

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2108

By: Sparks

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5
6 AS INTRODUCED

7 An Act relating to liens; amending 42 O.S. 2001,
8 Section 46, which relates to physician's lien;
9 granting lien right to certain persons; and providing
10 an effective date.

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

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

15 Section 46. A. Every physician, licensed physical or
16 occupational therapist, or licensed speech-language pathologist who
17 performs medical services for any person injured as a result of the
18 negligence or act of another, shall, if the injured person asserts
19 or maintains a claim against such other person for damages on
20 account of such injuries, have a lien for the amount due for such
21 medical services upon that part going or belonging to the injured
22 person of any recovery or sum had or collected or to be collected by
23 the injured person, or by his heirs, personal representative, or
24 next of kin in the event of his death, whether by judgment,

1 settlement, or compromise. Such lien shall be inferior to any lien
2 or claim of any attorney handling the claim for or on behalf of the
3 injured person. The lien shall not be applied or considered valid
4 against any claim for amounts due pursuant to the provisions of
5 Title 85 of the Oklahoma Statutes.

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

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

18 1. A written notice is sent setting forth an itemized statement
19 of the amount claimed, identifying the insurance policy or policies
20 against which the lien is asserted, if any, and containing the name
21 and address of the physician, licensed physical or occupational
22 therapist, or licensed speech-language pathologist 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, licensed
3 physical or occupational therapist, or licensed speech-language
4 pathologist is located; and

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

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

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

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