

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2988

By: McEntire

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5  
6 AS INTRODUCED

7 An Act relating to liens; amending 42 O.S. 2011,  
8 Section 46, which relates to physician's liens;  
9 specifying protected health information be redacted  
10 prior to filing lien; and providing an effective  
11 date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 42 O.S. 2011, Section 46, is  
14 amended to read as follows:

15 Section 46. A. Every physician who performs medical services  
16 or any other professional person who engages in the healing arts,  
17 within their scope of practice pursuant to Title 59 of the Oklahoma  
18 Statutes for any person injured as a result of the negligence or act  
19 of another, shall, if the injured person asserts or maintains a  
20 claim against such other person for damages on account of such  
21 injuries, have a lien for the amount due for such medical or healing  
22 arts services upon that part going or belonging to the injured  
23 person of any recovery or sum had or collected or to be collected by  
24 the injured person, or by the heirs, personal representative, or

1 next of kin of the injured person in the event of his death, whether  
2 by judgment, settlement, or compromise. Such lien shall be inferior  
3 to any lien or claim of any attorney handling the claim for or on  
4 behalf of the injured person. The lien shall not be applied or  
5 considered valid against any claim for amounts due pursuant to the  
6 provisions of Title 85 or Title 85A of the Oklahoma Statutes.

7 B. In addition to the lien provided for in subsection A of this  
8 section, every physician or professional person licensed under Title  
9 59 of the Oklahoma Statutes who performs medical or healing arts  
10 within their scope of practice for any person injured as a result of  
11 the negligence or act of another, shall have, if the injured person  
12 asserts or maintains a claim against an insurer, a lien for the  
13 amount due for such medical or healing arts services upon any monies  
14 payable by the insurer to the injured person.

15 C. No lien which is provided for in this section shall be  
16 effective unless, before the payment of any monies to the injured  
17 person, the attorney for the injured person, or legal representative  
18 as compensation for such injuries or death:

19 1. A written notice is sent setting forth an itemized statement  
20 of the amount claimed, identifying the insurance policy or policies  
21 against which the lien is asserted, if any, and containing the name  
22 and address of the physician or professional person licensed under  
23 Title 59 of the Oklahoma Statutes claiming the lien, the injured  
24 person, and the person, firm, or corporation against whom the claim

1 is made, is filed on the mechanic's and materialman's lien docket in  
2 the office of the county clerk of the county where the principal  
3 office of the physician or professional person licensed under Title  
4 59 of the Oklahoma Statutes is located. If the written notice or  
5 any accompanying documentation contains information or data which is  
6 considered protected health information under the provisions of the  
7 Health Insurance Portability and Accountability Act (HIPAA), the  
8 information or data shall be redacted prior to filing to remove  
9 protected information; and

10 2. The physician or professional person licensed under Title 59  
11 of the Oklahoma Statutes sends, by registered or certified mail,  
12 postage prepaid, a copy of such notice with a statement of the date  
13 of filing thereof to the person, firm, or corporation against whom  
14 the claim is made and to the injured person. The physician or  
15 professional person licensed under Title 59 of the Oklahoma Statutes  
16 shall also send a copy of the notice to the attorney for the injured  
17 person, if the name and address of such attorney is known to the  
18 physician or professional person licensed under Title 59 of the  
19 Oklahoma Statutes.

20 D. The liens provided for in this section may be enforced by  
21 civil action in the district court of the county where the lien was  
22 filed. Such an action shall be brought within one (1) year after  
23 the physician or professional person licensed under Title 59 of the  
24 Oklahoma Statutes becomes aware of final judgment, settlement or

1 | compromise of the claim asserted or maintained by or on behalf of  
2 | the injured person. The practice, pleading, and proceedings in the  
3 | action shall conform to the rules prescribed by the Oklahoma  
4 | Pleading Code to the extent applicable.

5 | SECTION 2. This act shall become effective November 1, 2018.

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