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 10 ayes — Deshotel, Elkins, Christian, England, Gattis, Giddings, Keffer, Orr, Quintanilla, S. Turner

0 nays

1 absent — S. Miller

SENATE VOTE: On final passage, April 2 — 31-0

WITNESSES: For — None

Against — Charles Bailey, Texas Hospital Association; Richard Carter, Hunt Memorial Hospital District; Charles Kable, Cardon Healthcare Network, Inc.; Gary Ney, Christus Health; Randal Payne; (*Registered, but did not testify*: Jennifer Cutrer, Parkland Health & Hospital System; Nancy Hentschel; Andrew Smith, University Health System; Gabe Torres, Cardon Healthcare Network, Inc.; Chris Yanas, Teaching Hospital of Texas)

BACKGROUND: Property Code, ch. 55 allows hospitals to file liens against future lawsuits by, or settlements received by, patients receiving medical services due to an accident caused by the negligence of another.

Property Code, sec. 55.005 requires that a hospital or emergency medical services provider file written notice of the lien with the county clerk in the county where the services were provided before any money is paid to the patient in a settlement or judgment. The notice must contain:

- the injured individual's name;
- the date of the accident;
- the name and location of the hospital or emergency services provider claiming the lien; and
- the name of the person alleged to be liable for the damages arising from the injury, if known.

DIGEST:

CSSB 747 would amend Property Code, sec. 55.005 to require that a hospital or emergency provider would have to provide notice of a potential lien to an injured individual by certified mail or by a separate document at the time emergency medical services were provided.

The bill would require that on or before the hospital or emergency services provider filed a notice of the lien with the county clerk, the hospital or emergency provider send a written notice by certified mail, return receipt requested, to the individual's last known address. The notice would have to state that:

- the hospital lien could be attached to any judgment or settlement to pay for hospital services or emergency medical services provided to the injured individual;
- the hospital or emergency medical services provider could file a notice of the lien with the county clerk under Property Code, ch. 55; and
- a hospital lien would attach to the proceeds of legal action or settlement the injured individual received, but would not attach to real property owned by the individual.

A hospital or emergency medical services provider would not be required to mail the notice if the notice was provided in a document separate from any other document signed or provided to the individual at the time of admission. The document would have to be signed by the injured person or a representative of that person.

The notice of a potential lien would not be required if the injured individual was not required to sign a consent form to authorize medical services.

CSSB 747 would provide that the notice of lien filed with the county clerk would have to include an affirmation that notice had been provided to the injured individual, either by mail or via the signed form at the time of admission. If the individual did not receive the notice mailed to the last known address, the failure to receive the notice would not invalidate the notice of lien.

The change would apply only to hospital liens filed after the bill's September 1, 2009, effective date.

**SUPPORTERS  
SAY:**

CSSB 747 would provide an effective way to notify injured individuals and their families of their future financial responsibilities at an often traumatic and confusing time. The bill also would help hospitals and emergency providers secure payment for medical services. The notice requirement would clarify that a lien would be assessed only against future judgments or settlements arising from an accident and would not be attached against the patient's home. Requiring either a mailing or a separate document at the time of admission would reduce the chance that the document would become lost.

It would be unlikely that a settlement in a vehicle accident would be processed so quickly that a hospital or emergency medical provider would be unable file a lien, especially because a provision that would have required a 10-day notice was removed by the committee substitute.

**OPPONENTS  
SAY:**

Even with the shortened notice requirements, hospitals and emergency providers still could miss an opportunity to file a lien before a settlement was reached. At that point, any potential hospital lien would be void, and the patient would be likely to have used the proceeds to pay other bills. Hospitals must rely on information provided by the injured individual or others at the time of the emergency room admission and could discover too late that a third party could be held liable for the medical charges.

**NOTES:**

The committee substitute differs from the Senate-passed version by removing a provision that would have required a 10-day notice to the injured individual before filing a hospital lien.