

SHORT TITLE: Liens; creating pharmacist's lien; codification;
effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 400

By: Henry

AS INTRODUCED

An Act relating to liens; creating a pharmacist's lien; making lien inferior to certain liens; requiring notice of lien and specifying contents and procedures; determining jurisdiction for enforcement of lien; limiting time to bring action on lien; requiring certain action to conform with certain rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. Every pharmacist who performs pharmaceutical 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 another person for damages on account of the injuries, have a lien for the amount due for the pharmaceutical services upon any recovery or sum had or collected or to be collected by the injured person or the estate of the injured person in the event of the injured person's death, whether by judgment, settlement, or compromise. The 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.

B. In addition to the lien provided for in subsection A of this section, every pharmacist who performs pharmaceutical 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 the pharmaceutical 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 or the injured person's attorney or legal representative, as compensation for the 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 pharmacist 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 pharmacist is located; and

2. The pharmacist sends, by registered or certified mail, postage prepaid, a copy of the 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 pharmacist shall also send a copy of the notice to the attorney for the injured person, if the name and address of the attorney is known to the pharmacist.

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. 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 2. This act shall become effective November 1, 1995.

45-1-0790

KSM