

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-1019.01 Megan Waples x4348

SENATE BILL 19-217

SENATE SPONSORSHIP

Foote and Tate,

HOUSE SPONSORSHIP

Snyder,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING HEALTHCARE PROVIDER LIENS RELATED TO CHARGES**
102 **FOR MEDICAL CARE PROVIDED TO A PERSON INJURED AS A**
103 **RESULT OF THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER**
104 **PERSON.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes requirements for the creation of a healthcare provider lien. A healthcare provider lien is a lien related to charges for medical care provided to a person injured by the negligence or wrongful

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

act of another person, which is asserted against money the injured person may receive from a personal injury claim or uninsured motorist claim. A healthcare provider or healthcare provider's assignee creating a lien must advise the injured person of their options for payment, including the use of benefits from an insurance plan or other payer of benefits, before or at the time of creating the lien. The lien amount cannot include any additional amounts over the amount of the charges for services provided, billed at the provider's usual and customary rates.

A healthcare provider may assign a lien to another person or entity. The fact of the assignment, its terms, and the amount paid by the assignee is not discoverable or admissible as evidence in any third-party or first-party action.

The provisions of the bill do not apply to hospital liens.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 27.5 to
3 title 38 as follows:

4 **ARTICLE 27.5**

5 **Medical Provider Liens**

6 **38-27.5-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) RESIDENTS OF THE STATE WHO ARE INJURED AS THE RESULT OF
9 THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER PERSON SHOULD
10 RECEIVE TIMELY MEDICAL SERVICES FOR THEIR INJURIES, EVEN IF THEY
11 HAVE LIMITED OR NO HEALTH INSURANCE;

12 (b) HEALTHCARE PROVIDERS SOMETIMES PROVIDE MEDICAL
13 SERVICES AND CARE TO INJURED PERSONS AND AGREE TO DELAYED
14 PAYMENT IN EXCHANGE FOR A LIEN ON ANY SETTLEMENT FUNDS RECEIVED
15 BY THE INJURED PERSON FROM A PERSONAL INJURY CLAIM ASSERTED
16 AGAINST THE RESPONSIBLE PARTY;

17 (c) IT IS IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE
18 TO ENSURE THAT COMPENSATION TO AN INJURED PARTY IS NOT REDUCED

1 MERELY BECAUSE A HEALTHCARE PROVIDER ASSIGNS OR SELLS SUCH A
2 LIEN TO ANOTHER PERSON;

3 (d) IT IS IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE
4 TO ENSURE THAT THE CHARGES UNDERLYING HEALTHCARE PROVIDER
5 LIENS ARE NOT EXCESSIVE, UNREASONABLE, OR INFLATED AND THAT
6 HEALTHCARE PROVIDER LIENS ARE NOT SUBJECT TO SURCHARGES,
7 FINANCE CHARGES, INTEREST, OR OTHER INCREASES TO THE AMOUNT OF
8 THE HEALTHCARE PROVIDER LIEN; AND

9 (e) THIS ARTICLE 27.5 IS INTENDED TO ENCOURAGE HEALTHCARE
10 PROVIDERS TO PROMPTLY TREAT PEOPLE WHO HAVE LIMITED OR NO
11 HEALTH INSURANCE AND WHO HAVE BEEN INJURED AS THE RESULT OF THE
12 NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER PERSON AND TO PROTECT
13 INJURED PEOPLE FROM EXCESSIVE, UNREASONABLE, OR INFLATED MEDICAL
14 SERVICE CHARGES AND SURCHARGES ASSOCIATED WITH HEALTHCARE
15 PROVIDER LIENS.

16 **38-27.5-102. Definitions.** AS USED IN THIS ARTICLE 27.5, UNLESS
17 THE CONTEXT OTHERWISE REQUIRES:

18 (1) "HEALTHCARE PROVIDER" MEANS A PERSON LICENSED OR
19 CERTIFIED IN THE STATE TO PRACTICE MEDICINE, PHARMACY,
20 CHIROPRACTIC, NURSING, PHYSICAL THERAPY, PODIATRY, DENTISTRY,
21 OPTOMETRY, OCCUPATIONAL THERAPY, OR OTHER HEALING ARTS.

22 "HEALTHCARE PROVIDER" ALSO MEANS AN AMBULATORY SURGICAL
23 CENTER AND ANY OTHER LICENSED HEALTHCARE PROVIDERS AS
24 PERMITTED BY THE LAWS OF THE STATE.

25 (2) "HEALTHCARE PROVIDER LIEN" MEANS A LIEN CREATED BY A
26 HEALTHCARE PROVIDER OR ITS ASSIGNEE RELATED TO CHARGES FOR
27 MEDICAL SERVICES AND CARE GIVEN TO A PERSON INJURED AS A RESULT

1 OF THE NEGLIGENCE OR WRONGFUL ACT OF ANOTHER PERSON, WHICH LIEN
2 IS ASSERTED AGAINST MONEY RECEIVED AS A RESULT OF A CLAIM OR
3 CLAIMS THAT THE INJURED PERSON ASSERTS AGAINST THIRD PARTIES OR
4 UNDER AN UNINSURED OR UNDERINSURED MOTORIST INSURANCE POLICY.

5 **38-27.5-103. Healthcare provider lien - options for payments**

6 **- limitations.** (1) (a) AT OR BEFORE THE TIME A HEALTHCARE PROVIDER
7 LIEN IS CREATED, A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL
8 ADVISE THE INJURED PARTY OF THE AVAILABLE METHODS FOR PAYMENT
9 OF THE HEALTHCARE PROVIDER'S CHARGES FOR TREATMENT OF THE
10 INJURED PARTY. THESE OPTIONS MAY INCLUDE:

11 (I) THE CREATION OF A HEALTHCARE PROVIDER LIEN;

12 (II) THE USE OF BENEFITS AVAILABLE FROM ANY PAYER OF
13 BENEFITS, AS DEFINED IN SECTION 38-27-101 (9), TO WHICH THE INJURED
14 PERSON IS A BENEFICIARY;

15 (III) ANY OTHER PAYMENT METHOD OR ARRANGEMENT
16 AGREEABLE TO BOTH THE HEALTHCARE PROVIDER OR ITS ASSIGNEE AND
17 THE INJURED PERSON; OR

18 (IV) A COMBINATION OF THE PAYMENT METHODS SPECIFIED IN
19 SUBSECTIONS (1)(a)(I) TO (1)(a)(III) OF THIS SECTION.

20 (b) (I) IF A HEALTHCARE PROVIDER OR ITS ASSIGNEE IS INFORMED
21 DURING THE COURSE OF TREATMENT BY THE INJURED PARTY OR THE
22 INJURED PARTY'S LEGAL COUNSEL THAT THE INJURED PARTY HAS
23 OBTAINED HEALTH INSURANCE, ALL FUTURE CARE MAY BE BILLED TO THE
24 HEALTH INSURANCE CARRIER AT THE INJURED PERSON'S DISCRETION.

25 (II) AT OR BEFORE THE TIME A HEALTHCARE PROVIDER LIEN IS
26 CREATED, A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL ADVISE THE
27 INJURED PERSON OF THE OPTION TO BILL FUTURE CHARGES TO A HEALTH

1 INSURANCE PROVIDER OBTAINED DURING THE COURSE OF TREATMENT IN
2 ACCORDANCE WITH SUBSECTION (1)(b)(I) OF THIS SECTION.

3 (2) THE AMOUNT OF A HEALTHCARE PROVIDER LIEN MUST NOT
4 EXCEED THE CHARGES FOR SERVICES PROVIDED TO THE INJURED PERSON
5 BILLED AT A RATE EQUAL TO THE HEALTHCARE PROVIDER'S STANDARD FEE
6 SCHEDULE.

7 (3)(a) A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL NOT ADD
8 SURCHARGES, FINANCE CHARGES, OR INTEREST TO A HEALTHCARE
9 PROVIDER'S BILLED CHARGES OR OTHERWISE INCREASE THE AMOUNT OF A
10 HEALTHCARE PROVIDER'S BILLED CHARGES AFTER THE MEDICAL SERVICE
11 HAS BEEN PROVIDED WHEN CREATING OR CLAIMING A HEALTHCARE
12 PROVIDER LIEN. THE INJURED PERSON IS ONLY OBLIGATED TO PAY THE
13 HEALTHCARE PROVIDER OR ITS ASSIGNEE THE AMOUNT OF THE
14 HEALTHCARE PROVIDER LIEN.

15 (b) THIS SUBSECTION (3) DOES NOT APPLY TO A COLLECTION
16 AGENCY AS DEFINED IN SECTION 5-16-103 (3) OR A DEBT COLLECTOR AS
17 DEFINED IN SECTION 5-16-103 (9) WHO HAS BEEN ASSIGNED A
18 HEALTHCARE PROVIDER LIEN FOR THE PURPOSES OF COLLECTING A DEBT.

19 (4) A HEALTHCARE PROVIDER LIEN, WHETHER HELD OR CLAIMED
20 BY A HEALTHCARE PROVIDER OR ITS ASSIGNEE, IS NOT A CONSUMER LOAN
21 AS DEFINED IN SECTION 5-1-301 (15) OR A LOAN AS DEFINED IN SECTION
22 5-1-301 (25). A HEALTHCARE PROVIDER OR ITS ASSIGNEE WHO CREATES,
23 HOLDS, OR CLAIMS A HEALTHCARE PROVIDER LIEN UNDER THIS ARTICLE
24 27.5 SHALL NOT BE DEEMED A CONSUMER LENDER SOLELY BY VIRTUE OF
25 CREATING, HOLDING, OR CLAIMING A HEALTHCARE PROVIDER LIEN.

26 (5) A HEALTHCARE PROVIDER OR ITS ASSIGNEE WHO CREATES,
27 HOLDS, OR CLAIMS A HEALTHCARE PROVIDER LIEN UNDER THIS ARTICLE

1 27.5 IS NOT A PAYER OF BENEFITS AS DEFINED IN SECTION 10-1-135 (2)(c).

2 **38-27.5-104. Assignment - not admissible as evidence.** (1) A
3 HEALTHCARE PROVIDER CLAIMING A HEALTHCARE PROVIDER LIEN UNDER
4 THIS ARTICLE 27.5 MAY ASSIGN, IN WRITING, A HEALTHCARE PROVIDER
5 LIEN TO ANY OTHER PERSON OR ENTITY. AN ASSIGNEE OF A HEALTHCARE
6 PROVIDER LIEN HAS ALL THE RIGHTS AND REMEDIES OF THE ASSIGNOR AND
7 IS SUBJECT TO THE RESTRICTIONS AND OBLIGATIONS OF THE ASSIGNOR
8 UNDER THIS ARTICLE 27.5.

9 (2) THE AMOUNT PAID BY AN ASSIGNEE OF A HEALTHCARE
10 PROVIDER LIEN FOR THE ASSIGNMENT, THE FACT OF THE ASSIGNMENT, AND
11 THE TERMS OF THE ASSIGNMENT ARE NOT SUBJECT TO DISCOVERY OR
12 ADMISSIBLE AS EVIDENCE IN ANY THIRD-PARTY OR FIRST-PARTY ACTION
13 FOR ANY PURPOSE, INCLUDING AS EVIDENCE OF THE REASONABLE VALUE
14 OF A HEALTHCARE PROVIDER'S SERVICES.

15 (3) A HEALTHCARE PROVIDER LIEN WHICH IS SUBSEQUENTLY
16 ASSIGNED SHALL NOT BE REDUCED PURSUANT TO ANY POST-VERDICT
17 SET-OFF OR REDUCTION AS DESCRIBED IN SECTION 13-21-111.6.

18 **38-27.5-105. Applicability.** (1) THIS ARTICLE 27.5 APPLIES TO
19 HEALTHCARE PROVIDER LIENS CREATED ON OR AFTER THE EFFECTIVE DATE
20 OF THIS ARTICLE 27.5.

21 (2) THIS ARTICLE 27.5 APPLIES TO A HEALTHCARE PROVIDER LIEN
22 CREATED BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 27.5 IF THE
23 HEALTHCARE PROVIDER LIEN COMPLIES WITH SECTION 38-27.5-103 (2)
24 AND (3)(a); EXCEPT THAT SECTION 38-27.5-103 (1)(a) AND (1)(b)(II) DOES
25 NOT APPLY TO SUCH A LIEN.

26 **38-27.5-106. No impact on hospital liens.** THIS ARTICLE 27.5
27 DOES NOT CHANGE, MODIFY, OR AMEND THE PROVISIONS OF SECTION

1 38-27-101.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2020 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.