

AN ACT to amend certain Acts in relation to liens.

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

Section 1. Short title. This Act may be cited as the  
Health Care Services Lien Act.

Section 5. Definitions. In this Act:

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

"Health care provider" means any entity in any of the  
following license categories: licensed hospital, licensed  
home health agency, licensed ambulatory surgical treatment  
center, or licensed emergency medical services personnel.

Section 10. Lien created; limitation.

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

(b) The lien shall include a written notice containing

the name and address of the injured person, the date of the injury, the name and address of the health care professional or health care provider, and the name of the party alleged to be liable to make compensation to the injured person for the injuries received. The lien notice shall be served on both the injured person and the party against whom the claim or right of action exists. Notwithstanding any other provision of this Act, payment in good faith to any person other than the healthcare professional or healthcare provider claiming or asserting such lien prior to the service of such notice of lien shall, to the extent of the payment so made, bar or prevent the creation of an enforceable lien. Service shall be made by registered or certified mail or in person.

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

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

(2) all the liens of health care providers shall not exceed 20% of the verdict, judgment, award, settlement, or compromise;

provided, however, that health care services liens shall be

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

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

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

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

Section 15. Notice of judgment or award. A judgment, award, settlement, or compromise secured by or on behalf of an injured person may not be satisfied without the injured

person or his or her authorized representative first giving notice of the judgment, award, settlement, or compromise to the health care professional or health care provider that rendered a service in the treatment, care, or maintenance of the injured person and that has served a lien notice pursuant to subsection (b) of Section 10. The notice shall be in writing and served upon the lien holder or, in the case of a lien holder operated entirely by a unit of local government, upon the individual or entity authorized to receive service under Section 2-211 of the Code of Civil Procedure.

Section 20. Items to which lien attaches. The lien of a health care professional or health care provider under this Act shall, from and after the time of the service of the lien notice, attach to any verdict, judgment, award, settlement, or compromise secured by or on behalf of the injured person. If the verdict, judgment, award, settlement, or compromise is to be paid over time by means of an annuity or otherwise, any lien under this Act shall be satisfied by the party obligated to compensate the injured person to the fullest extent permitted by Section 10 before the establishment of the annuity or other extended payment mechanism.

Section 25. Examination of health care records.

(a) Upon written request by medical authorization signed by the patient or the patient's representative, or by subpoena, any party to a pending court action against whom a claim is asserted for damages resulting from injuries shall be permitted to examine the records of any health care professional or health care provider concerning the health care professional's or health care provider's treatment, care, or maintenance of the injured person. Within 20 days after receiving a written request by medical authorization signed by the patient or the patient's representative, or by

subpoena, a health care professional or health care provider claiming a lien under this Act must furnish to the requesting party, or file with the clerk of the court in which the action is pending, all of the following:

(1) A written statement of the nature and extent of the injuries sustained by the injured person.

(2) A written statement of the nature and extent of the treatment, care, or maintenance given to or furnished for the injured person by the health care professional or health care provider.

(3) A written statement of the history, if any, as given by the injured person, insofar as shown by the health care records, as to the manner in which the injuries were received.

(b) If a health care professional or health care provider fails or refuses to give or file a written statement in conformity with and as required by subsection (a) after being so requested in writing in conformity with subsection (a), the lien of that health care professional or health care provider under this Act shall immediately become null and void.

Section 30. Adjudication of rights. On petition filed by the injured person or the health care professional or health care provider and on the petitioner's written notice to all interested adverse parties, the circuit court shall adjudicate the rights of all interested parties and enforce their liens.

Section 35. Liens created under prior law. A lien validly created under the Clinical Psychologists Lien Act, the Dentists Lien Act, the Emergency Medical Services Personnel Lien Act, Home Health Agency Lien Act, the Hospital Lien Act, the Optometrists Lien Act, the Physical Therapist

Lien Act, or the Physicians Lien Act remains in full force and effect on and after July 1, 2003. Such a lien shall be enforceable according to, and otherwise governed by, the provisions of the Act or Code under which it was created, as those provisions existed on June 30, 2003.

Section 40. Attorney's lien. Nothing in this Act shall affect the priority of any attorney's lien under the Attorneys Lien Act.

Section 45. Amounts not recovered under lien. Nothing in this Act shall be construed as limiting the right of a health care professional or health care provider, or attorney, to pursue collection, through all available means, of its reasonable charges for the services it furnishes to an injured person. Notwithstanding any other provision of law, a lien holder may seek payment of the amount of its reasonable charges that remain not paid after the satisfaction of its lien under this Act.

Section 900. The Attorneys Lien Act is amended by changing Section 1 as follows:

(770 ILCS 5/1) (from Ch. 13, par. 14)

Sec. 1. Attorneys at law shall have a lien upon all claims, demands and causes of action, including all claims for unliquidated damages, which may be placed in their hands by their clients for suit or collection, or upon which suit or action has been instituted, for the amount of any fee which may have been agreed upon by and between such attorneys and their clients, or, in the absence of such agreement, for a reasonable fee, for the services of such suits, claims, demands or causes of action, plus costs and expenses. In the case of a claim, demand, or cause of action with respect to

which the total amount of all liens under the Health Care Services Lien Act meets or exceeds 40% of the sum paid or due the injured person, the total amount of all liens under this Act shall not exceed 30% of the sum paid or due the injured person. All attorneys shall share proportionate amounts within this statutory limitation. If an appeal is taken by any party to a suit based on the claim or cause of action, however, the attorney's lien shall not be affected or limited by the provisions of this Act.

To enforce such lien, such attorneys shall serve notice in writing, which service may be made by registered or certified mail, upon the party against whom their clients may have such suits, claims or causes of action, claiming such lien and stating therein the interest they have in such suits, claims, demands or causes of action. Such lien shall attach to any verdict, judgment or order entered and to any money or property which may be recovered, on account of such suits, claims, demands or causes of action, from and after the time of service of the notice. On petition filed by such attorneys or their clients any court of competent jurisdiction shall, on not less than 5 days' notice to the adverse party, adjudicate the rights of the parties and enforce the lien.

(Source: P.A. 86-1156; 87-425.)

(770 ILCS 10/Act rep.)

Section 905. The Clinical Psychologists Lien Act is repealed.

(770 ILCS 20/Act rep.)

Section 910. The Dentists Lien Act is repealed.

(770 ILCS 22/Act rep.)

Section 915. The Emergency Medical Services Personnel

Lien Act is repealed.

(770 ILCS 25/Act rep.)

Section 920. The Home Health Agency Lien Act is repealed.

(770 ILCS 35/Act rep.)

Section 925. The Hospital Lien Act is repealed.

(770 ILCS 72/Act rep.)

Section 930. The Optometrists Lien Act is repealed.

(770 ILCS 75/Act rep.)

Section 935. The Physical Therapist Lien Act is repealed.

(770 ILCS 80/Act rep.)

Section 940. The Physicians Lien Act is repealed.

Section 945. If and only if the provisions of House Bill 1205 of the 93rd General Assembly creating the Naprapathic Lien Act become law, the Naprapathic Lien Act is repealed.

Section 999. Effective date. This Act takes effect on July 1, 2003.