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February 13, 2018

By: Yen

An Act relating to medical liens; amending 42 O.S. 2011, Sections 44, 46 and 49, which relate to liens for hospitals, physicians and ambulance service providers; modifying requirement for certain written notice; updating statutory reference; making language gender neutral; and providing an effective date.

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

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

Section 44. A. No such lien shall be effective unless a written notice containing ~~an itemized~~ a statement of the amount claimed, the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, 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 docket, prior to the payment of any monies to such injured person, his attorneys or legal representatives, as compensation for such injuries; nor unless the hospital shall also send, by registered or

1 certified mail postage prepaid, a copy of such notice with a
2 statement of the date of filing thereof to the person or persons,
3 firm or firms, corporation or corporations alleged to be liable to
4 the injured party for the injuries sustained prior to the payment of
5 any monies to such injured person, ~~his~~ the injured person's
6 attorneys or legal representatives, as compensation for such
7 injuries. Such hospital shall mail a copy of such notice to any
8 insurance carrier which has insured such person, firm or corporation
9 against such liability, if the name and address shall be known.
10 Such hospital shall also send, by registered or certified mail, a
11 copy of such notice to such patient upon whom emergency medical or
12 other service has been performed, if the name and address of such
13 patient shall be known to the hospital or can with reasonable
14 diligence be ascertained. A copy of said notice shall be mailed to
15 any attorney for the patient, provided that the hospital has notice
16 of the name of such attorney.

17 B. The liens provided for in this section and Section 43 of
18 this title may be enforced by civil action in the district court of
19 the county where the lien was filed. Such an action shall be
20 brought within one (1) year after the hospital becomes aware of
21 final 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.

1 SECTION 2. AMENDATORY 42 O.S. 2011, 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 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~~ 85A 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 or healing arts
22 within their scope of practice for any person injured as a result of
23 the negligence or act of another, shall have, if the injured person
24 asserts or maintains a claim against an insurer, a lien for the

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

7 1. A written notice is sent setting forth ~~an itemized~~ a
8 statement of the amount claimed, identifying the insurance policy or
9 policies against which the lien is asserted, if any, and containing
10 the name and address of the physician or professional person
11 licensed under Title 59 of the Oklahoma Statutes claiming the lien,
12 the injured person, and the person, firm, or corporation against
13 whom the claim is made, is filed on the mechanic's and materialman's
14 lien docket in the office of the county clerk of the county where
15 the principal office of the physician or professional person
16 licensed under Title 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. AMENDATORY 42 O.S. 2011, Section 49, is
13 amended to read as follows:

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

1 injured person. The lien shall not be applied or considered valid
2 against any claim for amounts due pursuant to the provisions of
3 Title ~~85~~ 85A of the Oklahoma Statutes.

4 B. In addition to the lien provided for in subsection A of this
5 section, every person, company, governmental entity, or trust
6 authority operating an ambulance service within this state who or
7 which performs ambulance services for any person injured as a result
8 of the negligent or intentional act of another shall have, if the
9 injured person asserts or maintains a claim against an insurer, a
10 lien for the amount due for the ambulance services upon any monies
11 payable by the insurer to the injured person.

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

16 1. A written notice is sent setting forth ~~an itemized~~ a
17 statement of the amount claimed, identifying the insurance policy or
18 policies against which the lien is asserted, if any, and containing
19 the name and address of the person, company, governmental entity, or
20 trust authority claiming the lien, the injured person, and the
21 person, firm, or corporation against whom the claim is made, is
22 filed on the mechanic's and materialman's lien docket in the office
23 of the county clerk of the county where the principal office of the
24 claimant is located; and

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

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

14 SECTION 4. This act shall become effective November 1, 2018.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 February 13, 2018 - DO PASS
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