



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5776

by Rep. Sam Yingling

#### SYNOPSIS AS INTRODUCED:

770 ILCS 23/5  
770 ILCS 23/10  
770 ILCS 23/45

Amends the Health Care Services Lien Act. Provides that "health care benefit plan" means an insurance plan provided by any public or private medical insurance provider. Adds procedures requiring a health care professional or health care provider to submit all charges to the patient's health care benefit plan prior to filing the notice of the lien. Provides that the patient's health care benefit plan shall not deny payment on the basis that a third party or other insurance carrier is responsible for the patient's injuries. Provides that the amount of the lien shall be limited to the amount the health care professional or the health care provider would have received if the charges were covered by the patient's health care benefit plan. Adds provisions concerning health care benefit plan subrogation claims. Provides that a health care professional or a health care provider that recovers under a judgment, verdict, or settlement is responsible for the pro rata share of the legal and administrative expenses incurred in obtaining the judgment, verdict, or settlement. Makes other changes.

LRB100 19718 HEP 34992 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Health Care Services Lien Act is amended by  
5 changing Sections 5, 10, and 45 as follows:

6 (770 ILCS 23/5)

7 Sec. 5. Definitions. In this Act:

8 "Health care professional" means any individual in any of  
9 the following license categories: licensed physician, licensed  
10 dentist, licensed optometrist, licensed naprapath, licensed  
11 clinical psychologist, or licensed physical therapist.

12 "Health care provider" means any entity in any of the  
13 following license categories: licensed hospital, licensed home  
14 health agency, licensed ambulatory surgical treatment center,  
15 licensed long-term care facilities, or licensed emergency  
16 medical services personnel.

17 "Health care benefit plan" mean an insurance plan provided  
18 by any public or private medical insurance provider.

19 This amendatory Act of the 94th General Assembly applies to  
20 causes of action accruing on or after its effective date.

21 (Source: P.A. 93-51, eff. 7-1-03; 94-403, eff. 1-1-06.)

22 (770 ILCS 23/10)

1           Sec. 10. Lien created; limitation.

2           (a) Every health care professional and health care provider  
3 that renders any service in the treatment, care, or maintenance  
4 of an injured person, except services rendered under the  
5 provisions of the Workers' Compensation Act or the Workers'  
6 Occupational Diseases Act, shall have a lien upon all claims  
7 and causes of action of the injured person for the amount of  
8 the health care professional's or health care provider's  
9 reasonable charges up to the date of payment of damages to the  
10 injured person. The total amount of all liens under this Act,  
11 however, shall not exceed 40% of the verdict, judgment, award,  
12 settlement, or compromise secured by or on behalf of the  
13 injured person on his or her claim or right of action.

14           (b) The lien shall include a written notice containing the  
15 name and address of the injured person, the date of the injury,  
16 the name and address of the health care professional or health  
17 care provider, and the name of the party alleged to be liable  
18 to make compensation to the injured person for the injuries  
19 received. The lien notice shall be served on both the injured  
20 person and the party against whom the claim or right of action  
21 exists, but shall not be served on the issuer of an automobile  
22 or homeowner's insurance policy that provides for medical  
23 payments. Notwithstanding any other provision of this Act,  
24 payment in good faith to any person other than the healthcare  
25 professional or healthcare provider claiming or asserting such  
26 lien prior to the service of such notice of lien shall, to the

1 extent of the payment so made, bar or prevent the creation of  
2 an enforceable lien. Service shall be made by registered or  
3 certified mail or in person.

4 (b-5) If a patient provides proof of insurance coverage  
5 under any health care benefit plan within 60 days of treatment  
6 from a health care professional or health care provider, the  
7 health care professional or health care provider shall submit  
8 all charges to the patient's health care benefit plan before  
9 filing the notice of the lien; the patient's health care  
10 benefit plan shall not deny payment for the services of either  
11 the health care professional or health care provider on the  
12 basis that a third party or another insurance carrier is  
13 responsible for the payment of the charges for treatment of the  
14 patient's injuries. If the health care benefit plan denies  
15 payment for any other reason, the health care benefit plan  
16 shall provide the health care provider or health care  
17 professional and the patient with a statement detailing the  
18 amount the health care benefit plan would have paid for the  
19 services provided and the amount the patient would have been  
20 responsible for had the claim not been denied. In such a case,  
21 the amount of the lien shall be limited to the amount the  
22 health care professional or the health care provider would have  
23 received if the charges were covered by the patient's health  
24 care benefit plan. The failure of a health care benefit plan to  
25 provide a statement shall not affect the limitations on a lien  
26 under this Section.

1       (b-10) If at any time after to the filing of the notice of  
2       the lien, a health care professional or a health care provider  
3       receives health care benefit plan information regarding a  
4       patient, the health care professional or health care provider  
5       is not required to withdraw notice of the lien, but shall  
6       submit the charges for service to the health care benefit plan.  
7       In such a case, the amount of the lien shall be limited as  
8       provided in subsection (b-5).

9       (c) All health care professionals and health care providers  
10      holding liens under this Act with respect to a particular  
11      injured person shall share proportionate amounts within the  
12      statutory limitation set forth in subsection (a). The statutory  
13      limitations under this Section may be waived or otherwise  
14      reduced only by the lienholder. No individual licensed category  
15      of health care professional (such as physicians) or health care  
16      provider (such as hospitals) as set forth in Section 5,  
17      however, may receive more than one-third of the verdict,  
18      judgment, award, settlement, or compromise secured by or on  
19      behalf of the injured person on his or her claim or right of  
20      action. If the total amount of all liens under this Act meets  
21      or exceeds 40% of the verdict, judgment, award, settlement, or  
22      compromise, then:

23           (1) all the liens of health care professionals shall  
24           not exceed 20% of the verdict, judgment, award, settlement,  
25           or compromise; and

26           (2) all the liens of health care providers shall not

1 exceed 20% of the verdict, judgment, award, settlement, or  
2 compromise;

3 provided, however, that health care services liens shall be  
4 satisfied to the extent possible for all health care  
5 professionals and health care providers by reallocating the  
6 amount unused within the aggregate total limitation of 40% for  
7 all health care services liens under this Act; and provided  
8 further that the amounts of liens under paragraphs (1) and (2)  
9 are subject to the one-third limitation under this subsection.

10 If the total amount of all liens under this Act meets or  
11 exceeds 40% of the verdict, judgment, award, settlement, or  
12 compromise, the total amount of all the liens of attorneys  
13 under the Attorneys Lien Act shall not exceed 30% of the  
14 verdict, judgment, award, settlement, or compromise. If an  
15 appeal is taken by any party to a suit based on the claim or  
16 cause of action, however, the attorney's lien shall not be  
17 affected or limited by the provisions of this Act.

18 (c-5) If in addition to health care professional liens and  
19 health care provider liens, there also exist health care  
20 benefit plan subrogation claims, including those under the  
21 Medicare Secondary Payer Act and the Illinois Public Aid Code,  
22 and the existence and inclusion of these subrogation claims in  
23 addition to the health care services liens exceed 40% of the  
24 verdict, judgment, award, settlement, or compromise, after  
25 calculations pursuant to Section 50, then:

26 (1) the liens of the health care professionals shall

1 not exceed 10% of the verdict, judgment, award, settlement,  
2 or compromise; and

3 (2) the liens of the health care providers shall not  
4 exceed 10% of the verdict, judgment, award, settlement, or  
5 compromise.

6 Notwithstanding any other provision of this subsection,  
7 health care services liens shall be satisfied to the extent  
8 possible for all health care professionals and health care  
9 providers by reallocating the amount unused within the  
10 aggregate total limitation of 40% for all health care services  
11 liens under this Act after satisfaction of health care plan  
12 subrogation claims, and the amounts of liens under paragraphs  
13 (1) and (2) are subject to the one-third limitation under this  
14 subsection.

15 (d) If services furnished by health care professionals and  
16 health care providers are billed at one all-inclusive rate, the  
17 total reasonable charges for those services shall be reasonably  
18 allocated among the health care professionals and health care  
19 providers and treated as separate liens for purposes of this  
20 Act, including the filing of separate lien notices. For  
21 services provided under an all-inclusive rate, the liens of  
22 health care professionals and health care providers may be  
23 asserted by the entity that bills the all-inclusive rate.

24 (d-5) A health care professional or a health care provider  
25 that recovers under a judgment, verdict, or settlement is  
26 responsible for the pro rata share of the legal and

1 administrative expenses incurred in obtaining the judgment,  
2 verdict, or settlement.

3 (e) Payments under the liens shall be made directly to the  
4 health care professionals and health care providers. For  
5 services provided under an all-inclusive rate, payments under  
6 liens shall be made directly to the entity that bills the  
7 all-inclusive rate.

8 (Source: P.A. 93-51, eff. 7-1-03.)

9 (770 ILCS 23/45)

10 Sec. 45. Amounts not recovered under lien. Nothing in this  
11 Act shall be construed as limiting the right of a health care  
12 professional or health care provider, or attorney, to pursue  
13 collection, through all available means, of its reasonable  
14 charges for the services it furnishes to an injured person.  
15 Notwithstanding any other provision of law, a lien holder may  
16 seek payment of the amount of its reasonable charges that  
17 remain not paid after the satisfaction of its lien under this  
18 Act, except that any bill from a health care professional or  
19 health care provider must first be reduced by the amount of  
20 benefits to which the patient is entitled under any contract or  
21 health care benefit plan and shall reflect all credits,  
22 adjustments, and write-offs, and the health care provider or  
23 health care professional may not bill the patient the balance  
24 of the bill unless it is the responsibility of the patient  
25 under the health care plan.



1 (Source: P.A. 93-51, eff. 7-1-03.)