

HOUSE BILL NO. 473

INTRODUCED BY S. REICHNER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH CARE PROVIDER AND HEALTH  
5 CARE FACILITIES LIEN LAWS; ~~AUTHORIZING~~ EXPANDING LIENS ~~BY~~ TO INCLUDE OPTOMETRISTS,  
6 PODIATRISTS, REHABILITATION FACILITIES, AND LONG-TERM CARE FACILITIES; REQUIRING NOTICE  
7 TO ALL ~~POTENTIAL~~ KNOWN PAYERS WHEN AN ACTION IS COMMENCED AND A NOTICE OF LIEN IS  
8 FILED; AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1116, 71-3-1117, AND  
9 71-3-1118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND A RETROACTIVE APPLICABILITY~~  
10 ~~DATE.~~"

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

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

15 **"71-3-1111. Short title.** This part may be cited as the "Physician, Nurse, Physical Therapist,  
16 Occupational Therapist, Acupuncturist, Chiropractor, Dentist, OPTOMETRIST, PODIATRIST, Ambulance Service,  
17 Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Rehabilitation Facility,  
18 Long-Term Care Facility, and Outpatient Center for Surgical Services Lien Act"."

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

21 **"71-3-1112. Purpose.** The purpose of this part is to establish lien rights for physicians, nurses, physical  
22 therapists, occupational therapists, acupuncturists, chiropractors, dentists, OPTOMETRISTS, PODIATRISTS,  
23 ambulance services, hospitals, rehabilitation facilities, long-term care facilities, and outpatient centers for surgical  
24 services for the value of services rendered and products provided for the diagnosis and treatment of medical  
25 conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional  
26 counselors for services rendered and products provided when a person receiving treatment:

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

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



1           **"71-3-1114. Liens of certain health care providers and health care facilities.** (1) (a) Upon the  
2 required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

3           (i) 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, or ambulance service renders services or provides products for the diagnosis and treatment of a  
6 medical condition; or

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

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

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

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

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

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

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

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

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

28           (b) The lien is on all proceeds or payments, except payments for property damage, payable by ~~the~~ any  
29 insurer or person. All proceeds or payments, including advance medical payments, made by any insurer or  
30 person subject to the lien must be paid directly to the physician, nurse, physical therapist, occupational therapist,

1 ~~acupuncturist, chiropractor, dentist, OPTOMETRIST, PODIATRIST, hospital, rehabilitation facility, long-term care~~  
 2 ~~facility, outpatient center for surgical services, ambulance service, psychologist, licensed social worker, or~~  
 3 ~~licensed professional counselor that has claimed the lien. PAYMENT TO THE PROVIDER FOR SERVICES RENDERED OR~~  
 4 ~~PRODUCTS PROVIDED THAT ARE COVERED BY A LIEN UNDER THIS SECTION FULLY SATISFIES THE LIEN AND ANY ATTORNEY~~  
 5 ~~LIEN UNDER 37-61-420, AND THE PAYER AND PROVIDER PAID ARE RELEASED, TO THE EXTENT OF THE AMOUNT PAID, FROM~~  
 6 ~~ALL LIABILITY ARISING FROM THE LIEN OR ATTORNEY LIEN.~~

7 (3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
 8 ~~OPTOMETRIST, PODIATRIST, hospital, rehabilitation facility, long-term care facility,~~ outpatient center for surgical  
 9 services, ambulance service, psychologist, licensed social worker, or licensed professional counselor claiming  
 10 a lien under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's  
 11 estate or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under  
 12 this part. ~~The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part. THE LIEN~~  
 13 ~~OF AN ATTORNEY PROVIDED FOR IN 37-61-420 HAS PRIORITY OVER A LIEN CREATED BY THIS PART."~~  
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15 **Section 4.** Section 71-3-1115, MCA, is amended to read:

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

22 (2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,  
 23 ~~OPTOMETRIST, PODIATRIST, ambulance service,~~ psychologist, licensed social worker, licensed professional  
 24 counselor, hospital, ~~rehabilitation facility, long-term care facility,~~ or outpatient center for surgical services claiming  
 25 a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom  
 26 the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services,  
 27 and that a lien is claimed."  
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29 **Section 5.** Section 71-3-1116, MCA, is amended to read:

30 **"71-3-1116. Notice of lien -- filing with clerk of court.** (1) If an action is commenced for recovery for

1 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  
2 action is pending, and the filing is notice to all parties to the action.

3 (2) Once a person commencing an action under subsection (1) or the person's agent, attorney, or other  
4 representative has received the notice of lien OR AMENDED LIEN, the person receiving the notice of lien OR AMENDED  
5 LIEN shall inform all potentially KNOWN responsible payers of the notice of lien's existence LIEN OR AMENDED LIEN  
6 and provide all potentially KNOWN responsible payers with a copy of the notice of lien OR AMENDED LIEN."

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

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

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

20 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to  
21 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

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

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

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

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

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

