

1 AN ACT to amend certain Acts in relation to liens.

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

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

6 Section 5. Definitions. In this Act:

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

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

16 Section 10. Lien created; limitation.

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

30 (b) The lien shall include a written notice containing

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

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

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

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

34 provided, however, that health care services liens shall be

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

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

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

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

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

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

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

22 Section 25. Examination of health care records.

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

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

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

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

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

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

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

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

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

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

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

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

20 (770 ILCS 5/1) (from Ch. 13, par. 14)

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

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

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

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

25 (770 ILCS 10/Act rep.)

26 Section 905. The Clinical Psychologists Lien Act is
27 repealed.

28 (770 ILCS 20/Act rep.)

29 Section 910. The Dentists Lien Act is repealed.

30 (770 ILCS 22/Act rep.)

31 Section 915. The Emergency Medical Services Personnel

1 Lien Act is repealed.

2 (770 ILCS 25/Act rep.)

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

5 (770 ILCS 35/Act rep.)

6 Section 925. The Hospital Lien Act is repealed.

7 (770 ILCS 72/Act rep.)

8 Section 930. The Optometrists Lien Act is repealed.

9 (770 ILCS 75/Act rep.)

10 Section 935. The Physical Therapist Lien Act is
11 repealed.

12 (770 ILCS 80/Act rep.)

13 Section 940. The Physicians Lien Act is repealed.

14 Section 945. If and only if the provisions of House Bill
15 1205 of the 93rd General Assembly creating the Naprapathic
16 Lien Act become law, the Naprapathic Lien Act is repealed.

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