

1 SENATE BILL NO. 361

2 INTRODUCED BY W. MCNUTT, GROSFIELD, B. THOMAS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PHYSICIAN, NURSE, PHYSICAL
5 THERAPIST, OCCUPATIONAL THERAPIST, CHIROPRACTOR, PERSON PRACTICING DENTISTRY,
6 HOSPITAL, PSYCHOLOGIST, LICENSED SOCIAL WORKER, OR LICENSED PROFESSIONAL COUNSELOR
7 CLAIMING A LIEN FOR SERVICES OR PRODUCTS PROVIDED TO A PERSON INJURED BY ANOTHER IS
8 NOT LIABLE FOR ATTORNEY FEES AND COSTS INCURRED IN CONNECTION WITH OBTAINING
9 PAYMENTS OR BENEFITS SUBJECT TO THE LIEN; AND AMENDING SECTION 71-3-1114, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 71-3-1114, MCA, is amended to read:

14 **"71-3-1114. Liens of physicians, nurses, physical therapists, occupational therapists,**
15 **chiropractors, persons practicing dentistry, and hospitals and liens of psychologists, licensed social**
16 **workers, and licensed professional counselors.** (1) (a) Upon the required notice of a lien being given, there
17 is a lien as provided in subsection (1)(b) whenever:

18 (i) a physician, nurse, physical therapist, occupational therapist, chiropractor, person practicing
19 dentistry, or hospital renders services or provides products for the diagnosis and treatment of a medical
20 condition; or

21 (ii) a psychologist, licensed social worker, or licensed professional counselor renders services or
22 provides products; and

23 (iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered
24 or provided to a person injured through the fault or neglect of another.

25 (b) The physician, nurse, physical therapist, occupational therapist, chiropractor, person practicing
26 dentistry, hospital, psychologist, licensed social worker, or licensed professional counselor has a lien for
27 the value of services rendered or products provided on:

28 (i) any claim or cause of action that the injured person or the injured person's estate or successors
29 may have for injury, disease, or death;

30 (ii) any judgment that the injured person or the estate or successors may obtain for injury, disease,

1 or death; and

2 (iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

3 (2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the
4 event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien
5 being given by:

6 (i) a physician, nurse, physical therapist, occupational therapist, chiropractor, person practicing
7 dentistry, or hospital for the value of services rendered or products provided for the diagnosis and
8 treatment of a medical condition; or

9 (ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered
10 or products provided.

11 (b) The lien is on all proceeds or payments, except payments for property damage, payable by the
12 insurer.

13 (3) ~~The lien is subject to the lien of an attorney provided in 37-61-420. A physician, nurse,~~
14 physical therapist, occupational therapist, chiropractor, person practicing dentistry, hospital, psychologist,
15 licensed social worker, or licensed professional counselor claiming a lien under this part is not liable for
16 attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a
17 beneficiary in connection with obtaining payments or benefits subject to a lien under this part. The lien of
18 an attorney provided for in 37-61-420 has priority over a lien created by this part."

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20 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 309 AND [THIS ACT] ARE BOTH
21 PASSED AND APPROVED, THEN SUBSECTION (3) IN 71-3-1114 MUST READ AS FOLLOWS:

22 "(3) ~~The lien is subject to the lien of an attorney provided in 37-61-420. A physician, nurse,~~
23 physical therapist, occupational therapist, chiropractor, dentist, hospital, ambulatory surgical facility,
24 psychologist, licensed social worker, or licensed professional counselor claiming a lien under this part is
25 not liable for attorney fees and costs incurred by the injured person, the injured person's estate or
26 successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this
27 part. The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

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