

1 **SENATE FLOOR VERSION**

2 April 12, 2022

3 ENGROSSED HOUSE
4 BILL NO. 3898

By: Kannady of the House

and

Howard of the Senate

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8 An Act relating to liens; amending 42 O.S. 2021,
9 Section 46, which relates to physician liens;
10 requiring the lien amount to be the usual and
11 customary amount; and providing an effective date.

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

13 SECTION 1. AMENDATORY 42 O.S. 2021, 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 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 a statement of the
20 amount claimed, identifying the insurance policy or policies against
21 which the lien is asserted, if any, and containing the name and
22 address of the physician or professional person licensed under Title
23 59 of the Oklahoma Statutes claiming the lien, the injured person,
24 and the person, firm, or corporation against whom the claim is made,

1 is filed on the mechanic's and materialman's lien docket in the
2 office of the county clerk of the county where the principal office
3 of the physician or professional person licensed under Title 59 of
4 the Oklahoma Statutes is located; and

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

15 D. The liens provided for in this section may be enforced by
16 civil action in the district court of the county where the lien was
17 filed. Such an action shall be brought within one (1) year after
18 the physician or professional person licensed under Title 59 of the
19 Oklahoma Statutes becomes aware of final judgment, settlement or
20 compromise of the claim asserted or maintained by or on behalf of
21 the injured person. The practice, pleading, and proceedings in ~~the~~
22 an action shall conform to the rules prescribed by the Oklahoma
23 Pleading Code to the extent applicable.

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1 E. The amount of the lien provided for in this section shall be
2 the usual and customary amount charged by the facility filing the
3 lien.

4 SECTION 2. This act shall become effective November 1, 2022.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
6 April 12, 2022 - DO PASS

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