

ENGROSSED HOUSE
BILL NO. 2905

By: Settle and Stottlemire
of the House

and

Shedrick of the Senate

(liens - amending 42 O.S., Section 46 - physicians' liens
- effective date)

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

SECTION 1. AMENDATORY 42 O.S. 1991, Section 46, as amended by Section 2, Chapter 202, O.S.L. 1994 (42 O.S. Supp. 1995, 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 a claim is asserted or maintained by or on behalf of the injured person ~~asserts or maintains a claim~~ against such other person, firm, corporation or other legal entity 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~~ monies 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. If a person, firm, corporation or other legal entity against whom a claim is asserted or maintained by or on behalf of an injured person should settle or compromise a claim, or pay a judgment, wherein is involved a lien of any physician, without first satisfying such lien, the person, firm, corporation or other legal entity shall thereupon become liable to such physician for the full amount of the 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 a claim is asserted or maintained by or on behalf of the injured person asserts or maintains a claim against an insurer, have a lien for the amount due for such medical services upon any monies payable by the insurer to the injured person, or to his heirs, personal representative or next of kin in the event of his death.

C. No lien ~~which is~~ provided for in this section shall be effective unless, before the payment of any monies to the injured person, or his attorney, or legal to the injured person's heirs, personal representative or next of kin in the event of his death, 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,~~ containing the information required by this paragraph is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where in which the principal office of the physician is located, and. The notice shall contain:

- a. the date of the accident,
- b. an itemized statement of the amount claimed,

- c. the name and address of the injured person,
- d. the name and address of the physician claiming the lien,
- e. the name and address of the person, firm, corporation or other legal entity against whom the claim is asserted or maintained, and
- f. the name and address of the insurer, if any, against whom the claim is asserted or maintained; and

2. The physician sends, by ~~registered or~~ certified mail, postage prepaid, return receipt requested, a copy of such notice ~~with a statement of reflecting~~ 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:~~

- a. the injured person, or his personal representative in the event of his death,
- b. the attorney for the injured person, or the attorney for his personal representative in the event of his death, if the name and address of such attorney is known to the physician or can, with reasonable diligence, be ascertained as of the date the notice of lien is filed,
- c. the person, firm, corporation or other legal entity against whom the claim is asserted or maintained,
- d. the attorney for the person, firm, corporation or other legal entity against whom the claim is asserted or maintained, if the name and address of such attorney is known to the physician or can, with reasonable diligence, be ascertained as of the date the notice of lien is filed,

- e. the insurer, if any, against whom the claim is asserted or maintained, and
- f. the attorney for the insurer, if any, against whom the claim is asserted or maintained, if the name and address of such attorney is known to the physician or can, with reasonable diligence, be ascertained as of the date the notice of lien is filed.

D. The liens provided for in this section may be enforced by civil action in the district court of the county ~~where~~ in which the lien was filed. Such an action shall be brought within one (1) year after the physician becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, ~~pleading,~~ pleadings and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 2. This act shall become effective November 1, 1996.

Passed the House of Representatives the 13th day of March, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate