

SUBJECT: Modifying definition of admitted to hospital for hospital liens

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Krause, Meyer, Neave, Smith, White
3 nays — Farrar, Y. Davis, Julie Johnson

WITNESSES: For — Louis Bratton and Cesar Lopez, Texas Hospital Association;
(*Registered, but did not testify:* Gregg Knaupe, Ascension Seton; Marisa Finley, Baylor Scott and White Health; James Grace Jr., CNA Insurance Companies; Denise Rose, Community Health Systems; Meghan Weller, HCA Healthcare; Martha Doss, Latinos for Trump; Ryan Ambrose, Memorial Hermann Health System; Jessica Schleifer, Teaching Hospitals of Texas; Michelle Apodaca, Tenet; Lee Parsley, Texans for Lawsuit Reform; James Hines, Texas Association of Business; Carol Sims, Texas Civil Justice League; Kevin Reed, Texas Organization of Rural and Community Hospitals; Jake Fuller, UHS, Inc; Cathy DeWitt, USAA; Darwin Hamilton; Denise Seibert)

Against — Will Adams, Texas Trial Lawyers Association; Serena Hood; Christina Knifer; Michael Moore; Cynthia Salgado; Ken Stephenson);
(*Registered, but did not testify:* Ware Wendell, Texas Watch; Charlotte Owen; Arthur Simon; Jacqueline Stringer)

BACKGROUND: Property Code sec. 55.002 gives a hospital a lien on a cause of action or claim of an individual who received hospital services for injuries caused by an accident that was attributed to another person's negligence. For the lien to attach, the individual must be admitted to a hospital not later than 72 hours after the accident.

Under sec. 55.003, these liens can attach to:

- causes of action for damages from an injury for which the injured individual was admitted to the hospital or received emergency medical services;

- court judgments or decisions of a public agency in proceedings brought to recover damages from such an injury; and
- proceeds of a settlement of a cause of action or a claim in these situations.

The hospital lien does not attach to workers' compensation claims or proceeds from insurance policies, except liability insurance carried by the insured to protect against loss caused by accidents or collisions.

Property Code sec. 55.004 has several provisions describing what can be counted toward the amount of the lien. Under sec. 55.004(b), a lien is for the amount of the hospital's charges for services provided to the injured individual during the first 100 days of hospitalization.

DIGEST:

CSHB 2929 would specify that for the purposes of a hospital lien, an injured individual would be considered to have been admitted to a hospital if the individual was allowed access to any department of the hospital for the provision of any treatment, care, or service.

The bill also would specify that a lien would be for the lesser of either the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the individual's hospitalization or 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement. The bill would expand the list of items that hospital liens did not cover to include charges that were not filed timely were therefore barred from recovery under current law.

CSHB 2929 would state that the changes made by the bill to what is considered admission to the hospital were intended to clarify rather than change existing law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS

CSHB 2929 is needed to clarify that current law allowing hospitals to file

SAY: liens to recover certain charges applies to emergency room care as well as inpatient care. While many hospitals have assumed that this is the intent of current law, some have faced legal action claiming that hospital liens are limited to inpatient care and do not cover emergency room care. The bill would clear up this confusion by specifying that the liens apply to any department of a hospital. The bill would not change current law, but merely clarify it.

It is appropriate that these liens apply to emergency care settlements. These are funds that patients have recovered in lawsuits or settlements from the party at fault, and hospitals need to be compensated if possible because a significant portion of the uncompensated care cost burden is borne by taxpayers. Current law limiting these liens protects patients because the liens are not applicable to homes or other types of property. In addition, the bill would revise the limit on the recovery in these suits.

OPPONENTS SAY: Current law allowing hospital liens applies only to individuals admitted to a hospital and CSHB 2929 would inappropriately expand this to include emergency room care. Many times, patients who are taken to the emergency room after a major accident such as a car wreck suffer lost wages and large hospital bills. Allowing liens in these situations could result in most of the funds from a settlement going to the hospital, rather than being available to meet the necessary expenses of those injured in the accident. Expanding provisions to cover emergency care also could encourage hospitals to file liens after charging excessively large bills and could increase the filing of liens in certain situations, such as after hospitals have been paid through Medicare or insurance.