

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 267

By: Long

AS INTRODUCED

An Act relating to liens; amending 42 O.S. 1991, Section 46, as amended by Section 2, Chapter 202, O.S.L. 1994 (42 O.S. Supp. 1998, Section 46), which relates to physician liens; modifying scope of physician liens; modifying procedure for perfecting lien; modifying information to be contained in written notice; modifying parties to whom notice must be sent; and providing an 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. 1998, 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~~ negligent or intentional 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 the~~ the other person for damages on account of ~~such the~~ the injuries, have a physician's lien for the amount due for ~~such~~ 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 or her heirs, personal representative, or next of kin in the event of ~~his~~ death, whether by judgment, settlement, or compromise. ~~Such~~ This 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 physician who performs medical services for any person injured as a result of the ~~negligence~~ negligent or intentional act of another, shall have, if a claim is asserted or maintained on behalf of the injured person ~~asserts or maintains a claim~~ against an insurer, a physician's lien for the amount due for such medical services upon any monies payable by the insurer to the injured person, whether payable due to judgment, settlement, or compromise.

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

1. A written notice ~~is sent setting forth~~ shall be filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county in which the principal office of the physician is located. The notice shall contain the following information:

- a. the date when the injury occurred,
- b. an itemized statement of the amount claimed, ~~identifying the insurance policy or policies against which the lien is asserted, if any, and containing~~
- c. the name and address of the physician claiming the lien,
- d. the name and address of the injured person, and
- e. the name and address of the person, firm, or corporation against whom the claim is ~~made~~ asserted or maintained, and
- f. the name and address of the insurer, if any, against whom the claim is asserted or maintained;

~~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, with return receipt requested, a copy of ~~such the~~ notice ~~with a statement of~~ reflecting the date of filing thereof to:

- a. the person, firm, or corporation against whom the claim is ~~made and to~~ asserted or maintained,
- b. the insurer, if any, against whom the claim is asserted or maintained,
- c. the injured person. ~~The physician shall also send a copy of the notice to,~~ and
- d. the attorney for the injured person, if the name and address of ~~such the~~ attorney is known to the physician.

D. ~~The liens provided for in this section~~ A physician's lien may be enforced by civil action in the district court of the county ~~where~~ in which the lien was filed. ~~Such~~ The 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, 1999.

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