

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1649

BY: HEFNER

AS INTRODUCED

AN ACT RELATING TO LIENS; AMENDING 42 O.S. 1981, SECTION 43, WHICH RELATES TO HOSPITAL LIENS; REQUIRING LIEN HOLDER TO PAY SHARE OF CERTAIN EXPENSES; AMENDING SECTION 3, CHAPTER 136, O.S.L. 1985 (42 O.S. SUPP. 1990, SECTION 46), WHICH RELATES TO PHYSICIAN'S LIENS; REQUIRING LIEN HOLDER TO PAY SHARE OF CERTAIN EXPENSES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 42 O.S. 1981, Section 43, is amended to read as follows:

Section 43. Every hospital in the State of Oklahoma, which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by his heirs, personal representatives or next of kin in the case

of his death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages: Provided, however, that this lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of such patient, his heirs or personal representatives; provided further, that the lien herein set forth shall not be applied or considered valid against any claim for amounts due under the Workers' Compensation Act in this state. The lien holder shall pay a proportionate share of the expenses, including attorney's fees, incurred in recovering sums subject to said lien.

SECTION 2. AMENDATORY Section 3, Chapter 136, O.S.L. 1985 (42 O.S. Supp. 1990, Section 46), is amended to read as follows:

Section 46. A. Every physician who performs medical services for any person injured as a result of the negligence or act of another, shall, if the injured person asserts or maintains a claim against such other person for damages on account of such injuries, have a lien for the amount due for such medical services upon that part going or belonging to the injured person of any recovery or sum had or collected or to be collected by the injured person, or by his heirs, personal representative, or next of kin in the event of his death, whether by judgment, settlement, or compromise. Such lien shall be inferior to any lien or claim of any attorney handling the claim for or on behalf of the injured person. The lien shall not be applied or considered valid against any claim for amounts due pursuant to the provisions of Title 85 of the Oklahoma Statutes. The lien holder shall pay a proportionate share of the expenses, including attorney's fees, incurred in recovering sums subject to said lien.

B. In addition to the lien provided for in subsection A of this section, every physician who performs medical services for any person injured as a result of the negligence or act of another, shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for such medical services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person, his attorney, or legal representative as compensation for such injuries or death:

1. A written notice is sent setting forth an itemized statement of the amount claimed, identifying the insurance policy or policies against which the lien is asserted, if any, and containing the name and address of the physician claiming the lien, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the physician is located; and

2. The physician sends, by registered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The physician shall also send a copy of the notice to the attorney for the injured person, if the name and address of such attorney is known to the physician.

D. The liens provided for in this section may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year from the time of the filing of the lien with the county clerk. The practice, pleading, and proceedings in the action shall conform to the rules

prescribed by the Oklahoma Pleading Code, Section 2001 et seq. of Title 12 of the Oklahoma Statutes, to the extent applicable.

SECTION 3. This act shall become effective September 1, 1991.

43-1-5884

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