

CHAPTER 260

PROPERTY

SENATE BILL 15-265

BY SENATOR(S) Cadman, Aguilar, Baumgardner, Carroll, Cooke, Heath, Hodge, Jahn, Johnston, Jones, Kefalas, Kerr, Lundberg, Marble, Merrifield, Neville T., Newell, Scheffel, Scott, Steadman, Todd, Woods;
also REPRESENTATIVE(S) Hullinghorst, Becker K., Foote, Ginal, Kagan, Lontine, Primavera, Ryden, Vigil, Williams, Winter, Young.

AN ACT**CONCERNING CONDITIONS THAT MUST BE MET BEFORE A HOSPITAL CARE LIEN IS CREATED.**

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

SECTION 1. In Colorado Revised Statutes, **amend** 38-27-101 as follows:

38-27-101. Lien for hospital care. (1) **BEFORE A LIEN IS CREATED, every** hospital duly licensed by the department of public health and environment, pursuant to part 1 of article 3 of title 25, C.R.S., which furnishes services to any person injured as the result of the negligence or other wrongful acts of another person and not covered by the provisions of the "Workers' Compensation Act of Colorado", ARTICLES 40 TO 47 OF TITLE 8, C.R.S., shall SUBMIT ALL REASONABLE AND NECESSARY CHARGES FOR HOSPITAL CARE OR OTHER SERVICES FOR PAYMENT TO THE PROPERTY AND CASUALTY INSURER AND THE PRIMARY MEDICAL PAYER OF BENEFITS AVAILABLE TO AND IDENTIFIED BY OR ON BEHALF OF THE INJURED PERSON, IN THE SAME MANNER AS USED BY THE HOSPITAL FOR PATIENTS WHO ARE NOT INJURED AS THE RESULT OF THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER PERSON, TO THE EXTENT PERMITTED BY STATE AND FEDERAL LAW.

(2) **IF NO PAYERS OF BENEFITS ARE IDENTIFIED FOR THE INJURED PERSON DUE TO LACK OF INSURANCE, A LIEN MAY BE CREATED.**

(3) **IF A HOSPITAL IS NOTIFIED OF A PAYER OF BENEFITS AFTER IT CREATES A LIEN, THE HOSPITAL SHALL MAKE GOOD-FAITH ATTEMPTS TO SUBMIT REASONABLE AND NECESSARY CHARGES FOR HOSPITAL CARE OR OTHER SERVICES TO THE IDENTIFIED PAYER IN THE SAME MANNER AS USED BY THE HOSPITAL FOR PATIENTS WHO ARE NOT INJURED AS THE RESULT OF THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER**

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PERSON.

(4) AFTER A HOSPITAL SATISFIES THE REQUIREMENTS OF THIS SECTION, AND subject to ~~the provisions of this article~~, THE HOSPITAL SHALL have a lien for all reasonable and necessary charges for hospital care upon the net amount payable to ~~such~~ THE injured person OR TO his OR HER heirs, assigns, or legal representatives out of the total amount of any recovery or sum had or collected, or to be collected, whether by judgment, settlement, or compromise, by ~~such~~ THE person OR his OR HER heirs or legal representatives as damages on account of ~~such~~ THE injuries.

(5) NOTHING IN THIS SECTION AUTHORIZES A HOSPITAL TO COLLECT OR ATTEMPT TO COLLECT MONEY FROM A PERSON AS PROHIBITED BY SECTION 8-42-101 (4), 8-43-207 (1) (o), OR 10-16-705 (3), C.R.S.

(6) NOTHING IN THIS SECTION CHANGES ANY OBLIGATION OF THE HOSPITAL OR ITS AGENTS UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S.

(7) AN INJURED PERSON WHO IS SUBJECT TO A LIEN IN VIOLATION OF THIS SECTION MAY BRING AN ACTION IN A DISTRICT COURT TO RECOVER TWO TIMES THE AMOUNT OF THE LIEN ATTEMPTED TO BE ASSERTED.

(8) The lien of attorneys and counselors at law created by section 12-5-119, C.R.S., ~~shall have~~ HAS precedence over and ~~be~~ IS senior to the lien created under this section. ~~The provisions of This article shall~~ DOES not apply to any hospital charges incurred ~~subsequent to~~ AFTER THE DATE OF any such judgment, settlement, or compromise.

(9) FOR PURPOSES OF THIS SECTION, "PAYER OF BENEFITS" MEANS:

(a) AN INSURER;

(b) A HEALTH MAINTENANCE ORGANIZATION;

(c) A HEALTH BENEFIT PLAN;

(d) A PREFERRED PROVIDER ORGANIZATION;

(e) AN EMPLOYEE BENEFIT PLAN;

(f) A PROGRAM OF MEDICAL ASSISTANCE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S.;

(g) THE CHILDREN'S BASIC HEALTH PLAN, ARTICLE 8 OF TITLE 25.5, C.R.S.;

(h) ANY OTHER INSURANCE POLICY OR PLAN; OR

(i) ANY OTHER BENEFIT AVAILABLE AS A RESULT OF A CONTRACT ENTERED INTO AND PAID FOR BY OR ON BEHALF OF AN INJURED PERSON.

SECTION 2. Act subject to petition - effective date. This act takes effect at

12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2015