

1 HB221  
2 204245-2  
3 By Representatives Faulkner, Rowe, Fridy and Ellis  
4 RFD: Insurance  
5 First Read: 11-FEB-20

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8 SYNOPSIS: Existing law provides that a hospital may  
9 perfect 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 perfect 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 35-11-371  
4 and 35-11-372, Code of Alabama 1975, as last amended by Act  
5 2019-273, 2019 Regular Session, to require a hospital that  
6 provides medical treatment to an injured person to seek  
7 compensation solely from that person's health insurance  
8 provider, with the exception of approved copayments and  
9 deductibles, unless certain circumstances apply; and to allow  
10 a hospital to perfect a hospital lien against any recovery the  
11 injured person may be awarded for injuries by way of  
12 settlement or judgment in certain circumstances.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 35-11-371 and 35-11-372, Code of  
15 Alabama 1975, as last amended by Act 2019-273, 2019 Regular  
16 Session, are amended to read as follows:

17 "§35-11-371.

18 "(a) For the purposes of this section, the following  
19 terms shall have the following meanings:

20 "(1) HEALTH CARE PAYOR. A health care insurer,  
21 health maintenance organization, or health care service plan  
22 organized under Article 6, Chapter 20, Title 10A, authorized  
23 to provide health care coverage in the state.

24 "(2) SATISFY THE CLAIM. Receipt by the hospital of  
25 either of the following:

26 "a. Full payment for services as billed.

1            "b. If the hospital has a contract with the injured  
2 person's health care payor, payment together with all credits,  
3 discounts, and contractual adjustments that the patient's bill  
4 would be entitled under the contract, including recoupments,  
5 between the hospital and the patient's health care payor which  
6 extinguish the patient's obligation for the services rendered.

7            "~~(b) Unless specifically contrary to any contractual~~  
8 ~~agreement between the hospital and the injured person's health~~  
9 ~~care payor or unless~~ contrary to any statute or governmental  
10 rule or regulation of the United States or this state, no  
11 hospital shall perfect a lien as to any injured person who was  
12 covered by a health care payor's policy, until the hospital  
13 submits to the health care payor an accurate and properly  
14 coded claim, or if a contract exists between the hospital and  
15 the health care payor, in the form required pursuant to the  
16 contract, and there is a failure to satisfy the claim.

17 Perfection of a lien shall be as follows:

18            "(1) A hospital may perfect its lien as to an  
19 injured person who was covered by a health care payor's policy  
20 that provides primary coverage for the care, if the hospital  
21 takes the steps described in subsection (c), within 20 days  
22 after its receipt of notice of the health care payor's denial  
23 of an accurate and properly coded claim. Failure to satisfy an  
24 accurate and properly coded claim within 45 days of submission  
25 or the subsequent recoupment by the health care payor of  
26 amounts previously paid, which results in a failure to satisfy  
27 the claim, shall be deemed a denial of the claim.

1           "(2) A hospital may perfect its lien as to an  
2 injured person who was not known to the hospital to be covered  
3 by a health care payor, was covered by a governmental payor  
4 including Medicare or Medicaid, or was covered by a policy not  
5 described in subdivision (b)(1), if it takes the steps  
6 described in subsection (c) within 20 days after discharge.

7           "(3) Where the hospital does not receive evidence of  
8 the injured person's health care payor until after the lien  
9 provided for by this section has been perfected, the hospital  
10 shall bill the health care payor forthwith but may retain its  
11 lien until satisfaction of the claim. If the claim is  
12 satisfied, the hospital shall release the lien within 10 days.

13           "(c) In order to perfect a lien under this division,  
14 the operator of the hospital, shall file with the probate  
15 court of the county in which the hospital is located a  
16 verified statement setting forth the name and address of the  
17 patient, as it shall appear on the records of the hospital,  
18 the name and location of the hospital and the name and address  
19 of the operator thereof, the dates of admission and discharge  
20 of the patient therefrom, the amount claimed to be due for the  
21 hospital care, which shall give full credit for any health  
22 care payor payments made, including agreed contractual  
23 adjustments, and to the best of the claimant's knowledge, the  
24 names and addresses of all persons, firms, or corporations  
25 claimed by the injured person, or the legal representative of  
26 the person, to be liable for damages arising from the  
27 injuries. The claimant shall also within one day after the

1 filing of the claim or lien, mail a copy thereof by registered  
2 or certified mail, postage prepaid, for each person, firm, or  
3 corporation so claimed to be liable on account of the  
4 injuries, at the addresses so given in the statement, and to  
5 the patient, his or her guardian, or his or her personal  
6 representative at the address given at the time of admission.

7 "(d) The filing of a claim or lien shall be notice  
8 thereof to all persons, firms, or corporations liable for  
9 damages, whether or not they are named in the claim or lien.  
10 Nothing shall be deemed to preclude the hospital from  
11 perfecting its lien outside of the time limits stated in this  
12 section through providing actual notice to persons, firms, or  
13 corporations.

14 "(e) The judge of probate shall endorse thereon the  
15 date and hour of filing, and at the expense of the county  
16 shall provide a hospital lien book with proper index in which  
17 he or she shall enter the date and hour of the filing, the  
18 names and addresses of the hospital, the operators thereof and  
19 of the patient, the amount claimed and the names and addresses  
20 of those claimed to be liable for damages. The information  
21 shall be recorded in the name of the patient. The judge of  
22 probate shall be paid one dollar (\$1) as his or her fee for  
23 the filing.

24 "§35-11-372.

25 "(a) During the period of time allowed by Section  
26 35-11-371 for perfecting the lien, including that period of  
27 time during which the hospital is awaiting payment or denial

1 by the patient's health care payor, and also after the lien  
2 provided for by this division has been perfected by any  
3 lienholder entitled thereto, no release or satisfaction of any  
4 action, claim, counterclaim, demand, judgment, settlement, or  
5 settlement agreement, or of any of them, shall be valid or  
6 effectual as against the lien unless the lienholder shall join  
7 therein or execute a release of the lien.

8 "(b) Any acceptance of a release or satisfaction of  
9 any action, claim, counterclaim, demand, or judgment and any  
10 settlement of any of the foregoing in the absence of a release  
11 or satisfaction of the lien referred to in this division shall  
12 prima facie constitute an impairment of the lien, and the  
13 lienholder shall be entitled to a civil action for damages on  
14 account of the impairment, and in the action may recover from  
15 the one accepting the release or satisfaction or making the  
16 settlement the reasonable charges for the hospital care,  
17 treatment, and maintenance. Satisfaction of any judgment  
18 rendered in favor of the lienholder in any action shall  
19 operate as a satisfaction of the lien. Any action by the  
20 lienholder shall be brought in any court having jurisdiction  
21 thereof and may be brought and maintained in the county  
22 wherein the lienholder has his or her, its, or their residence  
23 or place of business. If the lienholder shall prevail in the  
24 action, the lienholder shall be entitled to recover from the  
25 defendant, costs and reasonable attorney's fees. The action  
26 shall be commenced against the person liable for the damages  
27 within one year after the date the liability shall be finally

1 determined by a settlement release covenant not to sue or by  
2 the judgment of a court of competent jurisdiction."

3 "(c) Except for any federal or state laws or rules  
4 regarding Medicare, Medicaid, or ERISA plans, any contractual  
5 provision between a health care payor and a hospital which  
6 requires the hospital to file a lien or otherwise act in  
7 contravention of this act is contrary to the public policy of  
8 this state and is void."

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