

By: Senator(s) Farris

To: Insurance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2736

1 AN ACT TO CODIFY SECTION 41-9-121, MISSISSIPPI CODE OF 1972,
2 TO CREATE A LIEN UPON ALL CLAIMS AND CAUSES OF ACTION OF AN
3 INJURED PERSON FOR THE AMOUNT OF ANY PORTION OF THE HEALTH CARE
4 PROVIDER BILL THAT IS OWED BY SUCH PERSON; TO PROVIDE FOR PAYMENTS
5 BY THIRD-PARTY PAYORS TO HEALTH CARE PROVIDERS IN SUCH SITUATIONS;
6 AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** The following provision shall be codified as

9 Section 41-9-121, Mississippi Code of 1972:

10 41-9-121. (1) **Definitions.** For purposes of this section:

11 (a) "Injured person" shall mean any natural person who
12 has been injured or killed or has become sick or diseased under
13 circumstances creating a cause of action in favor of the injured
14 person against any person, firm or corporation third party.

15 (b) "Health care provider" means a licensed physician,
16 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,
17 optometrist or chiropractor.

18 (2) **Health care provider lien.** Each health care provider
19 that renders service in the treatment, care and/or maintenance of
20 an injured person shall have a lien upon all claims and causes of
21 action of the injured person for the amount of any portion of the
22 health care provider bill that (a) is unpaid and (b) the patient
23 or his third-party payor is legally obligated to pay. The health
24 care provider lienor shall be entitled to recover the unpaid
25 amount of its bill for the treatment, care and/or maintenance of
26 the injured person that the injured person is legally obligated to
27 pay from the proceeds that may result from the exercise of any
28 rights of recovery by or on behalf of the injured person. The
29 injured person shall execute and deliver instruments and papers



30 and do whatever is necessary to secure the health care provider
31 lienor's rights to such recovery and shall do nothing to prejudice
32 the rights of the health care provider lienor. No judgment,
33 award, settlement or compromise secured by or on behalf of an
34 injured person shall be satisfied without the injured person or
35 his or her authorized representative first (a) satisfying the
36 health care provider lien from such monies received or to be
37 received from such judgment, award, settlement or compromise and
38 (b) securing a release from the health care provider lienor
39 evidencing the payment or extinction of the lien.

40 No judgment, award, settlement or compromise received by or
41 on behalf of the injured person shall be binding upon or affect
42 the rights of the health care provider lienor against the third
43 party unless the health care provider's lien is satisfied or
44 extinguished. Any proceeds of any judgment, award, settlement or
45 compromise received by or on behalf of an injured person in the
46 absence of a release or instrument of satisfaction of lien
47 executed by the health care provider lienor shall constitute
48 conclusive evidence of the liability of the third party to the
49 health care provider for the amount of the lien, and the health
50 care provider lienor, in litigating its claim against the third
51 party, shall be required only to prove the amount and correctness
52 of its claim relating to its charges for the treatment, care
53 and/or maintenance of the injured person that remain unpaid and
54 that the injured person is legally obligated to pay.

55 The health care provider lien created under this section
56 exists by virtue of the relation of the parties and the services
57 rendered, and without any writing, or if in writing, without
58 recording; and the rights and liens conferred may be asserted and
59 enforced by the assigns and personal representatives of the
60 lienor.

61 Notwithstanding anything in this section to the contrary, in
62 no event shall the total amount a health care provider recovers as



63 a result of its lien under this section exceed one-third (1/3) of
64 the amount of the verdict, judgment, award, settlement or
65 compromise secured by or on behalf of the injured person on his or
66 her claim or right of action.

67 As long as the charges for the treatment, care and/or
68 maintenance of the injured person that the injured person or his
69 third-party payor is legally obligated to pay are unpaid, nothing
70 herein shall be construed to diminish or otherwise restrict the
71 rights of the health care provider to pursue payment of those
72 charges in its regular course of business.

73 Nothing in this section shall be construed to create a health
74 care provider lien upon any limited benefit health insurance
75 policy, nor to require satisfaction of the health care provider
76 lien from monies received under any limited benefit health
77 insurance policy.

78 (3) **Payments by third-party payors.** In the event an injured
79 person has healthcare coverage with a third-party payor, and as a
80 result of such coverage, such third-party payor is legally
81 obligated to pay the health care provider for all or a portion of
82 the treatment, care and maintenance delivered by the health care
83 provider to the injured person, then in such event the third-party
84 payor shall make such payment to the health care provider within
85 the same time period it would otherwise make payment without
86 taking into account the possibility of a monetary recovery by the
87 injured person from the wrongdoer. In no event can a third-party
88 payor withhold from the health care provider or the injured party
89 monies that it is legally obligated to pay because of the
90 anticipation of a verdict, judgment, award, settlement or
91 compromise that may be secured by or on behalf of the injured
92 person on his or her claim or cause of action.

93 **SECTION 2.** This act shall take effect and be in force from
94 and after July 1, 2002.

