

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1291

By: Smith of the Senate

and

Hastings of the House

COMMITTEE SUBSTITUTE

[liens - hospital, physician and ambulance liens -
procedures - statute of limitations - costs -
notice - codification -

effective date]

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

SECTION 1. AMENDATORY 42 O.S. 2001, Section 43, is amended to read as follows:

Section 43. A. 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, 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~~ 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 hospital which 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, the person's attorney or the person's legal representative as compensation for such injuries or death:

1. A written notice setting forth an itemized or summary statement of the amount claimed identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of claimant, and to the extent known by the claimant, the injured person and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialmen's lien docket in the office of the county clerk of the county where the claimant is located; and

2. The claimant 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 claimant 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 claimant.

D. A lien created pursuant to this section may be enforced in a civil action in the district court of the county where the services

were rendered. The action shall be brought within one (1) year after the claimant becomes aware of the 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.

SECTION 2. AMENDATORY 42 O.S. 2001, Section 46, is amended to read as follows:

Section 46. A. Every physician or medical corporation employing a 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.

B. In addition to the lien provided for in subsection A of this section, every physician or medical corporation employing a 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 or summary statement of the amount claimed, identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of the ~~physician claiming the lien~~ claimant and, to the extent known by claimant, 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~~ claimant is located; and

2. The ~~physician~~ claimant 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~~ claimant 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~~ claimant.

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~~ claimant 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.

SECTION 3. AMENDATORY 42 O.S. 2001, Section 49, is amended to read as follows:

Section 49. A. Every person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a

result of the negligent or intentional 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 ambulance 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 representing 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 person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a result of the negligent or intentional 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 ambulance 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 or summary statement of the amount claimed, identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of the ~~person, company, governmental entity, or trust authority claiming the lien~~ claimant and, to the extent known by the claimant, 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 claimant is located; and

2. The claimant 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 claimant 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 claimant.

D. A lien created pursuant to this section may be enforced in a civil action in the district court of the county where the lien was filed. ~~An~~ Such an action shall be brought within one (1) year after the claimant becomes aware of a 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.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50 of Title 42, unless there is created a duplication in numbering, reads as follows:

For liens and lien procedures under Sections 43, 46 and 49 of Title 42 of the Oklahoma Statutes:

1. The statute of limitations for a civil action against the injured party for the amount due under the lien shall be extended by the period of time commencing the date the lien is filed and concluding on the date the claimant becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person, the person's heirs or personal representatives; and

2. The amount due the claimant secured by the lien shall include the costs of filing and mailing of the lien and lien notice as defined and limited in this section. The costs of filing shall be the amount charged by the county clerk. The costs for mailing by

certified or registered mail shall be the amount charged by clerks of the district court for equivalent mailing. The inclusion of costs of filing and mailing shall be limited to once per injury, and shall not be included for amended liens or additional liens for subsequent services to the injured party.

SECTION 5. REPEALER 42 O.S. 2001, Section 44, is hereby repealed.

SECTION 6. This act shall become effective November 1, 2004.

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