

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 512

By: Myers of the Senate

3 and

4 Luttrell of the House

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7  
8 An Act relating to liens; amending 42 O.S. 2001,  
9 Section 43, which relates to hospital liens; \* \* \*  
and providing an effective date.

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12 AUTHORS: Remove Luttrell as principal House Author and substitute  
13 Johnson (Rob) as principal House author and show Luttrell  
as first Coauthor

14 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
15 and insert

16 "An Act relating to liens; amending 42 O.S. 2001,  
17 Sections 43 and 46, which relate to hospital liens  
18 and liens for medical services; updating language;  
19 making language gender neutral; expanding  
20 applicability of certain lien right; providing for  
21 certain professional persons to have a lien for  
performed medical services; and providing an  
effective date.

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

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

1       Section 43. A. Every hospital in ~~the State of Oklahoma~~ this  
2 state, which shall furnish emergency medical or other service to any  
3 patient injured by reason of an accident not covered by the Workers'  
4 Compensation Act, shall, if such injured party shall assert or  
5 maintain a claim against another for damages on account of such  
6 injuries, have a lien upon ~~that part going or belonging to such~~  
7 ~~patient of~~ any recovery or sum had or collected or to be collected  
8 by such patient, or by his or her heirs, personal representatives or  
9 next of kin in the case of his or her death, whether by judgment or  
10 by settlement or compromise to the amount of the reasonable and  
11 necessary charges of such hospital for the treatment, care and  
12 maintenance of such patient in such hospital up to the date of  
13 payment of such damages+. Provided, however, that this the lien  
14 shall be inferior to any lien or claim of any attorney or attorneys  
15 for handling the claim on behalf of such patient, his or her heirs  
16 or personal representatives; provided, further, that the lien herein  
17 set forth shall not be applied or considered valid against any claim  
18 for amounts due under the Workers' Compensation Act in this state.

19       B. This section shall apply, in medically referred cases, to a  
20 medical diagnostic imaging facility not affiliated with a hospital  
21 that provides diagnostic imaging that includes, but is not limited  
22 to, modalities such as Magnetic Resonance Imaging (MRI), Computed  
23 Tomography (CT) and Positron Emission Tomography (PET).

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

3 Section 46. A. Every physician who performs medical services  
4 or any other professional person who engages in the healing arts,  
5 within their scope of practice pursuant to Title 59 of the Oklahoma  
6 Statutes for any person injured as a result of the negligence or act  
7 of another, shall, if the injured person asserts or maintains a  
8 claim against such other person for damages on account of such  
9 injuries, have a lien for the amount due for such medical or healing  
10 arts services upon that part going or belonging to the injured  
11 person of any recovery or sum had or collected or to be collected by  
12 the injured person, or by ~~his~~ the heirs, personal representative, or  
13 next of kin of the injured person in the event of his death, whether  
14 by judgment, settlement, or compromise. Such lien shall be inferior  
15 to any lien or claim of any attorney handling the claim for or on  
16 behalf of the injured person. The lien shall not be applied or  
17 considered valid against any claim for amounts due pursuant to the  
18 provisions of Title 85 of the Oklahoma Statutes.

19 B. In addition to the lien provided for in subsection A of this  
20 section, every physician or professional person licensed under Title  
21 59 of the Oklahoma Statutes who performs medical ~~services~~ or healing  
22 arts within their scope of practice for any person injured as a  
23 result of the negligence or act of another, shall have, if the  
24 injured person asserts or maintains a claim against an insurer, a

1 lien for the amount due for such medical or healing arts services  
2 upon any monies 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, ~~his~~ the attorney for the injured person, or legal  
6 representative as compensation for such injuries or death:

7 1. A written notice is sent setting forth an itemized statement  
8 of the amount claimed, identifying the insurance policy or policies  
9 against which the lien is asserted, if any, and containing the name  
10 and address of the physician or professional person licensed under  
11 Title 59 of the Oklahoma Statutes claiming the lien, the injured  
12 person, and the person, firm, or corporation against whom the claim  
13 is made, is filed on the mechanic's and materialman's lien docket in  
14 the office of the county clerk of the county where the principal  
15 office of the physician or professional person licensed under Title  
16 59 of the Oklahoma Statutes is located; and

17 2. The physician or professional person licensed under Title 59  
18 of the Oklahoma Statutes sends, by registered or certified mail,  
19 postage prepaid, a copy of such notice with a statement of the date  
20 of filing thereof to the person, firm, or corporation against whom  
21 the claim is made and to the injured person. The physician or  
22 professional person licensed under Title 59 of the Oklahoma Statutes  
23 shall also send a copy of the notice to the attorney for the injured  
24 person, if the name and address of such attorney is known to the

1 physician or professional person licensed under Title 59 of the  
2 Oklahoma Statutes.

3 D. The liens provided for in this section may be enforced by  
4 civil action in the district court of the county where the lien was  
5 filed. Such an action shall be brought within one (1) year after  
6 the physician or professional person licensed under Title 59 of the  
7 Oklahoma Statutes becomes aware of final judgment, settlement or  
8 compromise of the claim asserted or maintained by or on behalf of  
9 the injured person. The practice, pleading, and proceedings in the  
10 action shall conform to the rules prescribed by the Oklahoma  
11 Pleading Code to the extent applicable.

12 SECTION 3. This act shall become effective November 1, 2008."

13 Passed the House of Representatives the 22nd day of April, 2008.

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Presiding Officer of the House of  
Representatives

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18 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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Presiding Officer of the Senate

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