

HOUSE BILL NO. 319

INTRODUCED BY A. OLSZEWSKI

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA."

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, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Optometrist, Podiatrist, Ambulance Service, 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, hospitals, optometrists, podiatrists, ambulance services, 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 required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

- (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, optometrist, podiatrist, rehabilitation facility, long-term care facility,

1 or ambulance service renders services or provides products for the diagnosis and treatment of a medical
2 condition; or

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

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

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

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

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

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

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

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

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

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

26 (3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
27 hospital, outpatient center for surgical services, ambulance service, optometrist, podiatrist, rehabilitation facility,
28 long-term care facility, psychologist, licensed social worker, or licensed professional counselor claiming a lien
29 under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate
30 or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part.

1 The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

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

4 **"71-3-1115. Notice of lien.** (1) A physician, nurse, physical therapist, occupational therapist,
5 acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor,
6 hospital, optometrist, podiatrist, ambulance service, rehabilitation facility, long-term care facility, or outpatient
7 center for surgical services claiming a lien shall serve written notice upon the person and upon the insurer, if any,
8 against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the
9 services, for whom and when rendered, the value of the services, and that a lien is claimed.

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

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17 **Section 5.** Section 71-3-1117, MCA, is amended to read:

18 **"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice of a
19 lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien
20 claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
21 optometrist, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed
22 social worker, licensed professional counselor, hospital, or outpatient center for surgical services has not been
23 paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist,
24 acupuncturist, chiropractor, dentist, optometrist, podiatrist, ambulance service, rehabilitation facility, long-term
25 care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center
26 for surgical services for the reasonable value of the services."

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28 **Section 6.** Section 71-3-1118, MCA, is amended to read:

29 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to
30 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

