

Senate File 546 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1144)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a hospital lien and providing an effective
2 date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1773SV 82
5 rh/es/88

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1 1 Section 1. NEW SECTION. 582.0A DEFINITIONS.
1 2 1. "Health plan" means an individual or group plan that
1 3 provides, or pays the costs of, medical care as that term is
1 4 defined in the federal Health Insurance Portability and
1 5 Accountability Act of 1996, Pub. L. No. 104=191 and
1 6 regulations promulgated thereunder.
1 7 2. "Hospital" means a public or private institution
1 8 licensed pursuant to chapter 135B.
1 9 3. "Provider agreement" means a contract, understanding,
1 10 or arrangement made by an association, corporation, county,
1 11 municipal corporation, or other institution maintaining a
1 12 hospital in the state, with any health plan or other entity
1 13 for the provision or payment of health care services.
1 14 Sec. 2. Section 582.1, Code 2007, is amended to read as
1 15 follows:
1 16 582.1 NATURE OF LIEN.
1 17 1. Every association, corporation, county, municipal
1 18 corporation, or other institution, including a municipal
1 19 corporation, maintaining a hospital in the state, which shall
1 20 furnish medical or other service to any patient injured by
1 21 reason of an accident not covered by the workers' compensation
1 22 Act, shall, if such injured party shall assert or maintain a
1 23 claim against another for damages on account of such injuries,
1 24 have a lien upon that part going or belonging to such patient
1 25 of any recovery or sum had or collected or to be collected by
1 26 such patient, or by the patient's heirs or personal
1 27 representatives in the case of the patient's death, whether by
1 28 judgment or by settlement or compromise to the amount of the
1 29 reasonable and necessary charges of such hospital for the
1 30 treatment, care, and maintenance of such patient in such
1 31 hospital up to the date of payment of such damages; provided,
1 32 however, that this to the amount of the reasonable and
1 33 customary charges of such hospital for the treatment, care,
1 34 and maintenance of such patient in such hospital up to the
1 35 date of payment of such damages, except as provided in
2 1 subsection 2.
2 2 2. If a patient provides proof of insurance coverage under
2 3 a health plan within thirty days of the patient's discharge
2 4 from a hospital, the hospital shall submit all charges to the
2 5 patient's health plan prior to filing the notice of the lien
2 6 pursuant to section 582.2. The patient's health plan shall
2 7 not deny payment for medical services received on the basis
2 8 that a third party or other insurance carrier is responsible
2 9 for the patient's injuries. If the health plan is not subject
2 10 to the payment requirement under this subsection due to
2 11 federal preemption and the claim is denied because a third
2 12 party is or may be liable for the patient's injuries, the
2 13 health plan provider shall provide the hospital and the
2 14 patient with a statement detailing the amount the health plan
2 15 would have paid for the medical services provided and the
2 16 amount the patient would have been responsible for had the
2 17 claim not been denied. A health plan provider's failure to
2 18 provide a statement shall not affect the limitations on a

2 19 hospital lien pursuant to this section. This subsection shall
2 20 not prohibit a hospital from filing notice of a lien pursuant
2 21 to section 582.2 for the amount owed to the hospital due to
2 22 patient responsibility including but not limited to
2 23 deductibles, co-payments, and coinsurance.

2 24 3. If at any time subsequent to the filing of the notice
2 25 of the lien a hospital receives health plan information
2 26 regarding a patient, the hospital shall not be required to
2 27 withdraw notice of the lien but shall submit the hospital's
2 28 charges to the health plan. In such a case, the amount of the
2 29 hospital's lien shall be limited pursuant to subsection 2.

2 30 4. The lien shall not in any way prejudice or interfere
2 31 with any lien or contract which may be made by such patient or
2 32 the patient's heirs or personal representatives with any
2 33 attorney or attorneys for handling the claim on behalf of such
2 34 patient, the patient's heirs, or personal representatives;
2 35 provided, further, that the lien herein set forth shall not be
3 1 applied or considered valid against anyone coming under a
3 2 patient covered under the workers' compensation Act in this
3 3 state pursuant to chapters 85, 85A, and 85B.

3 4 5. The amount of the lien recoverable from a judgment or
3 5 verdict shall not exceed that portion of the judgment or
3 6 verdict related to the charges encompassed by the lien as
3 7 indicated by the itemizations contained in the judgment or
3 8 verdict. The same restriction shall apply to settlement
3 9 recoveries but only if the settlement is reasonable. If a
3 10 lien is not fully satisfied pursuant to this subsection, a
3 11 hospital may continue to assert the lien against the remaining
3 12 claims of the injured party to which the lien attached
3 13 pursuant to this section or if no other claims exist, the
3 14 hospital may collect the balance through ordinary means
3 15 otherwise provided by law to unsecured creditors.

3 16 6. A hospital that recovers from a judgment, verdict, or
3 17 settlement pursuant to this chapter shall be responsible for
3 18 the pro rata share of the legal and administrative expenses
3 19 incurred in obtaining the judgment, verdict, or settlement.

3 20 Sec. 3. Section 582.2, Code 2007, is amended to read as
3 21 follows:

3 22 582.2 WRITTEN NOTICE OF LIEN.

3 23 No such lien shall be effective, however, unless a written
3 24 notice containing the name and address of the injured person,
3 25 the date of the accident, the name and location of the
3 26 hospital, and the name of the person or persons, firm or
3 27 firms, corporation or corporations alleged to be liable to the
3 28 injured party for the injuries received, shall be filed in the
3 29 office of the clerk of the district court of the county in
3 30 which such hospital is located, prior to the payment of any
3 31 moneys to such injured person, the person's attorneys or legal
3 32 representative, as compensation for such injuries; nor unless
3 33 the hospital shall also mail, postage prepaid, a copy of such
3 34 notice with a statement of the date of filing thereof to the
3 35 person or persons, firm or firms, corporation or corporations
4 1 alleged to be liable to the injured party for the injuries
4 2 sustained prior to the payment of any moneys to such injured
4 3 person, the person's attorneys or legal representative, as
4 4 compensation for such injuries. Such hospital shall mail a
4 5 copy of such notice to any insurance carrier which has insured
4 6 such person, firm or corporation against such liability, if
4 7 the name and address shall be known. Such hospital shall also
4 8 mail a copy of such notice to the injured person or to the
4 9 injured person's attorney or legal representative, if known.

4 10 Sec. 4. Section 582.3, Code 2007, is amended to read as
4 11 follows:

4 12 582.3 DURATION AND ENFORCEMENT OF LIEN.

4 13 1. Any person or persons, firm or firms, or corporation or
4 14 corporations, including an insurance carrier, making any
4 15 payment to such patient or to the patient's attorneys or heirs
4 16 or legal representatives as compensation for the injury
4 17 sustained, after the filing and mailing of such notice without
4 18 paying to such hospital the amount of its lien recoverable
4 19 pursuant to section 582.1 from such person, firm, or
4 20 corporation or so much thereof as can be satisfied out of the
4 21 moneys due under any final judgment or compromise or
4 22 settlement agreement, after paying the amount of any prior
4 23 liens, shall, for a period of one year from the date of
4 24 payment to such patient or the patient's heirs, attorneys, or
4 25 legal representatives, as aforesaid, be and remain liable to
4 26 such hospital for the amount which such hospital was entitled
4 27 to receive as aforesaid; any such association, corporation, or
4 28 other institution maintaining such hospital may, within such
4 29 period, enforce its lien by a suit at law against such person

4 30 ~~or persons, firm, or firms, corporation or corporations~~ making
4 31 any such payment.
4 32 2. Prior to payment by a person, firm, or corporation,
4 33 including an insurance carrier, to a patient's attorney, the
4 34 patient's attorney may notify the person, firm, or corporation
4 35 that will be making the payment that the attorney agrees to
5 1 assume responsibility for the satisfaction of some or all
5 2 liens of which the person, firm, or attorney has received
5 3 notice pursuant to section 582.2. Upon receipt of such
5 4 notification by the patient's attorney, such person, firm, or
5 5 corporation shall provide the patient's attorney with copies
5 6 of any lien notice relating to a hospital lien for which the
5 7 attorney has agreed to assume responsibility and such person,
5 8 firm, or corporation shall not thereafter be responsible to
5 9 any hospital encompassed by such notification. A patient's
5 10 attorney who so notifies a person, firm, or corporation and
5 11 who receives a copy of any lien notice encompassed by such
5 12 notification from the person, firm, or corporation shall pay
5 13 such hospital the amount to which the hospital is entitled
5 14 pursuant to section 582.1 from the amount received from the
5 15 person, firm, or corporation. If there is a dispute
5 16 concerning the amount owed to a hospital pursuant to section
5 17 582.1, a patient's attorney shall hold in trust the maximum
5 18 amount to which the hospital may be entitled pursuant to
5 19 section 582.1 and may disburse any other amounts to the
5 20 patient, attorney, or other persons entitled to the funds.
5 21 Any dispute concerning the amount owed to a hospital pursuant
5 22 to section 582.1 shall be resolved by the court in which the
5 23 patient filed an action to recover for the patient's injury
5 24 and the court shall retain jurisdiction of the case to resolve
5 25 the amount of the lien after dismissal of the action. If no
5 26 such action was commenced by the patient, a court in which
5 27 such action could have been brought shall have jurisdiction to
5 28 determine the amount owed to the hospital.

5 29 EXPLANATION

5 30 This bill relates to the filing of a hospital lien by an
5 31 association, corporation, county, municipal corporation, or
5 32 other institution maintaining a hospital in this state and
5 33 eligible to file a lien under the provisions of Code chapter
5 34 582, Iowa's hospital lien law.

5 35 The bill provides that if a patient provides proof of
6 1 insurance coverage under a health plan within 30 days of the
6 2 patient's discharge from a hospital, the hospital shall submit
6 3 all hospital charges to the patient's health plan prior to
6 4 filing a notice of lien pursuant to Code section 582.2. The
6 5 patient's health plan shall not deny payment for medical
6 6 services received from the hospital on the basis that a third
6 7 party or other insurance carrier is responsible for the
6 8 patient's injuries but if the health plan is not subject to
6 9 the payment requirement due to federal preemption and the
6 10 claim is denied because a third party may be responsible for
6 11 some or all of the patient's injuries, the health plan
6 12 provider shall provide the hospital and the patient with a
6 13 statement detailing the amount the health plan would have paid
6 14 for the patient's medical services and the amount the patient
6 15 would have been responsible for had the claim not been denied.
6 16 The bill does not prohibit a hospital from filing a notice of
6 17 lien for the amount owed to the hospital from the patient
6 18 including but not limited to deductibles, copayments, and
6 19 coinsurance. If at any time subsequent to the filing of the
6 20 notice of the lien a hospital receives health plan information
6 21 regarding a patient, the hospital is not required to withdraw
6 22 notice of the lien but shall submit the hospital's charges to
6 23 the health plan.

6 24 The bill provides that the amount of the lien recoverable
6 25 from a judgment or verdict shall not exceed that portion of
6 26 the judgment or verdict related to the charges encompassed by
6 27 the lien. The same restriction shall apply to settlement
6 28 recoveries, if reasonable. If a lien is not fully satisfied a
6 29 hospital may continue to assert the lien against the remaining
6 30 claims or if no other claims exist, the hospital may collect
6 31 the balance through means otherwise provided by law to
6 32 unsecured creditors.

6 33 The bill provides that a hospital that recovers from a
6 34 judgment, verdict, or settlement under the bill shall be
6 35 responsible for the pro rata share of the legal and
7 1 administrative expenses incurred in obtaining the judgment,
7 2 verdict, or settlement.

7 3 The bill provides that a hospital shall mail a copy of a
7 4 notice of lien to the injured person or to the injured
7 5 person's attorney or legal representative, if known.

7 6 The bill provides that prior to payment by a person, firm,
7 7 or corporation, including an insurance carrier, to a patient's
7 8 attorney, the patient's attorney may notify the person, firm,
7 9 or corporation that the attorney agrees to assume
7 10 responsibility for the satisfaction of some or all liens of
7 11 which the person, firm, or attorney has received notice. Upon
7 12 receipt of such notice, such person, firm, or corporation
7 13 shall provide the patient's attorney with copies of any lien
7 14 notice for which the attorney has agreed to assume
7 15 responsibility for and such person, firm, or corporation shall
7 16 not thereafter be responsible to any hospital encompassed by
7 17 such notification. The patient's attorney who has assumed
7 18 responsibility for the lien shall pay the appropriate hospital
7 19 the amount which the hospital is entitled to from the amount
7 20 received from the person, firm, or corporation. If there is a
7 21 dispute concerning the amount owed to a hospital, a patient's
7 22 attorney shall hold in trust the maximum amount to which a
7 23 hospital may be entitled and may disburse any other amounts to
7 24 the patient, attorney, or other persons entitled to the funds.
7 25 Such disputed amount shall be resolved by the court in which
7 26 the patient filed an action to recover for the patient's
7 27 injury and the court shall retain jurisdiction of the case to
7 28 resolve the disputed amount of the lien after dismissal of the
7 29 action. If no such action was commenced by the patient, a
7 30 court in which such action could have been brought shall have
7 31 jurisdiction to determine the amount owed to the hospital.
7 32 The bill defines "health plan" to mean an individual or
7 33 group plan that provides, or pays the costs of, medical care
7 34 as that term is defined in the federal Health Insurance
7 35 Portability and Accountability Act of 1996, Pub. L. No.
8 1 104-191 (HIPAA) and regulations promulgated under the Act.
8 2 The bill also defines "provider agreement" to mean a contract,
8 3 understanding, or arrangement made by an association,
8 4 corporation, county, municipal corporation, or other
8 5 institution maintaining a hospital in the state, with any
8 6 health plan or other entity for the provision or payment of
8 7 health care services.
8 8 LSB 1773SV 82
8 9 rh:sc/es/88