

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, NATUROPATHIC PHYSICIAN, 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, NATUROPATHIC PHYSICIANS, 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, NATUROPATHIC PHYSICIAN, podiatrist, rehabilitation



1 facility, long-term care facility, or ambulance service renders services or provides products for the diagnosis and
 2 treatment of a medical 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, NATUROPATHIC PHYSICIAN,
 9 podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed
 10 professional counselor has a lien for the 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, NATUROPATHIC PHYSICIAN, podiatrist, rehabilitation
 20 facility, long-term care facility, or ambulance service for the value of services rendered or products provided for
 21 the diagnosis and treatment of 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, NATUROPATHIC PHYSICIAN,
 28 podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed
 29 professional counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the
 30 injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments

1 or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a
 2 lien created by this part."

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

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

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

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

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

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

30 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to

- 1 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.
- 2 (2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry,
3 counseling, and hospital services pursuant to the acts referred to in subsection (1).
- 4 (3) This part does not apply to any benefits payable under:
- 5 (a) a policy of life insurance or group life insurance;
- 6 (b) a contract of disability insurance, except benefits payable in reimbursement for services rendered
7 by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist,
8 NATUROPATHIC PHYSICIAN, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist,
9 licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or
- 10 (c) an annuity contract or to pension benefits payable under a qualified pension plan."

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