

## **IC 12-24-15**

### **Chapter 15. Legal Process for Recovery of Treatment and Maintenance Charges**

#### **IC 12-24-15-1**

##### **Lien upon real property of patient and responsible parties; recording; priority**

Sec. 1. The liability created by this article for payment of any type of cost of treatment and maintenance of a patient constitutes a lien upon the real property of the patient and responsible parties of the patient whenever the lien has been recorded according to this chapter. The lien has priority over all liens subsequently acquired.

*As added by P.L.2-1992, SEC.18.*

#### **IC 12-24-15-2**

##### **Delinquent charges; notice of lien; filing; requisites**

Sec. 2. (a) If charges for the cost of treatment and maintenance of a patient remain unpaid in whole for three (3) months or in part for six (6) months, the appropriate division may file, in the office of the county recorder of the county in which the real property is located, the following:

(1) A notice of lien designating the name and place of residence of the patient or responsible party against whose property the lien is asserted.

(2) The date when the charges became delinquent.

(3) A legal description of the real property subject to the lien.

(b) The county auditor or assessor of a county shall, upon request by the division, do the following:

(1) Give notice of all real property in the county registered to the patient or responsible parties.

(2) Furnish the division the legal description and address of all property so registered.

(c) One (1) copy of the notice of lien shall be retained by and filed in the offices of the division, and one (1) copy shall be furnished to the patient or responsible party whose real property is affected.

*As added by P.L.2-1992, SEC.18.*

#### **IC 12-24-15-3**

##### **Notice of lien; effect of filing; duration**

Sec. 3. (a) From the date on which the notice of lien is recorded in the office of the county recorder, the notice of lien:

(1) constitutes due notice of a lien against the patient or responsible party or the patient's estate for any amount then recoverable and any amounts that become recoverable under this article; and

(2) gives a specific lien in favor of the division.

(b) The lien continues from the date of filing until the lien is satisfied or released.

*As added by P.L.2-1992, SEC.18.*

#### **IC 12-24-15-4**

##### **Notice to division director of opening of a decedent's estate in the county; enforcement suit; judgment lien**

Sec. 4. (a) The clerk of the circuit court for each county shall give notice to the director of the appropriate division of the opening or commencement of a decedent's estate in the county.

(b) The attorney general shall, upon notification by the division, bring suit in the name of the state on relation of the division against the estate of the patient or a responsible party failing to make payments as required under this article.

(c) If a judgment is obtained in a suit brought under subsection (b), the judgment constitutes a lien against the part of the estate of the person described in the complaint.

*As added by P.L.2-1992, SEC.18.*

#### **IC 12-24-15-5**

##### **Suit to enforce payment of maintenance charges; order; attachment; costs**

Sec. 5. (a) The attorney general may bring suit against:

- (1) the patient;
- (2) the responsible parties of the patient; or
- (3) the legal guardian of the patient;

for failure to comply with a maintenance agreement established or for failure to make a maintenance agreement. Suit may be brought for the amount due the state for the maintenance charges of the patient.

(b) The court may order the payment of amounts due for maintenance charges for the periods that the circumstances require. The order may be entered against any of the defendants and may be based upon the proportionate ability of each defendant to contribute to the payment of sums representing maintenance charges.

(c) Orders for the payment of money may be enforced by attachments as in contempt proceedings against the defendants, and costs may be adjudged against and apportioned among the defendants.

*As added by P.L.2-1992, SEC.18.*

#### **IC 12-24-15-6**

##### **Claim against estate of patient or responsible party under conditions of IC 12-24-13; limitation of actions**

Sec. 6. (a) Except as provided in subsection (b), the absence of a suit authorized in section 5 of this chapter does not bar a division from enforcing its claim against the estate of a patient or the responsible parties of the patient if the conditions of IC 12-24-13 have been met.

(b) A claim against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.

*As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.1.*

### **IC 12-24-15-7**

#### **Foreclosure of lien; proceedings**

Sec. 7. The attorney general may bring proceedings in foreclosure on a lien arising under this chapter during the lifetime of the patient or responsible party when, in the opinion of the director, it is in the best interest of the division to foreclose on the lien.

*As added by P.L.2-1992, SEC.18.*

### **IC 12-24-15-8**

#### **Claim against estate of patient or responsible party to recover unpaid treatment and maintenance charges; property subject to lien; priority; conditions**

Sec. 8. (a) Upon the death of a patient or responsible party whose property is encumbered by a lien arising under this chapter and upon notification by the director, the attorney general shall file a claim in the estate of the patient or responsible party for recovery of all charges for treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed for recovery of charges for treatment and maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) If the real property of the deceased patient or responsible relative is occupied by a surviving spouse of the patient or responsible party, the director may not assert a lien or claim during the lifetime of the surviving spouse, except as provided in subsection (d).

(d) The division shall file a claim for recovery of costs of treatment and maintenance if:

- (1) another claimant or person has opened an estate and is attempting to enforce a claim; or
- (2) a fraudulent attempt is made to avoid the claim or lien.

*As added by P.L.2-1992, SEC.18.*

### **IC 12-24-15-9**

#### **Claim against estate of patient or responsible party to recover unpaid treatment and maintenance charges; priority**

Sec. 9. (a) Upon the death of a patient or a responsible party of the patient who is indebted to the state for any unpaid maintenance charges, whether or not secured by a lien, the attorney general shall file a claim against the estate of the patient or any responsible party for recovery of all charges for treatment and maintenance that have accrued at the date of death.

(b) Notwithstanding any other law, a claim filed under this section has priority except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses.

(c) Limitations of actions do not bar a division, except:

- (1) as to sureties; and
- (2) as provided in section 6 of this chapter.

*As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.2.*

**IC 12-24-15-10**

**Compromise agreements**

Sec. 10. The governor may, with the approval of the attorney general, agree to accept a lesser payment than that established by this article if it is found after investigation that the estate of a patient or responsible party is insufficient to pay the amount established.

*As added by P.L.2-1992, SEC.18.*

**IC 12-24-15-11**

**Pending litigation or rights accrued before June 1, 1981, unaffected; limitation of actions**

Sec. 11. This article does not affect any pending litigation or rights or privileges that accrued before June 1, 1981. However, a claim for services provided before June 1, 1981, against a patient or the responsible parties of the patient becomes void on the tenth anniversary of the patient's discharge if the diagnosis of the patient was mental illness or developmental disability, or both.

*As added by P.L.2-1992, SEC.18. Amended by P.L.81-1994, SEC.3.*