

MAR 5 1997
Place On Calendar

HOUSE FILE 448
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 152)

Passed House, Date (p.885) 3/27/97 Passed Senate, Date _____
Vote: Ayes 61 Nays 35 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the establishment of a lien by licensed
2 professionals against damages collected by an injured patient.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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Rhh -14

1 Section 1. Section 582.1, Code 1997, is amended to read as
2 follows:

3 582.1 NATURE OF LIEN.

4 Every association, corporation, county, or other
5 institution, including a municipal corporation, maintaining a
6 hospital in the state, ~~which shall furnish~~ and every licensed
7 professional who furnishes medical or other service to any
8 patient injured by reason of an accident not covered by the
9 workers' compensation Act, shall, if ~~such the~~ the injured party
10 ~~shall assert asserts~~ asserts or ~~maintain maintains~~ maintains a claim against
11 another for damages on account of ~~such the~~ the injuries, have a
12 lien upon that part going or belonging to ~~such the~~ the patient of
13 any recovery or sum had or collected or to be collected by
14 ~~such the~~ the patient, or by the patient's heirs or personal
15 representatives in the case of the patient's death, whether by
16 judgment or by settlement or compromise to the amount of the
17 reasonable and necessary charges of ~~such the~~ the hospital or
18 licensed professional, if applicable, for the treatment, care,
19 and maintenance of ~~such the~~ the patient in ~~such the~~ the hospital or by
20 the licensed professional, if applicable, up to the date of
21 payment of ~~such the~~ the damages; provided, however, that this lien
22 shall not in any way prejudice or interfere with any lien or
23 contract which may be made by ~~such the~~ the patient or the
24 patient's heirs or personal representatives with any attorney
25 or attorneys for handling the claim on behalf of such patient,
26 the patient's heirs, or personal representatives; provided,
27 further, that the lien ~~herein set forth~~ shall not be applied
28 or considered valid against anyone coming under the workers'
29 compensation Act in this state. For the purposes of this
30 chapter, "licensed professional" means an individual licensed
31 to practice medicine and surgery pursuant to chapter 148,
32 licensed to practice osteopathic medicine and surgery pursuant
33 to chapter 150A, or licensed to practice chiropractic pursuant
34 to chapter 151.

35 Sec. 2. Section 582.2, Code 1997, is amended to read as

1 follows:

2 582.2 WRITTEN NOTICE OF LIEN.

3 ~~No-such~~ A lien shall not be effective, ~~however,~~ unless a
4 written notice containing the name and address of the injured
5 person, the date of the accident, the name and location of the
6 hospital, the name of the licensed professional, if
7 applicable, and the name of the person or persons, firm or
8 firms, corporation or corporations alleged to be liable to the
9 injured party for the injuries received, ~~shall-be~~ is filed in
10 the office of the clerk of the district court of the county in
11 which ~~such~~ the hospital is located or the licensed
12 professional practices, if applicable, prior to the payment of
13 any moneys to ~~such~~ the injured person, the person's attorneys
14 or legal representative, as compensation for ~~such~~ the
15 injuries; nor unless the hospital and the licensed
16 professional, if applicable, shall also mail, postage prepaid,
17 a copy of ~~such~~ the notice with a statement of the date of
18 filing ~~thereof~~ of the notice to the person or persons, firm or
19 firms, corporation or corporations alleged to be liable to the
20 injured party for the injuries sustained prior to the payment
21 of any moneys to ~~such~~ the injured person, the person's
22 attorneys or legal representative, as compensation for ~~such~~
23 the injuries. ~~Such~~ The hospital shall mail a copy of ~~such~~ the
24 notice to any insurance carrier which has insured ~~such~~ the
25 person, firm, or corporation against ~~such~~ the liability, if
26 the name and address ~~shall-be~~ are known.

27 Sec. 3. Section 582.3, Code 1997, is amended to read as
28 follows:

29 582.3 DURATION AND ENFORCEMENT OF LIEN.

30 Any person or persons, firm or firms, corporation or
31 corporations, including an insurance carrier, making any
32 payment to ~~such~~ a patient or to the patient's attorneys or
33 heirs or legal representatives as compensation for the injury
34 sustained, after the filing and mailing of ~~such~~ the notice
35 without paying to ~~such~~ the hospital or any licensed

1 professional, if applicable, the amount of its the lien or so
2 much thereof as can be satisfied out of the moneys due under
3 any final judgment or compromise or settlement agreement,
4 after paying the amount of any prior liens, shall, for a
5 period of one year from the date of payment to such the
6 patient or the patient's heirs, attorneys, or legal
7 representatives, ~~as aforesaid, be and~~ remain liable to such
8 the hospital or licensed professional, if applicable, for the
9 amount which such the hospital or licensed professional, if
10 applicable, was entitled to receive ~~as aforesaid~~; any such
11 association, corporation, or other institution maintaining
12 such the hospital or any licensed professional, if applicable,
13 may, within such the period, enforce ~~its the~~ lien by a suit at
14 law against such the person or persons, firm or firms,
15 corporation or corporations making any such payment.

16 Sec. 4. Section 582.4, Code 1997, is amended to read as
17 follows:

18 582.4 LIEN BOOK -- FEES.

19 Every clerk of the district court shall, at the expense of
20 the county, provide a suitable well-bound book to be called
21 the hospital and licensed professional lien docket in which,
22 upon the filing of any lien claim under the provisions of this
23 chapter, the clerk shall enter the name of the injured person,
24 the date of the accident, and the name of the hospital or
25 other institution or of the licensed professional, if
26 applicable, making the claim. The clerk shall make a proper
27 index of the ~~same~~ claim in the name of the injured person and
28 the clerk shall collect a fee of ten dollars for filing each
29 lien claim.

30 EXPLANATION

31 This bill provides for the establishment of a lien against
32 sums collected by a person injured in an accident not covered
33 by the workers' compensation law, as damages, for payment of
34 licensed professionals, in addition to the existing lien which
35 may be maintained by a hospital providing care, treatment, and

1 maintenance to a patient. The bill defines a licensed
2 professional as an individual licensed to practice medicine
3 and surgery, osteopathic medicine and surgery, or
4 chiropractic.

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HOUSE FILE 448

H-1386

1 Amend House File 448 as follows:
 2 1. Page 1, line 29, by inserting after the word
 3 "state." the following: "Statutory rights for liens
 4 under this chapter shall not exceed the amount of that
 5 portion of the judgment or verdict specifically
 6 related to such losses, as demonstrated by the
 7 itemization of the judgment or verdict, and the
 8 hospital or licensed professional shall be responsible
 9 for a pro rata share of the legal and administrative
 10 expenses incurred in obtaining the judgment or
 11 verdict. If a claim subject to a lien under this
 12 chapter is resolved by settlement, the lienholder
 13 shall be entitled to a hearing to determine whether
 14 the settlement was reasonable and what portion of the
 15 settlement specifically related to the loss giving
 16 rise to the lien."

By MILLAGE of Scott

H-1386 FILED MARCH 25, 1997

Adopted 3/27/97 (p. 882)

HOUSE FILE 448

H-1387

1 Amend House File 448 as follows:
 2 1. Page 3, by inserting after line 29 the
 3 following:
 4 "Sec. ____ . NEW SECTION. 582.5 SATISFACTION OF
 5 LIEN -- PENALTY.
 6 When the amount due under a lien established by
 7 this chapter is paid off, or satisfied in full, the
 8 hospital or licensed professional entitled to the
 9 proceeds thereof, or those acting for the hospital or
 10 licensed professional, must knowledge satisfaction of
 11 the lien upon the record of the lien, or by the
 12 execution of an instrument referring to the lien, duly
 13 acknowledged and filed in the office of the clerk in
 14 every county where the lien is recorded. A failure to
 15 do so within thirty days after having been requested
 16 in writing shall subject the delinquent hospital or
 17 licensed professional to a penalty of one hundred
 18 dollars plus reasonable attorney fees incurred by the
 19 party aggrieved, to be recovered in an action for the
 20 satisfaction or acknowledgment by the party
 21 aggrieved."
 22 2. Title page, line 2, by inserting after the
 23 word "patient" the following: "and providing a
 24 penalty".
 25 3. By renumbering as necessary.

By MORELAND of Wapello

H-1387 FILED MARCH 25, 1997

Adopted 3/27/97 (p. 885)

H-1213

1 Amend House File 448 as follows:

2 1. Page 2, by striking lines 11 and 12, and
 3 inserting the following: "which such the hospital is
 4 located or in which the principal office of the
 5 licensed professional is located, if applicable, prior
 6 to the payment of".

7 2. Page 2, line 23, by inserting after the word
 8 "hospital" the following: "or the licensed
 9 professional, as applicable".

By LARSON of Linn

H-1213 FILED MARCH 18, 1997

adopted 3/27/97
(P. 884)

HOUSE FILE 448

H-1153

1 Amend House File 448 as follows:

A 2 1. Page 1, line 12, by inserting after the word
 3 "part" the following: ", subject to any allocation of
 4 fault,".

B 5 2. Page 1, line 17, by inserting after the word
 6 "charges" the following: ", as determined by the
 7 court if the amount of the recovery or sum is
 8 determined by judgment,".

C 9 3. Page 1, line 21, by inserting after the word
 10 "damages;" the following: "provided that in addition
 11 to the limitation to the reasonable and necessary
 12 charges, the lien is further limited by a reduction
 13 for the pro-rata share of the patient's, or the
 14 patient's heirs' or personal representatives' costs
 15 and attorney fees;".

By MILLAGE of Scott

H-1153 FILED MARCH 10, 1997

A ~~adopted~~ *3/27/97* (P. 881)
LOST

B. & C. Withdrawn 3/27/97 (P. 885)

HOUSE FILE 448

H-1388

1 Amend House File 448 as follows:

2 1. Page 1, line 34, by inserting after the figure
 3 "151." the following: "For the purposes of this
 4 chapter, "reasonable and necessary charges of the
 5 hospital or licensed professional for treatment, care,
 6 and maintenance of the patient" means charges which
 7 are limited to the minimum amount that the hospital or
 8 licensed professional would accept for payment for the
 9 treatment, care, and maintenance of the patient under
 10 any governmental reimbursement program or managed care
 11 program including any health maintenance organization
 12 or preferred provider organization, in which the
 13 hospital or licensed professional participates in at
 14 the time the lien is asserted."

By HUSER of Polk

H-1388 FILED MARCH 25, 1997

Lost 3/27/97 (P. 884)

HOUSE FILE 448

H-1401

- 1 Amend the amendment, H-1387, to House File 448 as
- 2 follows:
- 3 1. Page 1, line 10, by striking the word
- 4 "knowledge" and inserting the following:
- 5 "acknowledge".

By MORELAND of Wapello

H-1401 FILED MARCH 26, 1997

adopted 3-27-97

(p. 885)

HOUSE FILE 448

H-1440

- 1 Amend the amendment, H-1153, to House File 448 as
- 2 follows:
- 3 1. Page 1, line 3, by striking the words "subject
- 4 to" and inserting the following: "remaining after".

By MILLAGE of Scott

H-1440 FILED MARCH 26, 1997

adopted

3/27/97 (p. 881)

HOUSE FILE 448

H-1450

- 1 Amend the amendment, H-1388 to House File 448 as
- 2 follows:
- 3 1. Page 1, by striking lines 2 through 14, and
- 4 inserting the following:
- 5 "____. Page 1, line 34, by inserting after the
- 6 figure "151." the following: "For the purposes of
- 7 this chapter, "reasonable and necessary charges of the
- 8 hospital or licensed professional for treatment, care,
- 9 and maintenance of the patient" means charges which
- 10 are limited to the reimbursement that the hospital or
- 11 licensed professional would receive for payment for
- 12 the treatment, care, and maintenance of the patient
- 13 under the governmental reimbursement program or
- 14 managed care program including a health maintenance
- 15 organization or preferred provider organization
- 16 providing coverage to that individual patient and in
- 17 which the hospital or licensed professional
- 18 participates at the time the lien is asserted."
- 19 2. By renumbering as necessary.

By HUSER of Polk

H-1450 FILED MARCH 27, 1997

ADOPTED *3-27-97*

(p. 884)

S-3/31, 19 Judiciary

HOUSE FILE 448
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 152)

(As Amended and Passed by the House, March 27, 1997)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for the establishment of a lien by licensed
2 professionals against damages collected by an injured patient
3 and providing a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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6 hospital in the state, ~~which shall furnish~~ and every licensed
7 professional who furnishes medical or other service to any
8 patient injured by reason of an accident not covered by the
9 workers' compensation Act, shall, if ~~such~~ the injured party
10 ~~shall assert~~ asserts or ~~maintain~~ maintains a claim against
11 another for damages on account of ~~such~~ the injuries, have a
12 lien upon that part going or belonging to ~~such~~ the patient of
13 any recovery or sum had or collected or to be collected by
14 ~~such~~ the patient, or by the patient's heirs or personal
15 representatives in the case of the patient's death, whether by
16 judgment or by settlement or compromise to the amount of the
17 reasonable and necessary charges of ~~such~~ the hospital or
18 licensed professional, if applicable, for the treatment, care,
19 and maintenance of ~~such~~ the patient in ~~such~~ the hospital or by
20 the licensed professional, if applicable, up to the date of
21 payment of ~~such~~ the damages; provided, however, that this lien
22 shall not in any way prejudice or interfere with any lien or
23 contract which may be made by ~~such~~ the patient or the
24 patient's heirs or personal representatives with any attorney
25 or attorneys for handling the claim on behalf of such patient,
26 the patient's heirs, or personal representatives; provided,
27 further, that the lien ~~herein set forth~~ shall not be applied
28 or considered valid against anyone coming under the workers'
29 compensation Act in this state. For the purposes of this
30 chapter, "licensed professional" means an individual licensed
31 to practice medicine and surgery pursuant to chapter 148,
32 licensed to practice osteopathic medicine and surgery pursuant
33 to chapter 150A, or licensed to practice chiropractic pursuant
34 to chapter 151.

35 Sec. 2. Section 582.2, Code 1997, is amended to read as

1 follows:

2 582.2 WRITTEN NOTICE OF LIEN.

3 ~~No-such~~ A lien shall not be effective, ~~however,~~ unless a
4 written notice containing the name and address of the injured
5 person, the date of the accident, the name and location of the
6 hospital, the name of the licensed professional, if
7 applicable, and the name of the person or persons, firm or
8 firms, corporation or corporations alleged to be liable to the
9 injured party for the injuries received, ~~shall-be~~ is filed in
10 the office of the clerk of the district court of the county in
11 which such the hospital is located or in which the principal
12 office of the licensed professional is located, if applicable,
13 prior to the payment of any moneys to such the injured person,
14 the person's attorneys or legal representative, as
15 compensation for such the injuries; nor unless the hospital
16 and the licensed professional, if applicable, shall also mail,
17 postage prepaid, a copy of such the notice with a statement of
18 the date of filing thereof of the notice to the person or
19 persons, firm or firms, corporation or corporations alleged to
20 be liable to the injured party for the injuries sustained
21 prior to the payment of any moneys to such the injured person,
22 the person's attorneys or legal representative, as
23 compensation for such the injuries. Such The hospital or the
24 licensed professional, as applicable shall mail a copy of such
25 the notice to any insurance carrier which has insured such the
26 person, firm, or corporation against such the liability, if
27 the name and address ~~shall-be~~ are known.

28 Sec. 3. Section 582.3, Code 1997, is amended to read as
29 follows:

30 582.3 DURATION AND ENFORCEMENT OF LIEN.

31 Any person or persons, firm or firms, corporation or
32 corporations, including an insurance carrier, making any
33 payment to such a patient or to the patient's attorneys or
34 heirs or legal representatives as compensation for the injury
35 sustained, after the filing and mailing of such the notice

1 without paying to ~~such~~ the hospital or any licensed
2 professional, if applicable, the amount of ~~its~~ the lien or so
3 much thereof as can be satisfied out of the moneys due under
4 any final judgment or compromise or settlement agreement,
5 after paying the amount of any prior liens, shall, for a
6 period of one year from the date of payment to ~~such~~ the
7 patient or the patient's heirs, attorneys, or legal
8 representatives, ~~as-aforsaid, be-and~~ remain liable to ~~such~~
9 the hospital or licensed professional, if applicable, for the
10 amount which ~~such~~ the hospital or licensed professional, if
11 applicable, was entitled to receive ~~as-aforsaid~~; any ~~such~~
12 association, corporation, or other institution maintaining
13 ~~such~~ the hospital or any licensed professional, if applicable,
14 may, within ~~such~~ the period, enforce ~~its~~ the lien by a suit at
15 law against ~~such~~ the person or persons, firm or firms,
16 corporation or corporations making any ~~such~~ payment.

17 Sec. 4. Section 582.4, Code 1997, is amended to read as
18 follows:

19 582.4 LIEN BOOK -- FEES.

20 Every clerk of the district court shall, at the expense of
21 the county, provide a suitable well-bound book to be called
22 the hospital and licensed professional lien docket in which,
23 upon the filing of any lien claim under the provisions of this
24 chapter, the clerk shall enter the name of the injured person,
25 the date of the accident, and the name of the hospital or
26 other institution or of the licensed professional, if
27 applicable, making the claim. The clerk shall make a proper
28 index of the ~~same~~ claim in the name of the injured person and
29 the clerk shall collect a fee of ten dollars for filing each
30 lien claim.

31 Sec. 5. NEW SECTION. 582.5 SATISFACTION OF LIEN --
32 PENALTY.

33 When the amount due under a lien established by this
34 chapter is paid off, or satisfied in full, the hospital or
35 licensed professional entitled to the proceeds thereof, or

1 those acting for the hospital or licensed professional, must
2 acknowledge satisfaction of the lien upon the record of the
3 lien, or by the execution of an instrument referring to the
4 lien, duly acknowledged and filed in the office of the clerk
5 in every county where the lien is recorded. A failure to do
6 so within thirty days after having been requested in writing
7 shall subject the delinquent hospital or licensed professional
8 to a penalty of one hundred dollars plus reasonable attorney
9 fees incurred by the party aggrieved, to be recovered in an
10 action for the satisfaction or acknowledgment by the party
11 aggrieved.

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