

FIRST REGULAR SESSION

SENATE BILL NO. 409

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Read 1st time February 3, 1999, and 1,000 copies ordered printed.

L1647.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 430.230, 430.235, 430.240 and 430.250, RSMo 1994, relating to liens for the protection of licensed health practitioners, and to enact in lieu thereof five new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 430.230, 430.235, 430.240 and 430.250, RSMo 1994, are repealed and five new sections enacted in lieu thereof, to be known as sections 430.225, 430.230, 430.235, 430.240 and 430.250, to read as follows:

430.225. As used in sections 430.225 to 430.250, the following terms shall mean:

- (1) "Claim", a claim of a patient for:**
 - (a) Damages from a tortfeasor; or**
 - (b) Benefits from an insurance carrier;**
- (2) "Clinic", a group practice of health practitioners or a sole practice of a health practitioner who has incorporated his or her practice;**
- (3) "Health practitioner", a physician, surgeon, physical therapist or occupational therapist licensed pursuant to chapter 334, RSMo, a dentist licensed pursuant to chapter 332, RSMo, a podiatrist licensed pursuant to chapter 330, RSMo, an optometrist licensed pursuant to chapter 336, RSMo, a pharmacist licensed pursuant to chapter 338, RSMo, a chiropractor licensed pursuant to chapter 331, RSMo, a psychologist or professional counselor licensed pursuant to chapter 337, RSMo, a nurse licensed pursuant to chapter 335, RSMo, a social worker licensed pursuant to chapter 337, RSMo, or a mental health professional, as defined in section 632.005, RSMo, while acting within**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

the scope of their practice;

(4) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381 or 383, RSMo;

(5) "Other institution", a legal entity existing pursuant to the laws of this state which delivers treatment, care or maintenance to patients who are sick or injured;

(6) "Patient", any person to whom a health practitioner, hospital, clinic or other institution delivers treatment, care or maintenance for sickness or injury caused by a tortfeasor from whom such person seeks damages or any insurance carrier which has insured such tortfeasor.

430.230. Every [public hospital or clinic, and every privately maintained] **health practitioner**, hospital, clinic or other institution **licensed in this state** for the care of the sick[, which is supported in whole or in part by charity.] **or injured** located within the state of Missouri[, or any such hospital duly incorporated under the laws of Missouri providing for the incorporation of eleemosynary institutions,] shall have a lien upon any and all claims, counterclaims, demands, suits, or rights of action of any person admitted to any hospital, clinic or other institution [and] **or** receiving treatment, care or maintenance therein **or from any such health practitioner** for any cause including any personal injury sustained by such person as the result of the negligence or wrongful act of another, which such injured person, **his or her heirs or their legal representatives** may have, assert or maintain against the person or persons causing such injury for damages on account of such injury, for the cost of such services, computed at reasonable rates not to exceed [twenty-five dollars per day and the reasonable cost of] **the customary charges for** necessary X-ray, laboratory, operating room [and], medication service[.] **and other treatment** as such hospital, clinic, or other institution shall render such injured person on account of his **or her** conditions; provided further, that the lien herein set forth shall not be applied or considered valid against anyone coming under the workers' compensation law in this state.

430.235. Notwithstanding the provisions of section 430.230, every [public] **health practitioner**, hospital [or clinic, and every privately maintained hospital], clinic or other institution for the care of the sick[, which is supported in whole or in part by charity,] located within the state of Missouri[, or any such hospital duly incorporated under the laws of Missouri providing for the incorporation of eleemosynary institutions,] shall have a lien upon any and all claims, counterclaims, demands, suits, or rights of action of any person [admitted to any hospital, clinic or other institution and] receiving treatment, care or maintenance [therein] **from any health practitioner, hospital, clinic or other institution** for any cause including any personal injury sustained by such person as the result of the negligence or wrongful act of another, which such injured person, **his or her heirs or their legal representatives** may have, assert or

maintain against the person or persons causing such injury for damages on account of such injury, for the cost of such services, computed at reasonable rates not to exceed the customary charges for the services and the customary charges for necessary X-ray, laboratory, operating room and medication services as such **health practitioner**, hospital, clinic or other institution shall render such injured person on account of his **or her** conditions. The lien set forth in this section shall not be applied or considered valid against anyone coming under the workers' compensation law in this state. The lien set forth in this section shall be considered valid and may be applied against medical benefits paid anyone [under] **pursuant to** the provisions of chapter 208, RSMo, whether such benefits are paid from state or federal funds, or a combination thereof.

430.240. No such lien shall be effective, however, unless a written notice containing the name and address of the injured person, the date of the accident, the name and [location] **address** of the **health practitioner**, hospital, **clinic or other institution** and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be sent by registered mail with return receipt requested, to the person or persons, firm or firms, corporation or corporations, if known, alleged to be liable to the injured party, if known, for the injuries sustained prior to the payment of any moneys to such injured person, his **or her** attorneys, **heirs** or legal representative, as compensation for such injuries. Such **health practitioner**, hospital, **clinic or other institution** shall send by registered mail with return receipt requested a copy of such notice to any insurance carrier, if known, which has insured such person, firm or corporation against such liability.

430.250. Any person or persons, firm or firms, corporation or corporations, including an insurance carrier, making any payment to such patient or to his **or her** attorneys or heirs or legal representatives as compensation for the injury sustained, after the receipt of such notice in accordance with the requirements of section 430.240, without paying to such **health practitioner**, hospital, **clinic or other institution** the amount of its lien or so much thereof as can be satisfied out of fifty percent of the moneys due to such patient under any final judgment or compromise or settlement agreement after paying the amount of attorneys' liens, federal and Missouri workers' compensation liens, and any [prior] **superior** liens, shall have a period of one year, after such settlement is made known to the **health practitioner**, hospital, **clinic or other institution**, from the date of payment to such patient or his **or her** heirs, attorneys or legal representatives, as aforesaid, be and remain liable to such **health practitioner**, hospital, **clinic or other institution** for the amount which such **health practitioner**, hospital, **clinic or other institution** was entitled to receive, as aforesaid, and any such [association, corporation or other institution maintaining such] **health practitioner**, hospital, **clinic or other institution** may, within such period, enforce its lien by a suit at law against such person or persons, firm or firms, corporation or corporations making any such payment. **If the liens of such health practitioners, hospitals, clinics or other institutions exceeds fifty percent of the amount**

due the patient, every health practitioner, hospital, clinic or other institution giving notice of its lien, as aforesaid, shall share in fifty percent of the amount due the patient in the proportion that each claim bears to the total amount of all other liens of health practitioners, hospitals, clinics or other institutions.

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