

HOUSE BILL NO. 473

INTRODUCED BY S. REICHNER

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS; AUTHORIZING LIENS BY REHABILITATION FACILITIES AND LONG-TERM CARE FACILITIES; REQUIRING NOTICE TO ALL POTENTIAL PAYERS WHEN AN ACTION IS COMMENCED AND A NOTICE OF LIEN IS FILED; AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1116, 71-3-1117, AND 71-3-1118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 71-3-1111, MCA, is amended to read:

**"71-3-1111. Short title.** This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Ambulance Service, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Rehabilitation Facility, Long-Term Care Facility, and Outpatient Center for Surgical Services Lien Act"."

**Section 2.** Section 71-3-1112, MCA, is amended to read:

**"71-3-1112. Purpose.** The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, ambulance services, hospitals, rehabilitation facilities, long-term care facilities, and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance."

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

**"71-3-1114. Liens of certain health care providers and health care facilities.** (1) (a) Upon the

1 required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

2 (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
3 hospital, rehabilitation facility, long-term care facility, outpatient center for surgical services, or ambulance service  
4 renders services or provides products for the diagnosis and treatment of a medical condition; or

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

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

9 (b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
10 hospital, rehabilitation facility, long-term care facility, outpatient center for surgical services, ambulance service,  
11 psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services  
12 rendered or products provided on:

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

15 (ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or  
16 death; and

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

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

20 (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
21 hospital, rehabilitation facility, long-term care facility, outpatient center for surgical services, or ambulance service  
22 for the value of services rendered or products provided for the diagnosis and treatment of a medical condition;

23 or

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

26 (b) The lien is on all proceeds or payments, except payments for property damage, payable by ~~the~~ any  
27 insurer or person. All proceeds or payments, including advance medical payments, made by any insurer or  
28 person subject to the lien must be paid directly to the physician, nurse, physical therapist, occupational therapist,  
29 acupuncturist, chiropractor, dentist, hospital, rehabilitation facility, long-term care facility, outpatient center for  
30 surgical services, ambulance service, psychologist, licensed social worker, or licensed professional counselor

1 that has claimed the lien.

2 (3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
3 hospital, rehabilitation facility, long-term care facility, outpatient center for surgical services, ambulance service,  
4 psychologist, licensed social worker, or licensed professional counselor claiming a lien under this part is not liable  
5 for attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a  
6 beneficiary in connection with obtaining payments or benefits subject to a lien under this part. ~~The lien of an~~  
7 ~~attorney provided for in 37-61-420 has priority over a lien created by this part."~~

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9 **Section 4.** Section 71-3-1115, MCA, is amended to read:

10 **"71-3-1115. Notice of lien.** (1) A physician, nurse, physical therapist, occupational therapist,  
11 acupuncturist, chiropractor, dentist, ambulance service, psychologist, licensed social worker, licensed  
12 professional counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center for surgical  
13 services claiming a lien shall serve written notice upon the person and upon the insurer, if any, against whom  
14 liability for injury, disease, counseling service, or death is asserted, stating the nature of the services, for whom  
15 and when rendered, the value of the services, and that a lien is claimed.

16 (2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
17 ambulance service, psychologist, licensed social worker, licensed professional counselor, hospital, rehabilitation  
18 facility, long-term care facility, or outpatient center for surgical services claiming a lien upon proceeds or  
19 payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted,  
20 stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is  
21 claimed."

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23 **Section 5.** Section 71-3-1116, MCA, is amended to read:

24 **"71-3-1116. Notice of lien -- filing with clerk of court.** (1) If an action is commenced for recovery for  
25 injury, disease, or death, a copy of the notice of lien may be filed in the office of the clerk of court in which the  
26 action is pending, and the filing is notice to all parties to the action.

27 (2) Once a person commencing an action under subsection (1) or the person's agent, attorney, or other  
28 representative has received the notice of lien, the person receiving the notice of lien shall inform all potentially  
29 responsible payers of the notice of lien's existence and provide all potentially responsible payers with a copy of  
30 the notice of lien."

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**Section 6.** Section 71-3-1117, MCA, is amended to read:

**"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice of a lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, ambulance service, psychologist, licensed social worker, licensed professional counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center for surgical services has not been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, ambulance service, psychologist, licensed social worker, licensed professional counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center for surgical services for the reasonable value of the services."

**Section 7.** Section 71-3-1118, MCA, is amended to read:

**"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, ambulance service, psychologist, licensed social worker, licensed professional counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center for surgical services; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

**NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

