

1 HB11
2 195125-1
3 By Representative Rowe
4 RFD: Insurance
5 First Read: 05-MAR-19
6 PFD: 01/10/2019

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8 SYNOPSIS: Existing law provides that a hospital may
9 file a lien for reasonable charges for hospital
10 care, treatment, and maintenance of an injured
11 person against any settlement or judgment that a
12 person may receive from parties who are liable for
13 the injury and provides for the administration of
14 matters relating to the lien.

15 This bill would require a hospital that
16 provides medical treatment to an injured person to
17 seek compensation solely from that person's health
18 insurance provider, with the exception of approved
19 copayments and deductibles, unless certain
20 circumstances apply. This bill would also allow a
21 hospital to file a hospital lien against any
22 recovery the injured person may be awarded for
23 injuries by way of settlement or judgment in
24 certain circumstances.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to hospitals; to amend Sections 35-11-370,
4 35-11-371, 35-11-372, 35-11-373, 35-11-374, and 35-11-375,
5 Code of Alabama 1975, to require a hospital that provides
6 medical treatment to an injured person to seek compensation
7 solely from that person's health insurance provider, with the
8 exception of approved copayments and deductibles, unless
9 certain circumstances apply; and to allow a hospital to file a
10 hospital lien against any recovery the injured person may be
11 awarded for injuries by way of settlement or judgment in
12 certain circumstances.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 35-11-370, 35-11-371, 35-11-372,
15 35-11-373, 35-11-374, and 35-11-375, Code of Alabama 1975, are
16 amended to read as follows:

17 "§35-11-370.

18 "(a) In this division, the term "hospital" includes
19 any person, firm, authority, company, corporation, or legal
20 representative who acts on behalf of a hospital.

21 "(b) Except as otherwise provided in this section, a
22 hospital shall seek compensation for hospital care, treatment,
23 or maintenance of an injured person solely from the injured
24 person's health insurance provider and not from the injured
25 person, except for approved copayments and deductibles.

26 "(c) Except as otherwise provided in this section, a
27 hospital may not assert a lien on charges for hospital care,

1 treatment, or maintenance of an injured person if the services
2 provided by the hospital are covered by health insurance or
3 workers' compensation, except with regard to insurance
4 copayments or insurance deductibles owed to the hospital by
5 the injured person and comporting with the contractual terms
6 of the injured person's health insurance plan.

7 "(d) ~~Any person, firm, hospital authority, or~~
8 ~~corporation operating a~~ A hospital in this state shall have
9 may assert a lien for all reasonable charges for hospital
10 care, treatment, and maintenance of an injured person who upon
11 any judgment or settlement which that person, or that person's
12 heir, may receive in relation to costs or damages sustained as
13 a result of the injurious event for which that person required
14 medical treatment, provided the person entered such the
15 hospital within one week after receiving such the injuries,
16 upon any and all actions, claims, counterclaims, and demands
17 accruing to the person to whom such care, treatment, or
18 maintenance was furnished, or accruing to the legal
19 representatives of such person, and upon all judgments,
20 settlements, and settlement agreements entered into by virtue
21 thereof on account of injuries giving rise to such actions,
22 claims, counterclaims, demands, judgments, settlements, or
23 settlement agreements and which necessitated such hospital
24 care, subject, however, to any attorney's lien. and one of the
25 following is true:

26 "(1) The injured person has no health insurance.

1 "(2) The injured person's health insurance provider
2 denied coverage.

3 "(3) The injured person's health insurance provider
4 did not pay the hospital within 180 days after the day on
5 which the hospital submitted the bill to the health insurance
6 provider.

7 "(e) A lien asserted by a hospital due to nonpayment
8 by a health insurance provider under subsection (d) shall be
9 withdrawn when the private health insurer pays either of the
10 following:

11 "(1) The amount stipulated by the hospital's
12 contract with the injured person's health insurance provider.

13 "(2) The amount agreed to by the health insurance
14 provider and the hospital in the event the hospital and the
15 injured person's health insurance provider have no contract.

16 "§35-11-371.

17 ~~"(a) In order to~~ To perfect ~~such a~~ such a lien ~~the operator~~
18 ~~of such, a hospital, before or within 10 days after such~~
19 ~~person shall have been discharged therefrom shall file in the~~
20 ~~office of the judge of probate of the county or counties in~~
21 ~~which such cause of action arose a verified statement setting~~
22 ~~forth~~ in the office of the judge of probate of the county or
23 counties where the cause of action arose, within 10 days of
24 the patient's discharge from the hospital, which includes all
25 of the following:

1 "(1) the The name and address of ~~such the~~ patient,
2 ~~as it shall appear on the~~ as appearing on hospital records of
3 ~~such the~~ hospital~~,~~.

4 "(2) the The name and location of ~~such the~~ hospital.

5 "(3) and the ~~name and address of the operator~~
6 ~~thereof,~~ The dates of admission and discharge of ~~such the~~
7 patient ~~therefrom,~~.

8 "(4) the The amount ~~claimed to be~~ the hospital
9 claims is due for ~~such~~ hospital care~~,~~.

10 "(5) and to To the best of ~~claimant's~~ the hospital's
11 knowledge, the names and addresses of all persons, firms, or
12 corporations claimed by ~~such the~~ injured person~~,~~ or the
13 injured person's legal representative ~~of such person,~~ to be
14 liable for damages arising from ~~such the~~ injuries~~,~~.

15 "(b) such ~~claimant shall also within~~ Within one day
16 after the filing of ~~such a~~ claim or lien, the hospital shall
17 ~~mail~~ send a copy ~~thereof~~ of the claim or lien by registered or
18 certified mail, postage prepaid, ~~for~~ to each person, firm, or
19 corporation ~~so~~ claimed to be liable ~~on account of such~~ for the
20 injuries~~,~~ ~~at the addresses so given in such statement,~~ and to
21 the patient, ~~his~~ the patient's guardian, or ~~his~~ the patient's
22 personal representative at the address given at the time of
23 admission. The filing of ~~such the~~ claim or lien shall ~~be~~
24 constitute notice ~~thereof~~ to all persons, firms, or
25 corporations liable for ~~such~~ damages whether or not they are
26 named in ~~such the~~ claim or lien.

1 "~~(b)~~(c) The judge of probate shall ~~endorse thereon~~
2 record the date and ~~hour~~ time of filing on the filed copy, and
3 ~~at the expense of the county shall provide a hospital lien~~
4 ~~book with proper index in which he shall enter the date and~~
5 ~~hour~~ time of ~~such~~ the filing, the names and addresses of ~~such~~
6 the hospital, ~~the~~ its operators ~~thereof,~~ and ~~of such the~~
7 patient, the amount claimed, and the names and addresses of
8 those claimed to be liable for damages into an indexed
9 hospital lien book. ~~Such~~ This information shall be recorded in
10 the name of the patient. The judge of probate shall be paid
11 ~~\$1.00 as his~~ a reasonable filing fee, set by the judge of
12 probate for such filing.

13 "§35-11-372.

14 "(a) During the period of time allowed by Section
15 35-11-371 for perfecting the lien provided for by this
16 division, and also after the lien provided for by this
17 division has been perfected, ~~as provided in this division,~~ by
18 any ~~entitled~~ lienholder ~~entitled thereto,~~ no release or
19 satisfaction of any action, claim, counterclaim, demand,
20 judgment, settlement, or settlement agreement, ~~or of any of~~
21 ~~them,~~ shall be valid ~~or effectual as~~ against ~~such the~~ lien
22 unless ~~such the~~ lienholder ~~shall join therein or execute~~
23 executes a release of ~~such the~~ lien.

24 "(b) Any acceptance of a release or satisfaction of
25 ~~any such an~~ action, claim, counterclaim, demand, or judgment,
26 and any settlement of any of the foregoing in the absence of a
27 release or satisfaction of the lien referred to in this

1 division shall ~~prima facie~~ constitute an impairment of ~~such~~
2 the lien, and the lienholder shall be entitled to a civil
3 action for damages on account of ~~such~~ the impairment~~,.~~

4 "(c) and in such In a civil action provided for by
5 subsection (b), a lienholder may recover the reasonable cost
6 of the hospital care, treatment, and maintenance provided to a
7 person from the ~~one~~ person who received the treatment or a
8 person accepting ~~such release or satisfaction~~ the settlement
9 or judgment or making ~~such~~ the settlement ~~the reasonable cost~~
10 ~~of such hospital care, treatment and maintenance~~ on that
11 person's behalf. Satisfaction of ~~any~~ a judgment rendered in
12 favor of the lienholder in ~~any such~~ an action as provided for
13 by this section shall ~~operate as~~ constitute a satisfaction of
14 the lien. ~~Any action by the lienholder~~ The action shall be
15 brought in ~~any~~ a court having jurisdiction ~~thereof~~ and may be
16 brought and maintained in the county ~~wherein the lienholder~~
17 ~~has his, its, or their~~ where the lienholder's residence or
18 place of business is located. ~~If the lienholder shall prevail~~
19 ~~in such action, the lienholder~~ The prevailing party shall be
20 entitled to recover ~~from the defendant,~~ costs and reasonable
21 attorney's fees from the nonprevailing party. ~~Such~~ The action
22 shall be commenced ~~against the person liable for such damages~~
23 within one year after the date ~~such liability shall be finally~~
24 ~~determined by a~~ of the settlement ~~release covenant not to sue~~
25 or by the judgment of a court of competent jurisdiction.

26 "§35-11-373.

1 "(a) In any case where ~~the~~ a court enters a judgment
2 regarding an action, claim, counterclaim or demand accruing to
3 ~~the person to whom hospital care has been furnished has been~~
4 ~~reduced to judgment in a court having jurisdiction thereof,~~
5 said in favor of a person who has received hospital care, the
6 court shall have full jurisdiction to determine the amount due
7 on the lien ~~on~~ upon proper written petition by any ~~party~~
8 ~~interested therein~~ interested party and shall have full power
9 to adjudicate all matters in connection with ~~said~~ the hospital
10 lien ~~and~~. A copy of the petition shall be served on any party
11 possessing a right to any part of the judgment proceeds. Any
12 party listed on the petition shall have a right of appeal to
13 the Supreme Court or the Court of Civil Appeals.

14 "(b) A court entering a judgment pursuant to
15 subsection (a) shall also have the authority to provide by
16 ~~order of the court for the manner in which~~ issue court orders
17 dictating how the proceeds of said judgment proceeds shall be
18 distributed. ~~A copy of said petition shall be served upon all~~
19 ~~other parties having any right to any part of the proceeds of~~
20 ~~said judgment and answer and proceedings thereon filed and~~
21 ~~conducted as provided by law. Any party to the proceedings on~~
22 ~~said petition shall have the right to appeal to the supreme~~
23 ~~court or court of civil appeals as in civil cases.~~

24 "§35-11-374.

25 "~~The provisions of this~~ This division shall not
26 apply to any moneys becoming due under the Workmen's
27 Compensation Act.

1 "§35-11-375.

2 "This division shall not be construed ~~as giving to~~
3 give any hospital or agency referred to in this division an
4 independent right of action to determine liability for
5 injuries sustained by a person or firm."

6 Section 2. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.