

By: Representative White

To: Public Health and Human Services

HOUSE BILL NO. 483

1 AN ACT TO REENACT SECTIONS 85-7-301 THROUGH 85-7-315,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE A BURN CARE LIEN FOR
3 QUALIFYING PROVIDERS; TO AMEND SECTION 85-7-317, MISSISSIPPI CODE
4 OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THOSE SECTIONS; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 85-7-301, Mississippi Code of 1972, is
8 reenacted as follows:

9 85-7-301. (1) Except where the context otherwise requires
10 in subsection (2) of this section, as used in Sections 85-7-301
11 through 85-7-315, the term:

12 (a) "Qualifying hospital" means any hospital designated
13 as a burn center by the State Department of Health.

14 (b) "Qualifying practice" means any physician practice
15 that provides care, treatment or services to a patient who has
16 been admitted to a qualifying hospital.

17 (c) "Care, treatment or services" means burn care or
18 burn-related treatment, or services furnished by a qualifying
19 hospital or qualifying practice.



20 (d) "Uncompensated traumatic burn care" means any
21 portion of care, treatment or services rendered by a qualifying
22 hospital or qualifying practice with respect to a patient whose
23 burn care, treatment or services arose out of a single accident or
24 occurrence for which the qualifying hospital or qualifying
25 practice did not receive payment.

26 (2) Any person, firm, authority or corporation operating a
27 qualifying hospital or qualifying practice providing traumatic
28 burn care in this state shall have a lien for the reasonable
29 charges for care, treatment or services of an injured person for
30 uncompensated traumatic burn care, which lien shall be only upon
31 any and all causes of action accruing to the person to whom the
32 care was furnished or to the legal representative of the person on
33 account of injuries that gave rise to the causes of action and
34 that necessitated the care, treatment or services, subject and
35 subordinate, however, to any attorney's lien or fees. The lien
36 provided for in this subsection is only a lien against those
37 causes of action and shall not be a lien against the injured
38 person, the legal representative, or any other property or assets
39 of those persons and shall not be evidence of the person's failure
40 to pay a debt. This subsection shall not be construed to
41 interfere with the exemption from Sections 85-7-301 through
42 85-7-315 provided by Section 85-7-309, nor shall this subsection
43 prohibit an injured person or his legal representative from
44 negotiating with a qualifying hospital or practice.



45 **SECTION 2.** Section 85-7-303, Mississippi Code of 1972, is
46 reenacted as follows:

47 85-7-303. (1) In order to perfect the lien provided for in
48 Section 85-7-301, the operator of the qualifying hospital or
49 qualifying practice:

50 (a) Shall, not less than fifteen (15) days before the
51 date of filing the statement required under paragraph (b) of this
52 subsection, provide written notice to the patient and the legal
53 representative of the patient, if applicable, and, to the best of
54 the operator's knowledge, the persons, firms, corporations and
55 their insurers claimed by the injured person or the legal
56 representative of the injured person to be liable for damages
57 arising from the injuries and shall include in the notice a
58 statement that the lien is not a lien against the patient or any
59 other property or assets of the patient and is not evidence of the
60 patient's failure to pay a debt. The notice shall be sent to all
61 those persons and entities by first-class and certified mail or
62 statutory overnight delivery, return receipt requested; and

63 (b) Shall file in the office of the clerk of the
64 chancery court of the county in which the qualifying hospital or
65 qualifying practice is located and in the county in which the
66 patient resides, if a resident of this state, a verified statement
67 setting forth the name and address of the patient as it appears on
68 the records of the qualifying hospital or qualifying practice; the
69 name and location of the qualifying hospital or qualifying



70 practice, and the name and address of the operator thereof; the
71 dates of admission and discharge of the patient from the
72 qualifying hospital, or with respect to a qualifying practice, the
73 dates of treatment; the amount claimed to be due for the
74 qualifying hospital or qualifying practice; and certification that
75 the amount claimed is for treatment of uncompensated traumatic
76 burn care, which statement must be filed within the following time
77 period:

78 (i) If the statement is filed by a qualifying
79 hospital, then the statement shall be filed within seventy-five
80 (75) days after the person has been discharged from the facility;
81 or

82 (ii) If the statement is filed by a qualifying
83 practice, then the statement shall be filed within ninety (90)
84 days after the person first sought treatment from the practice for
85 the injury.

86 (2) The filing of the claim or lien shall be notice thereof
87 to all persons, firms or corporations liable for the damages,
88 whether or not they received the written notice provided for in
89 this section. The failure to perfect the lien by timely complying
90 with the notice and filing provisions of subsection (1) of this
91 section shall invalidate the lien, except as to any person, firm,
92 or corporation liable for the damages, which receives before the
93 date of any release, covenant not to bring an action, or
94 settlement, actual notice of a notice and filed statement made



95 under subsection (1) of this section, via hand delivery, certified
96 mail, return receipt requested, or statutory overnight delivery
97 with confirmation of receipt.

98 **SECTION 3.** Section 85-7-305, Mississippi Code of 1972, is
99 reenacted as follows:

100 85-7-305. The clerk of the chancery court shall endorse the
101 date and hour of filing on the statement filed under Section
102 85-7-303; and, at the expense of the county, the clerk shall
103 provide a lien book with a proper index in which the clerk shall
104 enter the date and hour of the filing; the names and addresses of
105 the qualifying hospital or qualifying practice, the operators
106 thereof, and the patient; and the amount claimed. The information
107 shall be recorded in the name of the patient.

108 **SECTION 4.** Section 85-7-307, Mississippi Code of 1972, is
109 reenacted as follows:

110 85-7-307. (1) No release of the cause or causes of action
111 or of any judgment thereon or any covenant not to bring an action
112 thereon shall be valid or effectual against the lien created by
113 Section 85-7-301 unless the holder thereof is given notification
114 of the results of the cause of action or executes a release of the
115 lien; and the injured party (the "claimant") or an assignee of the
116 lien holder may enforce the lien by an action against the person,
117 firm or corporation liable for the damages or the person, firm or
118 corporation's insurer. If the claimant prevails in the action and
119 if the claimant's balance of the award is insufficient to cover



120 the medical liens, the court may determine pro rata compensation
121 in favor of the claimant. In no case shall the payment towards
122 the liens exceed fifty percent (50%) of the claimant's balance.
123 Any qualifying hospital or qualifying practice that receives
124 payments under the authority of Sections 85-7-301 through 85-7-315
125 shall release the claimant from any further liens for the cost of
126 hospital care, treatment or services provided for which the lien
127 was placed. The action shall be begun against the person liable
128 for the damages or the person's insurer within one (1) year after
129 the date the liability is finally determined by a settlement, by a
130 release, by a covenant not to bring an action, or by the judgment
131 of a court of competent jurisdiction.

132 (2) No release or covenant not to bring an action that is
133 made before or after the patient was discharged from the
134 qualifying hospital or qualifying practice shall be effective
135 against the lien perfected in accordance with Section 85-7-303, if
136 the lien is perfected before the date of the release, covenant not
137 to bring an action, or settlement unless notification is given to
138 the qualifying hospital or qualifying practice; however, any
139 person, firm or corporation that consummates a settlement, release
140 or covenant not to bring an action with the person to whom care,
141 treatment or services were furnished and that first procures from
142 the injured party an affidavit as prescribed in subsection (3) of
143 this section shall not be bound or otherwise affected by the lien
144 except as provided in subsection (3) of this section, regardless



145 of when the settlement, release or covenant not to bring an action
146 was consummated.

147 (3) The affidavit shall affirm:

148 (a) That all bills incurred for treatment for the
149 injuries for which a settlement is made have been fully paid or
150 resolved; and

151 (b) The county of residence of the affiant, if a
152 resident of this state; however, the person taking the affidavit
153 shall not be protected thereby where the affidavit alleges the
154 county of the affiant's residence and the lien of the qualifying
155 hospital or qualifying practice is at that time on file in the
156 office of the chancery clerk and is recorded in the name of the
157 patient as it appears in the affidavit.

158 **SECTION 5.** Section 85-7-309, Mississippi Code of 1972, is
159 reenacted as follows:

160 85-7-309. Sections 85-7-301 through 85-7-315 shall not apply
161 to:

162 (a) A cause of action filed by a person who received
163 care, treatment or services from a qualifying hospital or a
164 qualifying practice whose medical costs were paid by the Centers
165 for Medicare and Medicaid Services.

166 (b) Any monies becoming due under the Workers'
167 Compensation Law.

168 **SECTION 6.** Section 85-7-311, Mississippi Code of 1972, is
169 reenacted as follows:



170 85-7-311. No settlement or release entered into or executed
171 before the entry of the injured party into the qualifying hospital
172 shall be affected by or subject to the terms of Sections 85-7-301
173 through 85-7-315.

174 **SECTION 7.** Section 85-7-313, Mississippi Code of 1972, is
175 reenacted as follows:

176 85-7-313. Sections 85-7-301 through 85-7-315 shall not be
177 construed to give any qualifying hospital or qualifying practice
178 an independent right of action to determine liability for injuries
179 sustained by a person or firm.

180 **SECTION 8.** Section 85-7-315, Mississippi Code of 1972, is
181 reenacted as follows:

182 85-7-315. Any person who gives any false affidavit as
183 provided by Section 85-7-307 commits the offense of perjury.

184 **SECTION 9.** Section 85-7-317, Mississippi Code of 1972, is
185 amended as follows:

186 85-7-317. Sections 85-7-301 through 85-7-315 shall stand
187 repealed on July 1, * * * 2019.

188 **SECTION 10.** This act shall take effect and be in force from
189 and after July 1, 2016.

