

3 Senate Bill No. 1291

4 As Amended

5 SENATE BILL NO. 1291 - By: SMITH of the Senate and HASTINGS of the  
6 House.

7 [ liens - hospital, physician and ambulance liens -  
8 procedures - statute of limitations - costs - notice -  
9 codification - effective date ]

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

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

13 Section 43. A. Every hospital in the State of Oklahoma, which  
14 shall furnish emergency medical or other service to any patient  
15 injured by reason of an accident not covered by the Workers'  
16 Compensation Act, shall, if such injured party shall assert or  
17 maintain a claim against another for damages on account of such  
18 injuries, have a lien upon that part going or belonging to such  
19 patient of any recovery or sum had or collected or to be collected  
20 by such patient, or by his heirs, personal representatives or next  
21 of kin in the case of his death, whether by judgment or by  
22 settlement or compromise to the amount of the reasonable and  
23 necessary charges of such hospital for the treatment, care and  
24 maintenance of such patient in such hospital up to the date of  
25 payment of such damages: Provided, however, that this lien shall be

1 inferior to any lien or claim of any attorney or attorneys for  
2 handling the claim on behalf of such patient, his heirs or personal  
3 representatives; provided further, that the lien herein set forth  
4 shall not be applied or considered valid against any claim for  
5 amounts ~~due under the Workers' Compensation Act in this state~~  
6 pursuant to the provisions of Title 85 of the Oklahoma Statutes.

7 B. In addition to the lien provided for in subsection A of this  
8 section, every hospital which performs medical services for any  
9 person injured as a result of the negligence or act of another shall  
10 have, if the injured person asserts or maintains a claim against an  
11 insurer, a lien for the amount due for such medical services upon  
12 any monies payable by the insurer to the injured person.

13 C. No lien which is provided for in this section shall be  
14 effective unless, before the payment of any monies to the injured  
15 person, the person's attorney or the person's legal representative  
16 as compensation for such injuries or death:

17 1. A written notice setting forth an itemized or summary  
18 statement of the amount claimed identifying, to the extent known by  
19 the claimant, the insurance company and policy or policies against  
20 which the lien is asserted, if any, and containing the name and  
21 address of claimant, and to the extent known by the claimant, the  
22 injured person and the person, firm, or corporation against whom the  
23 claim is made, is filed on the mechanic's and materialmen's lien

1 docket in the office of the county clerk of the county where the  
2 claimant is located; and

3 2. The claimant sends, by registered or certified mail, postage  
4 prepaid, a copy of the notice with a statement of the date of filing  
5 thereof to the person, firm, or corporation against whom the claim  
6 is made and to the injured person. The claimant shall also send a  
7 copy of the notice to the attorney for the injured person, if the  
8 name and address of the attorney is known to the claimant.

9 D. A lien created pursuant to this section may be enforced in a  
10 civil action in the district court of the county where the lien was  
11 filed. The action shall be brought within one (1) year after the  
12 claimant becomes aware of the final judgment, settlement or  
13 compromise of the claim asserted or maintained by or on behalf of  
14 the injured person. The practice, pleading, and proceedings in the  
15 action shall conform to the rules prescribed by the Oklahoma  
16 Pleading Code to the extent applicable.

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

19 Section 46. A. Every physician or medical corporation  
20 employing a physician who performs medical services for any person  
21 injured as a result of the negligence or act of another, shall, if  
22 the injured person asserts or maintains a claim against such other  
23 person for damages on account of such injuries, have a lien for the

1 amount due for such medical services upon that part going or  
2 belonging to the injured person of any recovery or sum had or  
3 collected or to be collected by the injured person, or by his heirs,  
4 personal representative, or next of kin in the event of his death,  
5 whether by judgment, settlement, or compromise. Such lien shall be  
6 inferior to any lien or claim of any attorney handling the claim for  
7 or on behalf of the injured person. The lien shall not be applied  
8 or considered valid against any claim for amounts due pursuant to  
9 the provisions of Title 85 of the Oklahoma Statutes.

10 B. In addition to the lien provided for in subsection A of this  
11 section, every physician or medical corporation employing a  
12 physician who performs medical services for any person injured as a  
13 result of the negligence or act of another, shall have, if the  
14 injured person asserts or maintains a claim against an insurer, a  
15 lien for the amount due for such medical services upon any monies  
16 payable by the insurer to the injured person.

17 C. No lien which is provided for in this section shall be  
18 effective unless, before the payment of any monies to the injured  
19 person, his attorney, or legal representative as compensation for  
20 such injuries or death:

21 1. A written notice ~~is sent~~ setting forth an itemized or  
22 summary statement of the amount claimed, identifying, to the extent  
23 known by the claimant, the insurance company and policy or policies

1 against which the lien is asserted, if any, and containing the name  
2 and address of the ~~physician claiming the lien~~ claimant and, to the  
3 extent known by claimant, the injured person, and the person, firm,  
4 or corporation against whom the claim is made, is filed on the  
5 mechanic's and materialman's lien docket in the office of the county  
6 clerk of the county where the principal office of the ~~physician~~  
7 claimant is located; and

8 2. The ~~physician~~ claimant sends, by registered or certified  
9 mail, postage prepaid, a copy of such notice with a statement of the  
10 date of filing thereof to the person, firm, or corporation against  
11 whom the claim is made and to the injured person. The ~~physician~~  
12 claimant shall also send a copy of the notice to the attorney for  
13 the injured person, if the name and address of such attorney is  
14 known to the ~~physician~~ claimant.

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

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

3 Section 49. A. Every person, company, governmental entity, or  
4 trust authority operating an ambulance service within this state who  
5 or which performs ambulance services for any person injured as a  
6 result of the negligent or intentional act of another shall, if the  
7 injured person asserts or maintains a claim against another person  
8 for damages on account of the injuries, have a lien for the amount  
9 due for the ambulance services upon any recovery or sum had or  
10 collected or to be collected by the injured person or the estate of  
11 the injured person in the event of the injured person's death,  
12 whether by judgment, settlement, or compromise. The lien shall be  
13 inferior to any lien or claim of any attorney representing the  
14 injured person. The lien shall not be applied or considered valid  
15 against any claim for amounts due pursuant to the provisions of  
16 Title 85 of the Oklahoma Statutes.

17 B. In addition to the lien provided for in subsection A of this  
18 section, every person, company, governmental entity, or trust  
19 authority operating an ambulance service within this state who or  
20 which performs ambulance services for any person injured as a result  
21 of the negligent or intentional act of another shall have, if the  
22 injured person asserts or maintains a claim against an insurer, a

1 lien for the amount due for the ambulance services upon any monies  
2 payable by the insurer to the injured person.

3 C. No lien which is provided for in this section shall be  
4 effective unless, before the payment of any monies to the injured  
5 person or the injured person's attorney or legal representative, as  
6 compensation for the injuries or death:

7 1. A written notice ~~is sent~~ setting forth an itemized or  
8 summary statement of the amount claimed, identifying, to the extent  
9 known by the claimant, the insurance company and policy or policies  
10 against which the lien is asserted, if any, and containing the name  
11 and address of the ~~person, company, governmental entity, or trust~~  
12 ~~authority claiming the lien~~ claimant and, to the extent known by the  
13 claimant, the injured person, and the person, firm, or corporation  
14 against whom the claim is made, is filed on the mechanic's and  
15 materialman's lien docket in the office of the county clerk of the  
16 county where the principal office of the claimant is located; and

17 2. The claimant sends, by registered or certified mail, postage  
18 prepaid, a copy of the notice with a statement of the date of filing  
19 thereof to the person, firm, or corporation against whom the claim  
20 is made and to the injured person. The claimant shall also send a  
21 copy of the notice to the attorney for the injured person, if the  
22 name and address of the attorney is known to the claimant.

1 D. A lien created pursuant to this section may be enforced in a  
2 civil action in the district court of the county where the lien was  
3 filed. ~~An~~ Such an action shall be brought within one (1) year after  
4 the claimant becomes aware of a final judgment, settlement, or  
5 compromise of the claim asserted or maintained by or on behalf of  
6 the injured person. The practice, pleading, and proceedings in the  
7 action shall conform to the rules prescribed by the Oklahoma  
8 Pleading Code to the extent applicable.

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

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

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

21 2. The amount due the claimant secured by the lien shall  
22 include the costs of filing and mailing of the lien and lien notice  
23 as defined and limited in this section. The costs of filing shall

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-04 - DO  
11 PASS, As Amended and Coauthored.