

Senator D. Chris Buttars proposes the following substitute bill:

LIEN OF CHIROPRACTIC PROVIDERS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Chris Buttars

This act modifies the Utah Hospital Lien Law. The act expands the current language to include, in addition to the hospital lien, a licensed health care provider lien. This act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

38-7-1, as last amended by Chapter 167, Laws of Utah 1996

38-7-2, as last amended by Chapter 167, Laws of Utah 1996

38-7-3, as enacted by Chapter 75, Laws of Utah 1965

38-7-4, as last amended by Chapter 167, Laws of Utah 1996

38-7-5, as enacted by Chapter 75, Laws of Utah 1965

38-7-7, as enacted by Chapter 75, Laws of Utah 1965

RENUMBERS AND AMENDS:

38-7-7.5, (Renumbered from 38-7-8, as enacted by Chapter 75, Laws of Utah 1965)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **38-7-1** is amended to read:

38-7-1. Lien of hospital or licensed health care providers on judgment, settlement, or compromise in certain accident cases authorized.

(1) (a) Every hospital or licensed health care provider located within the state that furnishes emergency, medical, or other service to a patient injured by reason of an accident not covered by workmen's compensation is entitled to assert a lien upon that portion of the judgment, settlement, or compromise going or belonging to such patient, or, in the case of



death, to such patient's heirs or personal representatives, less the amount paid by the patient, or on behalf of such patient, by heirs or personal representatives for attorney's fees, court costs, and other necessary expenses incidental to obtaining the judgment, settlement, or compromise[; ~~provided, that~~]. However, no reduction of the asserted lien amount other than the amount paid by the patient, or such patient's heirs, or personal representatives for attorney's fees, court costs, and other necessary expenses incidental to litigation is allowed, unless otherwise agreed to in writing by the lien claimant.

(b) The hospital or licensed health care providers lien, ~~[however, shall]~~ does not apply to any judgment, settlement, or compromise where the amount is \$100 or less.

(c) (i) This subsection ~~[shall apply]~~ applies to any hospital lien on file in the district court of the county ~~[on the effective date of this act]~~ after July 1, 2003. Liens on file with the office of the county clerk shall be transferred to the respective county district court on ~~[May 1, 1996]~~ July 1, 2003.

(ii) This subsection applies to any licensed health care provider lien.

(2) A hospital or licensed health care providers lien may be filed upon damages recovered, or to be recovered, either as a result of a judgment, or upon a contract of settlement or compromise, for the amount of the reasonable, usual, and necessary hospital charges for treatment, care, and maintenance of the injured party in the hospital up to the date of payment of the damages.

Section 2. Section **38-7-2** is amended to read:

38-7-2. Notice of lien required -- Filing with district court -- Mailing to injured person, heirs or legal representative, and insurance carrier.

A hospital or licensed health care providers lien upon damages recovered or to be recovered for personal injuries or death ~~[shall be]~~ is effective if:

(1) a verified written notice is filed in the district court of the county in which the hospital asserting the lien is located containing:

(a) an itemized statement of the services rendered to the injured person and the dates of the services;

(b) the name and address of the hospital or licensed health care provider making the claim;

(c) the name of the person, firm, or corporation alleged to be liable to the injured party

for the injuries and damages sustained; and

(d) the full name and address of the injured person;

(2) the hospital or licensed health care provider sends by certified mail with return receipt requested, prior to the payment of any money to the injured person or his attorney or heirs or legal representatives as compensation for the injuries [~~and/or~~] and damages, injuries, or damages sustained, a copy of the written notice, together with a statement of the date of filing, to the person, firm, or corporation alleged to be liable to the injured party for the injuries [~~and/or~~] and damages, injuries, or damages sustained; and

(3) the hospital or licensed health care provider mails a copy of the written notice by certified mail with return receipt requested to the home office of any insurance carrier that has insured the person, firm, or corporation against liability, if the name and address is known.

Section 3. Section **38-7-3** is amended to read:

38-7-3. Parties or insurance carrier making payment liable for satisfaction of lien -- Enforcement of lien.

(1) Any person, firm, or corporation, including an insurance carrier, making any payment to a patient or to his attorney, heirs, or legal representative as compensation for the injuries [~~and/or~~] and damages, injuries, or damages sustained, after the filing and, if applicable, receipt of written notice of the lien, [~~as aforesaid,~~] and without paying the hospital or licensed health care provider asserting the lien the amount of its lien or that portion of the lien which can be satisfied out of the money due under any final judgment or contract of compromise or settlement, less payment of the amount of any prior liens, [~~shall be~~] is liable to the hospital or licensed health care provider for the amount that the hospital was entitled to receive.

(2) Liability of the person, firm, or corporation for the satisfaction of the hospital or licensed health care provider lien shall continue for a period of one year from and after the date of any payment of any money to the patient, his heirs, or legal representatives as damages or under a contract of compromise or settlement. Any hospital or licensed health care provider may enforce its lien by a suit at law against the person, firm, or corporation making the payment. In the event of a suit to enforce a lien, the hospital may recover a reasonable attorney's fee and the costs of filing and recording the lien.

Section 4. Section **38-7-4** is amended to read:

38-7-4. Hospital or licensed health care providers lien docket provided by district

court -- Contents.

(1) Every district court shall, at the expense of the county, provide and maintain a suitable bound book to be called the hospital or licensed health care providers lien docket, and in which shall be entered any hospital or licensed health care providers lien claim filed.

(2) The district court shall enter the name of the injured person, the name of the person, firm, or corporation alleged to be liable for the injuries and damages, the date and place of the accident, and the name of the hospital or other institution making the claim. The district court shall also maintain a proper index of the hospital or licensed health care providers lien docket under the name of the injured person.

Section 5. Section **38-7-5** is amended to read:

38-7-5. Release of lien by hospital or licensed health care providers -- Execution and filing.

The hospital or licensed health care provider shall, upon receipt of payment of the lien or the portion recoverable under the lien, execute and file, at the expense of the hospital or licensed health care provider, a release of lien.

Section 6. Section **38-7-7** is amended to read:

38-7-7. Interest of hospital or licensed health care provider in claim settlement limited.

Nothing in this [act] chapter shall be construed to permit any hospital or licensed health care provider to be a party to or to have any interest in the amount or manner of any settlement of any claim on which a lien has been filed other than the lien rights as provided in this [act] chapter.

Section 7. Section **38-7-7.5**, which is renumbered from Section 38-7-8 is renumbered and amended to read:

[38-7-8]. 38-7-7.5. Short title.

This [act may be] chapter is known as the Hospital or Licensed Health Care Provider Lien Law.