

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3007

6 By: Johnson (Rob)

7 COMMITTEE SUBSTITUTE

8 An Act relating to liens; amending 42 O.S. 2001,
9 Section 46, which relates to liens for medical
10 services; providing for physical therapist to have a
11 lien for performed medical services; and providing an
12 effective date.

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

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

16 Section 46. A. Every physician who performs medical services
17 or any physical therapist who provides physical therapy pursuant to
18 Sections 887.1 through 887.18 of Title 59 of the Oklahoma Statutes
19 for any person injured as a result of the negligence or act of
20 another, shall, if the injured person asserts or maintains a claim
21 against such other person for damages on account of such injuries,
22 have a lien for the amount due for such medical or physical therapy
23 services upon that part going or belonging to the injured person of
24 any recovery or sum had or collected or to be collected by the

1 injured person, or by ~~his~~ the heirs, personal representative, or
2 next of kin of the injured person in the event of his death, whether
3 by judgment, settlement, or compromise. Such lien shall be inferior
4 to any lien or claim of any attorney handling the claim for or on
5 behalf of the injured person. The lien shall not be applied or
6 considered valid against any claim for amounts due pursuant to the
7 provisions of Title 85 of the Oklahoma Statutes.

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

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

19 1. A written notice is sent setting forth an itemized statement
20 of the amount claimed, identifying the insurance policy or policies
21 against which the lien is asserted, if any, and containing the name
22 and address of the physician or physical therapist claiming the
23 lien, the injured person, and the person, firm, or corporation
24 against whom the claim is made, is filed on the mechanic's and

1 materialman's lien docket in the office of the county clerk of the
2 county where the principal office of the physician or physical
3 therapist is located; and

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

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

20 SECTION 2. This act shall become effective November 1, 2008.

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