

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~~ EXPANDING LIENS ~~BY~~ TO INCLUDE OPTOMETRISTS, PODIATRISTS, 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, OPTOMETRIST, PODIATRIST, 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, OPTOMETRISTS, PODIATRISTS, 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 OPTOMETRIST, PODIATRIST, hospital, rehabilitation facility, long-term care facility, outpatient center for surgical
4 services, or ambulance service renders services or provides products for the diagnosis and treatment of a
5 medical condition; or

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

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

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

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

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

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

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

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

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

27 (b) The lien is on all proceeds or payments, except payments for property damage, payable by ~~the~~ any
28 insurer or person. All proceeds or payments, including advance medical payments, made by any insurer or
29 person subject to the lien must be paid directly to the physician, nurse, physical therapist, occupational therapist,
30 acupuncturist, chiropractor, dentist, OPTOMETRIST, PODIATRIST, hospital, rehabilitation facility, long-term care

1 facility, outpatient center for surgical services, ambulance service, psychologist, licensed social worker, or
 2 licensed professional counselor that has claimed the lien.

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

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

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

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

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

26 **"71-3-1116. Notice of lien -- filing with clerk of court.** (1) If an action is commenced for recovery for
 27 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
 28 action is pending, and the filing is notice to all parties to the action.

29 (2) Once a person commencing an action under subsection (1) or the person's agent, attorney, or other
 30 representative has received the notice of lien, the person receiving the notice of lien shall inform all potentially

1 responsible payers of the notice of lien's existence and provide all potentially responsible payers with a copy of
 2 the notice of lien."

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

5 **"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice of a
 6 lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien
 7 claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
 8 OPTOMETRIST, PODIATRIST, ambulance service, psychologist, licensed social worker, licensed professional
 9 counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center for surgical services has not
 10 been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist,
 11 acupuncturist, chiropractor, dentist, OPTOMETRIST, PODIATRIST, ambulance service, psychologist, licensed social
 12 worker, licensed professional counselor, hospital, rehabilitation facility, long-term care facility, or outpatient center
 13 for surgical services for the reasonable value of the services."

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

16 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to
 17 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

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

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

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

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

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

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

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

~~NEW SECTION. **Section 10. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to all claims or occurrences on or after December 1, 2010.~~

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