

How SB 68's Phantom Damages Rule Affects Medical Compensation in Georgia Injury Cases

The Insurance Company Now Has a New Way to Shrink What Your Medical Bills Are Worth

You did everything right. You had health insurance, you sought medical care after the crash, and you followed your doctors' instructions every step of the way. Now you're facing a [personal injury claim](#), and the driver who hit you, along with their insurance company, is about to use your responsible choices against you.

That's not a hypothetical scenario for Georgia injury victims hurt after April 21, 2025. It's the direct consequence of one of the most financially significant provisions in [Senate Bill 68](#), the state's sweeping tort reform law that changed how medical damages are calculated in personal injury cases.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), we've been fighting to maximize compensation for injured Georgians since 1993. The phantom damages rule in SB 68 is one of the biggest obstacles our clients now face, and understanding exactly how it works is essential for anyone pursuing a claim after a serious accident in Georgia.

What the Collateral Source Rule Used to Mean for Injured Georgians

For more than 150 years, Georgia followed a principle known as the collateral source rule. Under that rule, a defendant who injured someone could not benefit from the fact that the victim had health insurance, Medicare, Medicaid, or any other source of compensation for their medical bills. The reasoning was straightforward: a wrongdoer should not receive a financial discount simply because their victim was responsible enough to carry insurance coverage.

In practice, this meant that when an injury victim went to trial, the jury heard the full amount billed by the hospital, the surgeon, the physical therapist, and every other medical provider involved in treating the injuries. If a hospital billed \$80,000 for emergency surgery and the victim's health insurance negotiated that figure down to \$22,000 through its contracted rates, the jury still saw the \$80,000 number.

The defense could not tell the jury what the insurance company actually paid or what the provider wrote off. Georgia's courts consistently upheld this rule, recognizing that the victim's insurance coverage was something they earned and paid for, and that the at-fault party had no legitimate claim to the benefit of it.

That protection is now gone for injury victims hurt on or after April 21, 2025.

How the Phantom Damages Rule Works Under SB 68

Senate Bill 68 created a new statute under Georgia law, [O.C.G.A. § 51-12-1.1](#), that fundamentally changed how medical damages are presented to juries. Under the new rule, special damages for medical expenses are limited to the reasonable value of medically necessary care, as determined by the jury after hearing evidence from both sides. The key change is that defendants can now present evidence of what was actually paid by a health insurer, Medicare, Medicaid, or workers' compensation, not just what was billed.

What that means in a real case is this. If a [Georgia crash victim](#) requires surgery and rehabilitation and the total billed amount from all providers is \$90,000, but their health insurance negotiated contracted rates brought the actual payment down to \$25,000, the jury now hears both numbers. The defense will argue that \$25,000 represents the true reasonable value of the care.

The jury then decides somewhere in between, or at the lower figure if the defense makes its case effectively. The result is a smaller medical damages award, and because medical bills typically drive the calculation of other damages, including [pain and suffering](#) and loss of enjoyment of life, the total value of the case can drop significantly.

The Painful Irony for Victims With Good Health Insurance

One of the most troubling consequences of the phantom damages rule is that it punishes injury victims for having good health insurance. The better a victim's coverage, the lower the contracted rates their insurer negotiates with providers, and the lower the number the defense gets to put in front of the jury.

Consider two Georgia residents injured in the same type of crash, with the same injuries, receiving the same medical treatment at the same hospital. One has a comprehensive employer-sponsored health plan with deeply negotiated rates. The other is uninsured and pays or owes the full billed amount.

Under the old collateral source rule, both victims had the same medical damages figure available to them. Under SB 68, the insured victim may now recover significantly less than the uninsured victim for identical injuries and identical treatment, simply because their insurance company negotiated a better deal on their behalf.

The person who spent years paying insurance premiums, choosing their coverage carefully, and doing the responsible thing now faces smaller compensation than someone who had no coverage at all. The at-fault driver, who contributed nothing to the victim's insurance premiums, now receives the financial benefit of those premiums in the form of reduced liability exposure.

Letters of Protection Are Now Under the Microscope

SB 68 also introduced new rules around letters of protection, which are arrangements where a medical provider agrees to treat an injury victim and defer payment until the case is resolved.

Letters of protection have been a critical tool for injured people who don't have health insurance or whose insurance won't cover accident-related care, giving them access to treatment they desperately need while their claim works its way through the legal system.

Under the new law, letters of protection and related documents are now relevant and discoverable in litigation. That means the defense can obtain and use the following in court:

- **The Letter of Protection Agreement Itself:** The terms under which the provider agreed to defer payment and await resolution of the claim.
- **Itemized Billing With Charges And Codes:** A detailed breakdown of every service billed, which gives the defense ammunition to challenge specific charges.
- **Account Receivable Sale Information:** If the provider sold any portion of the debt to a third party, that information is now discoverable, potentially revealing financial arrangements the defense will use to suggest the charges are inflated.
- **Referral Source Identity:** Who referred the victim to the treating provider, which the defense may use to imply a connection between the attorney and the provider that calls the billing into question.

For injury victims who relied on letters of protection to access care they couldn't otherwise afford, this creates a new layer of scrutiny that can complicate their cases and give defense attorneys a platform to challenge the legitimacy of their medical treatment.

What This Means for How Injury Cases Are Built and Argued

The phantom damages rule doesn't eliminate medical damages as a category of compensation. What it does is change how those damages must be documented, presented, and defended. Georgia injury victims and their attorneys now have to approach the medical evidence in a case with a much more sophisticated strategy than was required before SB 68.

For example, a victim who required extensive [spinal surgery after a truck accident](#) can't simply present the hospital's billing records and let the numbers speak for themselves. The defense will come in with the explanation of benefits from the health insurer showing what was actually paid, and then argue to the jury that the lower figure is the reasonable value of the care.

The victim's legal team has to be prepared to challenge that framing, establish the true cost and value of the care received, and make sure the jury understands why the full scope of the medical treatment matters beyond the insurance company's contracted discount rate.

Documentation has never been more important. Every medical record, every billing statement, every explanation of benefits, and every receipt needs to be preserved from the moment an injury occurs. How treatment is billed and documented now directly affects what a jury can award, and gaps in the medical record give the defense room to argue that damages are lower than the evidence supports.

This Change Only Applies to Injuries That Occurred After April 21, 2025

One of the most important things Georgia injury victims need to understand is that the phantom damages rule under O.C.G.A. § 51-12-1.1 applies only to causes of action that arose on or after April 21, 2025. If your injury occurred before that date, the old collateral source rule still protects your medical damages, and the defense cannot present insurance payment evidence to the jury.

If you were injured on April 20, 2025, you are under the old rules. If you were injured on April 22, 2025, the new rules apply. The date of the injury is the controlling factor, and getting that analysis right is one of the first things an experienced Georgia personal injury attorney will address when evaluating your case.

Georgia's Power Law Firm Knows How to Fight Back

The phantom damages rule is one of the most financially significant changes in Georgia personal injury law in decades. Insurance companies have been preparing to use it since the day SB 68 was signed, and they are already applying it in negotiations and litigation. Georgia injury victims need legal representation that understands the new evidentiary framework just as well as the insurers do and knows how to build cases that hold their value under the new rules.

If you were injured in Georgia, [contact the Law Offices of Gary Martin Hays & Associates, P.C. today for a free consultation](#). We'll evaluate how the phantom damages rule applies to your situation, explain what your claim is worth under the current law, and fight to make sure the driver who hurt you is held fully accountable for the harm they caused. We handle every case on a [contingency fee basis](#), which means you owe us nothing unless we recover compensation for you.