

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2607

By: Friskup

AS INTRODUCED

An Act relating to liens; amending 42 O.S. 2001, Section 46, which relates to the physician's lien; requiring release of lien within certain time after satisfaction of obligation; providing penalty for failure to comply; providing for civil liability; and providing an effective date.

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

SECTION 1. AMENDATORY 42 O.S. 2001, 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 of the injured person in the event of ~~his~~ death of the injured person, 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.

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 for the injured person, or legal representative for the injured person 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 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, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

E. It shall be the duty of the holder of a lien provided for in this section when the obligation is satisfied to file a notice of discharge of the lien with the county clerk of the county wherein the lien is filed within sixty (60) days after satisfaction. Failure to comply with this subsection shall subject the holder of the lien to a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00).

F. If the lien is not released within the time specified in subsection E of this section, the lienholder may be held liable in a civil action for the amount of any loss caused by a failure to release the lien within the specified time. In addition to damages, the person or party against whom the lien was filed may recover Five Hundred Dollars (\$500.00). The provisions of this subsection shall be applicable whether or not there is a criminal conviction for failure to release the lien within the required time.

SECTION 2. This act shall become effective November 1, 2002.

48-2-7599 SD 6/12/15