

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1118

 By: Yen of the Senate

 and

 Derby of the House

8
9 An Act relating to medical liens; amending 42 O.S.
10 2011, Sections 44, 46 and 49, which relate to liens
11 for hospitals, physicians and ambulance service
12 providers; modifying requirement for certain written
13 notice; updating statutory reference; making language
14 gender neutral; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 42 O.S. 2011, Section 44, is
17 amended to read as follows:

18 Section 44. A. No such lien shall be effective unless a
19 written notice containing ~~an itemized~~ a statement of the amount
20 claimed, the name and address of the injured person, the date of the
21 accident, the name and location of the hospital, and the name of the
22 person or persons, firm or firms, corporation or corporations
23 alleged to be liable to the injured party for the injuries received,
24 shall be filed in the office of the county clerk of the county in
 which such hospital is located, on the mechanic's and materialman's

1 docket, prior to the payment of any monies to such injured person,
2 his attorneys or legal representatives, as compensation for such
3 injuries; nor unless the hospital shall also send, by registered or
4 certified mail postage prepaid, a copy of such notice with a
5 statement of the date of filing thereof to the person or persons,
6 firm or firms, corporation or corporations alleged to be liable to
7 the injured party for the injuries sustained prior to the payment of
8 any monies to such injured person, ~~his~~ the injured person's
9 attorneys or legal representatives, as compensation for such
10 injuries. Such hospital shall mail a copy of such notice to any
11 insurance carrier which has insured such person, firm or corporation
12 against such liability, if the name and address shall be known.
13 Such hospital shall also send, by registered or certified mail, a
14 copy of such notice to such patient upon whom emergency medical or
15 other service has been performed, if the name and address of such
16 patient shall be known to the hospital or can with reasonable
17 diligence be ascertained. A copy of said notice shall be mailed to
18 any attorney for the patient, provided that the hospital has notice
19 of the name of such attorney.

20 B. The liens provided for in this section and Section 43 of
21 this title may be enforced by civil action in the district court of
22 the county where the lien was filed. Such an action shall be
23 brought within one (1) year after the hospital becomes aware of
24 final judgment, settlement or compromise of the claim asserted or

1 maintained by or on behalf of the injured person. The practice,
2 pleading and proceedings in the action shall conform to the rules
3 prescribed by the Oklahoma Pleading Code to the extent applicable.

4 SECTION 2. AMENDATORY 42 O.S. 2011, Section 46, is
5 amended to read as follows:

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

22 B. In addition to the lien provided for in subsection A of this
23 section, every physician or professional person licensed under Title
24 59 of the Oklahoma Statutes who performs medical or healing arts

1 within their scope of practice for any person injured as a result of
2 the negligence or act of another, shall have, if the injured person
3 asserts or maintains a claim against an insurer, a lien for the
4 amount due for such medical or healing arts services upon any monies
5 payable by the insurer to the injured person.

6 C. No lien which is provided for in this section shall be
7 effective unless, before the payment of any monies to the injured
8 person, the attorney for the injured person, or legal representative
9 as compensation for such injuries or death:

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

20 2. The physician or professional person licensed under Title 59
21 of the Oklahoma Statutes sends, by registered or certified mail,
22 postage prepaid, a copy of such notice with a statement of the date
23 of filing thereof to the person, firm, or corporation against whom
24 the claim is made and to the injured person. The physician or

1 professional person licensed under Title 59 of the Oklahoma Statutes
2 shall also send a copy of the notice to the attorney for the injured
3 person, if the name and address of such attorney is known to the
4 physician or professional person licensed under Title 59 of the
5 Oklahoma Statutes.

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

15 SECTION 3. AMENDATORY 42 O.S. 2011, Section 49, is
16 amended to read as follows:

17 Section 49. A. Every person, company, governmental entity, or
18 trust authority operating an ambulance service within this state who
19 or which performs ambulance services for any person injured as a
20 result of the negligent or intentional act of another shall, if the
21 injured person asserts or maintains a claim against another person
22 for damages on account of the injuries, have a lien for the amount
23 due for the ambulance services upon any recovery or sum had or
24 collected or to be collected by the injured person or the estate of

1 the injured person in the event of the injured person's death,
2 whether by judgment, settlement, or compromise. The lien shall be
3 inferior to any lien or claim of any attorney representing the
4 injured person. The lien shall not be applied or considered valid
5 against any claim for amounts due pursuant to the provisions of
6 Title ~~85~~ 85A of the Oklahoma Statutes.

7 B. In addition to the lien provided for in subsection A of this
8 section, every person, company, governmental entity, or trust
9 authority operating an ambulance service within this state who or
10 which performs ambulance services for any person injured as a result
11 of the negligent or intentional act of another shall have, if the
12 injured person asserts or maintains a claim against an insurer, a
13 lien for the amount due for the ambulance services upon any monies
14 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 or the injured person's attorney or legal representative, as
18 compensation for the injuries or death:

19 1. A written notice is sent setting forth ~~an itemized~~ a
20 statement of the amount claimed, identifying the insurance policy or
21 policies against which the lien is asserted, if any, and containing
22 the name and address of the person, company, governmental entity, or
23 trust authority claiming the lien, the injured person, and the
24 person, firm, or corporation against whom the claim is made, is

1 filed on the mechanic's and materialman's lien docket in the office
2 of the county clerk of the county where the principal office of the
3 claimant is located; and

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

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

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
23 04/16/2018 - DO PASS.
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