PROPERTY CODE

TITLE 5. EXEMPT PROPERTY AND LIENS

SUBTITLE B. LIENS

CHAPTER 55. HOSPITAL AND EMERGENCY MEDICAL SERVICES LIENS

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) "Person" does not include a county, common, or independent school district.

Acts 1983, 68th Leg., p. 3562, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

Sec. 55.0015. ADMISSION TO HOSPITAL. For purposes of this chapter, an injured individual is considered admitted to a hospital if the individual is allowed access to any department of the hospital for the provision of any treatment, care, or service to the individual.

Added by Acts 2019, 86th Leg., R.S., Ch. 862 (H.B. 2929), Sec. 1, eff. June 10, 2019.

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 the same injury.

(c) An emergency medical services provider has a lien on a cause of action or claim of an individual who receives emergency

medical services in a county with a population of 800,000 or less for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must receive the emergency medical services not later than 72 hours after the accident.

Acts 1983, 68th Leg., p. 3562, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 576 (H.B. 3337), Sec. 1, eff. September 1, 2011.

Sec. 55.003. PROPERTY TO WHICH LIEN ATTACHES. (a) A lien under this chapter attaches to:

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

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

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

(b) The lien does not attach to:

(1) a claim under the workers' compensation law of this state, the Federal Employees Liability Act, or the Federal Longshore and Harbor Workers' Compensation Act; or

(2) the proceeds of an insurance policy in favor of the injured individual or the injured individual's beneficiary or legal representative, except public liability insurance carried by the insured that protects the insured against loss caused by an accident or collision.

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

Acts 1983, 68th Leg., p. 3562, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

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

(1) seriously jeopardize the patient's health;

(2) seriously impair one or more bodily functions;

(3) seriously harm an organ or other part of the body;

(4) cause serious disfigurement; or

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

(b) A hospital lien described by Section 55.002(a) is for the lesser of:

(1) the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization;

(2) 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement described by Section 55.003(a); or

(3) if the trier of fact specifies the amount awarded for hospital charges for services provided to the injured individual, the amount awarded by the trier of fact for the services provided to the injured individual by the hospital less the pro rata share of reasonable attorney's fees and expenses the injured individual incurred in pursuing the claim.

(c) A hospital lien described by Section 55.002(a) may also

include the amount of a physician's reasonable and necessary charges for emergency hospital care services provided to the injured individual during the first seven days of the injured individual's hospitalization. At the request of the physician, the hospital may act on the physician's behalf in securing and discharging the lien.

(d) A hospital lien described by Section 55.002(a) does not cover:

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

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

(3) charges by the physician for services provided under Subsection (c) if the injured individual has coverage under a private medical indemnity plan or program from which the physician is entitled to recover payment for the physician's services under an assignment of benefits or similar rights;

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

(5) charges for which recovery is barred under Section 146.003, Civil Practice and Remedies Code.

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

(f) An emergency medical services lien described by Section 55.002(c) is for the amount charged by the emergency medical services provider, not to exceed $1,000, for emergency medical services provided to the injured individual during the 72 hours following the accident that caused the individual's injuries.

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

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

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

(3) charges by the emergency medical services provider for services provided if the injured individual has coverage under a private medical indemnity plan or program from which the provider is entitled to recover payment for the provider's services under an assignment of benefits or similar right.

(h) If the physician is employed in that capacity by an institution of higher education, as defined by Section 61.003, Education Code, and the lien does not include the amount of the physician's reasonable and necessary charges described by Subsection (c), the physician has a lien on the cause of action in the same manner as a hospital under this chapter. The lien is subject to provisions of this chapter applicable to a hospital lien, and the physician or the physician's employing institution may secure and enforce the lien in the manner provided by this chapter.

Acts 1983, 68th Leg., p. 3563, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2001, 77th Leg., ch. 930, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1266, Sec. 1.16, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(79), eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 862 (H.B. 2929), Sec. 2, eff. June 10, 2019.

Acts 2021, 87th Leg., R.S., Ch. 812 (H.B. 2064), Sec. 1, eff. June 16, 2021.

Sec. 55.005. SECURING LIEN. (a) To secure the lien, a hospital or emergency medical services provider must:

(1) provide notice to the injured individual in accordance with Subsection (d); and

(2) file written notice of the lien with the county clerk of the county in which the services were provided before money is paid to an entitled person because of the injury.

(b) The notice must contain:

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

(2) the date of the accident;

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

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

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

(d) Except as provided by Subsection (e), not later than the fifth business day after the date a hospital or emergency medical services provider receives notice from the county clerk that a notice of lien filed under Subsection (a)(2) has been recorded in the county records, the hospital or emergency medical services provider must send a written notice to the injured individual or the injured individual's legal representative, by regular mail, to the individual's last known address, informing the individual that:

(1) the lien will attach to any cause of action or claim the individual may have against another person for the individual's injuries; and

(2) the lien does not attach to real property owned by the individual.

(e) An emergency medical services provider is not required to provide notice by mail if the emergency medical services provider provides the notice required by Subsection (d) to the injured individual or the injured individual's representative at the time emergency medical services are provided and if:

(1) the required notice is included on the emergency medical services authorization form in a paper or electronic version in a separate paragraph that is bolded and in at least

14-point type; and

(2) except as provided by Subsection (f), the notice is signed by the injured individual or the injured individual's representative.

(f) For the purposes of Subsection (e), if consent for emergency care of an individual is not required under Section 773.008, Health and Safety Code, notice provided on an emergency medical services authorization form to the injured individual is not required to be signed.

(g) The failure of an individual to receive a notice mailed in accordance with Subsection (d) does not affect the validity of a lien under this chapter.

Acts 1983, 68th Leg., p. 3563, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1995, 74th Leg., ch. 1031, Sec. 1, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 169 (S.B. 328), Sec. 1, eff. September 1, 2011.

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

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

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

Acts 1983, 68th Leg., p. 3564, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

Sec. 55.007. VALIDITY OF RELEASE. (a) A release of a cause of action or judgment to which a lien under this chapter may attach

is not valid unless:

(1) the charges of the hospital or emergency medical services provider claiming the lien were paid in full before the execution and delivery of the release;

(2) the charges of the hospital or emergency medical services provider claiming the lien were paid before the execution and delivery of the release to the extent of any full and true consideration paid to the injured individual by or on behalf of the other parties to the release; or

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

(b) A judgment to which a lien under this chapter has attached remains in effect until the charges of the hospital or emergency medical services provider claiming the lien are paid in full or to the extent set out in the judgment.

Acts 1983, 68th Leg., p. 3564, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.

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

(b) The hospital or emergency medical services provider may issue reasonable rules for granting access to its records under this section, but it may not deny access because a record is incomplete.

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

Acts 1983, 68th Leg., p. 3564, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2003.