

**House Study Bill 92 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ANDERSON)

**A BILL FOR**

- 1 An Act creating the health care professional lien Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 582A.1 Short title.

2 This Act may be cited as the "*Health Care Professional Lien*  
3 *Act*".

4 Sec. 2. NEW SECTION. 582A.2 Definitions.

5 For purposes of this chapter, "*health care professional*"  
6 means a person licensed pursuant to chapter 148, 149, or 151.

7 Sec. 3. NEW SECTION. 582A.3 Lien created.

8 1. Every health care professional who renders any service  
9 in the treatment, care, or maintenance of any patient injured  
10 by reason of an accident or an intentional act by a third  
11 party, which is not covered by the workers' compensation Act in  
12 chapter 85, 85A, or 85B, shall have a lien upon all claims and  
13 causes of action of the injured patient for the amount of the  
14 health care professional's charges up to the date of payment of  
15 damages to the injured patient.

16 2. The injured patient or the injured patient's legal  
17 representative or attorney shall notify the health care  
18 professional at the time services are rendered, or as soon  
19 as practicable thereafter, that the patient's injuries were  
20 sustained in an accident or were the result of an intentional  
21 act by a third party. In addition, the notification shall  
22 include the date of the accident or intentional act, the  
23 persons, entities, or insurers allegedly liable for the injured  
24 patient's damages, and the name and contact information for the  
25 injured patient's attorney or legal representative, if any.

26 Sec. 4. NEW SECTION. 582A.4 Written notice of lien.

27 A lien shall not be effective unless a written notice  
28 containing the name and address of the injured patient, the  
29 date of the accident or intentional act, the name and address  
30 of the health care professional, and the name of the party  
31 allegedly liable for the injured patient's damages is served on  
32 both the injured patient and the party against whom the claim  
33 or right of action exists. Service shall be made by certified  
34 mail or restricted certified mail, as defined in section  
35 618.15, or in person. A copy of the notice shall be mailed

1 to the injured patient's attorney or legal representative  
2 provided the patient has previously provided the health  
3 care professional with the name and address of the patient's  
4 attorney or legal representative.

5 Sec. 5. NEW SECTION. 582A.5 Lien payments.

6 Payments under the lien created under this chapter shall be  
7 made directly to the health care professional.

8 Sec. 6. NEW SECTION. 582A.6 Items to which lien attaches  
9 — enforcement.

10 1. A health care professional's lien under this chapter  
11 shall, from and after the time of the service of the lien  
12 notice, attach to any verdict, judgment, award, settlement,  
13 or compromise secured by or on behalf of the injured  
14 patient related to the injuries treated by the health care  
15 professional. If the verdict, judgment, award, settlement, or  
16 compromise is to be paid over time by means of an annuity or  
17 otherwise, any lien under this chapter shall be satisfied by  
18 the party obligated to compensate the injured patient before  
19 the establishment of the annuity or other extended payment  
20 mechanism.

21 2. a. A settlement made by and between the patient and  
22 the persons, entities, or insurers allegedly liable for the  
23 injured patient's damages shall not discharge the lien against  
24 any money due or owing by such person, entity, or insurer to  
25 the patient or relieve the person, entity, or insurer from  
26 liability by reason of such lien unless any of the following  
27 apply:

28 b. The settlement also provides for the payment and  
29 discharge of such lien.

30 c. A written release or waiver of any such claim of lien  
31 is signed by the health care professional and either of the  
32 following apply:

33 (1) The written release or waiver is filed in the court  
34 where an action has been commenced against the persons,  
35 entities, or insurers allegedly liable for the injured

1 patient's damages.

2 (2) The written release or waiver is delivered by certified  
3 mail or restricted certified mail, as defined in section  
4 618.15, or in person to such persons, entities, or insurers  
5 allegedly liable for the injured patient's damages, if no court  
6 action has been commenced against the persons, entities, or  
7 insurers allegedly liable for the injured patient's damages.

8 3. a. After the filing and mailing of a health care  
9 professional's lien notice, any person, entity, or insurer  
10 who makes any payment to an injured patient or to the injured  
11 patient's attorneys, heirs, or legal representatives as  
12 compensation for the injury sustained from the accident or  
13 intentional act without paying the health care professional  
14 the amount of the health care professional's lien recoverable  
15 pursuant to section 582A.3, or so much thereof as can be  
16 satisfied out of the money due under any final judgment or  
17 compromise or settlement agreement, shall, for a period of one  
18 year from the date of payment to such patient or the patient's  
19 heirs, attorneys, or legal representatives, be liable to such  
20 health care professional for the amount of the health care  
21 professional's outstanding lien. The health care professional  
22 may, within such one-year period, enforce the lien by filing an  
23 action at law against such person, entity, or insurer making  
24 any such payment.

25 b. In any action filed by a health care professional  
26 pursuant to paragraph "a" to enforce the lien, the health care  
27 professional shall be entitled to recover reasonable attorney  
28 fees and the costs of any such action.

29

EXPLANATION

30 This bill creates the "Health Care Professional Lien Act".

31 The bill provides that every health care professional  
32 (defined under the bill as a physician or surgeon, osteopathic  
33 physician or surgeon, podiatrist, and chiropractor) who renders  
34 any service in the treatment, care, or maintenance of any  
35 patient injured by reason of an accident or an intentional

1 act by a third party not covered by the workers' compensation  
2 Act shall have a lien upon all claims and causes of action  
3 of the injured patient for the amount of the health care  
4 professional's charges up to the date of payment of damages  
5 to the injured patient. The injured patient or the injured  
6 patient's legal representative or attorney is required to  
7 notify the health care professional at the time services are  
8 rendered, or as soon as practicable thereafter, that the  
9 patient's injuries were sustained in an accident or that were  
10 the result of an intentional act by a third party. The lien is  
11 not effective unless the notice containing the name and address  
12 of the injured patient, the date of the accident or intentional  
13 act, the name and address of the health care professional, and  
14 the name of the party alleged to be liable to make compensation  
15 to the injured patient is served on both the injured patient  
16 and the party against whom the claim or right of action exists.  
17 A copy of the notice is required to be mailed to the injured  
18 patient's attorney or legal representative. Payments under the  
19 lien are to be made directly to the health care professional.

20 The bill provides that a health care professional's lien  
21 shall, from and after the time of the service of the lien  
22 notice, attach to any verdict, judgment, award, settlement, or  
23 compromise secured by or on behalf of the injured patient. If  
24 the verdict, judgment, award, settlement, or compromise is to  
25 be paid over time by means of an annuity or otherwise, the lien  
26 shall be satisfied by the party allegedly liable to compensate  
27 the injured patient before the establishment of the annuity or  
28 other extended payment mechanism.

29 The bill provides that a settlement made by and between  
30 the patient and the persons, entities, or insurers allegedly  
31 liable for the injured patient's damages does not discharge the  
32 lien against any money due or owing by such person, entity,  
33 or insurer to the patient or relieve the person, entity, or  
34 insurer from liability by reason of such lien unless the  
35 settlement also provides for the payment and discharge of

1 such lien or a written release or waiver of any such claim  
2 of lien, signed by the health care professional, is either  
3 filed in the court where an action has been commenced against  
4 the persons, entities, or insurers allegedly liable for the  
5 injured patient's damages, or delivered by certified mail or  
6 restricted certified mail, as defined in Code section 618.15,  
7 or in person to such persons, entities, or insurers allegedly  
8 liable for the injured patient's damages if no court action has  
9 been commenced.

10 The bill provides that after the filing and mailing of a  
11 health care professional's lien notice, any person, entity, or  
12 insurer who makes any payment to an injured patient or to the  
13 injured patient's attorneys, heirs, or legal representatives as  
14 compensation for the injury sustained without paying the health  
15 care professional the amount of the health care professional's  
16 lien shall, for a period of one year from the date of payment  
17 to such patient or the patient's heirs, attorneys, or legal  
18 representatives, be liable to such health care professional  
19 for the amount of the health care professional's outstanding  
20 lien. The health care professional may, within such one-year  
21 period, enforce its lien by filing an action at law against  
22 such person, entity, or insurer making any such payment and  
23 may, if such action is filed, recover reasonable attorney fees  
24 and the costs of any such action.