



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3206

Introduced 2/24/2011, by Rep. André M. Thapedi

SYNOPSIS AS INTRODUCED:

770 ILCS 23/10
770 ILCS 23/30
770 ILCS 23/35
770 ILCS 23/45

Amends the Health Care Services Lien Act. Provides that the total of all liens under the Act, including insurer reimbursement claims, (instead of all liens under the Act) shall not exceed 40% of a verdict, judgment, or settlement. Provides that a petition by an injured person or a health care provider to adjudicate the rights including liens of all interested parties may be served on interested parties by personal service, substitute service, or registered or certified mail. Provides that the Act applies to all insurers and their reimbursement claims and rights. Provides that if a patient provides his or her health insurance information to a health care professional or health care provider, the professional or provider is required to submit health care charges to the identified insurer and that the failure to do so voids the professional's or provider's lien and bars any collection action directly against the injured person. Limits the professional's or provider's lien to 66% of the charges that would have been submitted had the charge been presented to the insurer. Makes related changes.

LRB097 08386 AJO 48513 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 10, 30, 35, and 45 as follows:

6 (770 ILCS 23/10)

7 Sec. 10. Lien created; limitation.

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

21 (b) The lien shall include a written notice containing the
22 name and address of the injured person, the date of the injury,
23 the name and address of the health care professional or health

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

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

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

1 not exceed 20% of the verdict, judgment, award, settlement,
2 or compromise; and

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

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

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

21 (d) If services furnished by health care professionals and
22 health care providers are billed at one all-inclusive rate, the
23 total reasonable charges for those services shall be reasonably
24 allocated among the health care professionals and health care
25 providers and treated as separate liens for purposes of this
26 Act, including the filing of separate lien notices. For

1 services provided under an all-inclusive rate, the liens of
2 health care professionals and health care providers may be
3 asserted by the entity that bills the all-inclusive rate.

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

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

10 (770 ILCS 23/30)

11 Sec. 30. Adjudication of rights. On petition filed by the
12 injured person or the health care professional or health care
13 provider and on the petitioner's written notice to all
14 interested adverse parties, the circuit court shall adjudicate
15 the rights of all interested parties and enforce their liens. A
16 petition filed under this Section may be served upon an
17 interested adverse party by personal service, substitute
18 service, or registered or certified mail.

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

20 (770 ILCS 23/35)

21 Sec. 35. Liens created under prior law. A lien validly
22 created under the Clinical Psychologists Lien Act, the Dentists
23 Lien Act, the Emergency Medical Services Personnel Lien Act,
24 Home Health Agency Lien Act, the Hospital Lien Act, the

1 Optometrists Lien Act, the Physical Therapist Lien Act, or the
2 Physicians Lien Act remains in full force and effect on and
3 after July 1, 2003. Such a lien shall be enforceable according
4 to, and otherwise governed by, the provisions of the Act or
5 Code under which it was created, as those provisions existed on
6 June 30, 2003. This Act shall also apply to an insurer and an
7 insurer's reimbursement claims and rights.

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

9 (770 ILCS 23/45)

10 Sec. 45. Amounts not recovered under lien.

11 (a) Except as provided in this Section, ~~Nothing~~ in this Act
12 shall be construed as limiting the right of a health care
13 professional or health care provider, or attorney, to pursue
14 collection, through all available means, of its reasonable
15 charges for the services it furnishes to an injured person.
16 Except as provided in this Section, ~~Notwithstanding any other~~
17 ~~provision of law,~~ a lien holder may seek payment of the amount
18 of its reasonable charges that remain not paid after the
19 satisfaction of its lien under this Act. If the patient
20 provides health insurance information, a health care
21 professional or health care provider is required to submit the
22 professional's or provider's charges to an injured person's
23 insurer; failure to do so will make the health care
24 professional's or health care provider's lien void and will act
25 as a bar to any collection directly against the injured person.

1 The health care professional's or health care provider's lien
2 shall be limited to 66% of the amount that the insurer would
3 have paid had the charges been submitted to the insurer.

4 (b) If a lien or claim exists with respect to a claim for
5 personal injuries or death and the injured person's recovery is
6 diminished:

7 (1) by comparative fault, or

8 (2) by reason of the uncollectability of the full value
9 of the claim for personal injuries or death resulting from
10 limited liability insurance or from any other cause,

11 then the lien or claim shall be diminished in the same
12 proportion as the injured person's recovery is diminished. The
13 party holding the lien or claim shall bear a pro-rata share of
14 the injured person's attorney's fees and litigation expenses
15 and shall be barred from pursuing any claim for the unpaid
16 balance.

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