
Judiciary Committee

HB 1503

Title: An act relating to medical liens.

Brief Description: Concerning medical liens.

Sponsors: Representatives Jinkins, Ryu, Tharinger, DeBolt, Senn, Robinson, Harris, Cody, Riccelli, Walsh, Sawyer and Moeller.

Brief Summary of Bill

- Requires a person seeking a medical lien to be licensed as a collection agency and disclose his or her use of medical liens as part of his or her billing and collection practices.
- Requires a medical lien claimant to file a release of the lien with the county auditor within 20 days of receiving payment or settlement, and provides that a violation of this requirement is an unfair or deceptive act or practice for purposes of the Consumer Protection Act.

Hearing Date: 2/10/15

Staff: Brent Campbell (786-7152).

Background:

Medical Liens.

A lien is a form of security interest over real or personal property to secure the payment of a debt. Liens can be voluntary, such as mortgages, or involuntary, such as tax liens or mechanic's liens. Liens authorized by statute include mechanics' and materialmen's liens, crop liens, liens for attorney's fees, landlord's liens, and liens for doctor, nurse, hospital, and ambulance services.

Every physician, surgeon, nurse, and practitioner who renders service to a person who has received a traumatic injury is entitled to a lien upon any claim, right of action, and/or money to which the injured person may be entitled against any tortfeasor for the value of the services

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rendered. In order to be entitled to a medical lien, a claimant must file a record with the county auditor either within 20 days after the date of injury or receipt of care or, if settlement has not been made to the injured person, then at any time before settlement and payment.

Collection Agencies.

Collection agencies are regulated by statute and must be licensed by the Director of Licensing. Collection agencies must maintain records of their accounts and are required to file a surety bond or a cash deposit to ensure that they will faithfully and truly perform their duties. Collection agencies are also prohibited from certain acts, including, but not limited to:

- aiding an unlicensed person in engaging in business as a collection agency;
- collecting or attempting to collect a claim by the use of any means contrary to the postal laws and regulations of the U.S. postal department;
- publishing or threatening to publish any list of debtors;
- having in its possession, or making use of, any badge or uniform of any law enforcement agency;
- communicating the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action;
- threatening the debtor with impairment of his or her credit rating if a claim is not paid;
- threatening to take any action against the debtor that the licensee cannot legally take at the time the threat is made;
- communicating with the debtor through use of forms or instruments that simulate the form or appearance of judicial process or government documents; and
- calling or sending a text message or other electronic communication to a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device.

Any person who knowingly operates as, or knowingly aids and abets, a collection agency without a license is punishable by a fine not exceeding \$500, by imprisonment not exceeding one year, or both, and must return moneys collected to the owners of the accounts on which the moneys were paid. Violation of certain provisions, including prohibited acts, is also deemed an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of applying the Consumer Protection Act (CPA).

Consumer Protection Act.

Washington's CPA declares that "unfair or deceptive acts or practices" occurring in trade are unlawful.

The CPA provides that any person who is injured in his or her business or property through such practices may bring a civil action to recover actual damages sustained and costs of the suit, including reasonable attorney's fees. Treble damages may also be awarded in the courts discretion, provided the additional damage award does not exceed \$25,000.

The CPA also authorizes the Attorney General to bring an action in the name of the state, or as parens patriae on behalf of persons residing in the state, against any person in order to restrain and prevent unfair and deceptive acts or practices.

Summary of Bill:

A person seeking to enforce a medical lien is added to the definition of "collection agency." Any person who seeks to enforce a medical lien must: (1) be licensed as a collection agency, and therefore be regulated by statute; and (2) disclose his or her use of medical liens as part of his or her billing and collection practices.

A medical lien claimant is required to file a release of the lien with the county auditor within 20 days of receiving payment or settlement. Failing to file this release is deemed an unfair or deceptive act or practice in the conduct of trade or commerce for purposes of applying the CPA.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.