

1 ENGROSSED HOUSE
2 BILL NO. 3898

By: Kannady of the House

3 and

4 Howard of the Senate

5
6
7 An Act relating to liens; amending 42 O.S. 2021,
8 Section 46, which relates to physician liens;
9 requiring the lien amount to be the usual and
10 customary amount; and providing an effective date.

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

12 SECTION 1. AMENDATORY 42 O.S. 2021, Section 46, is
13 amended to read as follows:

14 Section 46. A. Every physician who performs medical services
15 or any other professional person who engages in the healing arts,
16 within their scope of practice pursuant to Title 59 of the Oklahoma
17 Statutes for any person injured as a result of the negligence or act
18 of another, shall, if the injured person asserts or maintains a
19 claim against such other person for damages on account of such
20 injuries, have a lien for the amount due for such medical or healing
21 arts 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 the heirs, personal representative, or
24 next of kin of the injured person in the event of his death, whether

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

6 B. In addition to the lien provided for in subsection A of this
7 section, every physician or professional person licensed under Title
8 59 of the Oklahoma Statutes who performs medical or healing arts
9 within their scope of practice for any person injured as a result of
10 the 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 or healing arts 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, the attorney for the injured person, or legal representative
17 as compensation for such injuries or death:

18 1. A written notice is sent setting forth a statement of the
19 amount claimed, identifying the insurance policy or policies against
20 which the lien is asserted, if any, and containing the name and
21 address of the physician or professional person licensed under Title
22 59 of the Oklahoma Statutes claiming the lien, the injured person,
23 and the person, firm, or corporation against whom the claim is made,
24 is filed on the mechanic's and materialman's lien docket in the

1 office of the county clerk of the county where the principal office
2 of the physician or professional person licensed under Title 59 of
3 the Oklahoma Statutes is located; and

4 2. The physician or professional person licensed under Title 59
5 of the Oklahoma Statutes sends, by registered or certified mail,
6 postage prepaid, a copy of such notice with a statement of the date
7 of filing thereof to the person, firm, or corporation against whom
8 the claim is made and to the injured person. The physician or
9 professional person licensed under Title 59 of the Oklahoma Statutes
10 shall also send a copy of the notice to the attorney for the injured
11 person, if the name and address of such attorney is known to the
12 physician or professional person licensed under Title 59 of the
13 Oklahoma Statutes.

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

E. The amount of the lien provided for in this section shall be the usual and customary amount charged by the facility filing the lien.

SECTION 2. This act shall become effective November 1, 2022.

Passed the House of Representatives the 9th day of March, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2022.

Presiding Officer of the Senate