

1 STATE OF OKLAHOMA

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

3 SENATE BILL 978

By: McCortney

6 AS INTRODUCED

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

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

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

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

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

18 B. The liens provided for in this section and Section 43 of
19 this title may be enforced by civil action in the district court of
20 the county where the lien was filed. Such an action shall be
21 brought within one (1) year after the hospital becomes aware of
22 final judgment, settlement or compromise of the claim asserted or
23 maintained by or on behalf of the injured person. The practice,
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pleading and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 2. AMENDATORY 42 O.S. 2011, 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 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~~ 85A 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 or healing arts within their scope of practice for any person injured as a result of

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

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

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

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

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

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

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

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

1 whether by judgment, settlement, or compromise. The lien shall be
2 inferior to any lien or claim of any attorney representing 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~~ 85A of the Oklahoma Statutes.

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

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

1 of the county clerk of the county where the principal office of the
2 claimant is located; and

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

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

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

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