

ENROLLED SENATE
BILL NO. 512

By: Myers and Branan of the
Senate

and

Johnson (Rob) and Luttrell
of the House

An Act relating to liens; amending 42 O.S. 2001, Sections 43 and 46, which relate to hospital liens and liens for medical services; updating language; making language gender neutral; expanding applicability of certain lien right; providing for certain professional persons to have a lien for performed medical services; and providing an 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~~ this state, 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 or her heirs, personal representatives or next of kin in the case of his or her 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~~ the lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of such patient, his or her 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.

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

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

Section 46. A. Every physician who performs medical services or any other professional person who engages in the healing arts, within their scope of practice pursuant to Title 59 of the Oklahoma Statutes 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 or healing arts 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~~ the heirs, personal representative, or next of kin of the injured person 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 professional person licensed under Title 59 of the Oklahoma Statutes who performs medical ~~services~~ or healing arts within their scope of practice 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 or healing arts 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~~ the attorney for the injured person, or legal representative 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 or professional person licensed under Title 59 of the Oklahoma Statutes 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 or professional person licensed under Title 59 of the Oklahoma Statutes is located; and

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

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 or professional person licensed under Title 59 of the Oklahoma Statutes 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. This act shall become effective November 1, 2008.

Passed the Senate the 12th day of May, 2008.

Presiding Officer of the Senate

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

Presiding Officer of the House
of Representatives