

SECOND REGULAR SESSION

HOUSE BILL NO. 1082

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEMPSEY (Sponsor) AND FAITH (Co-sponsor).

Pre-filed December 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3829L.01I

AN ACT

To repeal sections 430.225, 430.230, and 430.235, RSMo, and to enact in lieu thereof three new sections relating to health care liens.

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

Section A. Sections 430.225, 430.230, and 430.235, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 430.225, 430.230, and 430.235, to read as follows:

- 430.225. 1. 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 tort-feasor; 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 chiropractor licensed pursuant to chapter 331, RSMo, a podiatrist licensed pursuant to chapter 330, RSMo, a dentist licensed pursuant to chapter 332, RSMo, a physician or surgeon licensed pursuant to chapter 334, RSMo, or an optometrist licensed pursuant to chapter 336, RSMo, while acting within 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;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

20 2. Clinics, health practitioners and other institutions, as defined in this section, shall have
21 the same rights granted to hospitals in sections 430.230 to 430.250.

22 3. If the liens of such health practitioners, hospitals, clinics or other institutions exceed
23 fifty percent of the amount due the patient, every health care practitioner, hospital, clinic or other
24 institution giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net
25 proceeds due the patient, in the proportion that each claim bears to the total amount of all other
26 liens of health care practitioners, hospitals, clinics or other institutions. "Net proceeds", as used
27 in this section, means the amount remaining after the payment of contractual attorney fees, if any,
28 and other expenses of recovery.

29 4. In administering the lien of the health care provider, the insurance carrier [may] **shall**
30 pay the amount due secured by the lien of the health care provider directly **to the health care**
31 **provider**, if [the claimant authorizes it and does not challenge the amount of the customary
32 charges or that] the treatment provided was for injuries caused by the tort-feasor **and the amount**
33 **is the customary charge**.

34 [5. Any health care provider electing to receive benefits hereunder releases the claimant
35 from further liability on the cost of the services and treatment provided to that point in time.]

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

430.235. Notwithstanding the provisions of section 430.230, every public hospital or
2 clinic, and every privately maintained hospital, clinic or other institution for the care of the sick,
3 [which is supported in whole or in part by charity, located within the state of Missouri,] or any
4 such hospital duly incorporated under the laws of Missouri providing for the incorporation of
5 eleemosynary institutions, shall have a lien upon any and all claims, counterclaims, demands,
6 suits, or rights of action of:

7 (1) Any person admitted to any hospital, clinic or other institution and receiving
8 treatment, care or maintenance therein for any cause including any personal injury sustained by
9 such person as the result of the negligence or wrongful act of another[.]; and

10 (2) **Any person who brings an action under sections 537.080 to 537.100, RSMo, for**
11 **the wrongful death of the person, receiving the treatment, care, or maintenance,** which such
12 [injured person] **persons** may have, assert or maintain against the person or persons causing such
13 injury **or wrongful death,** for damages on account of such injury **or wrongful death,** for the
14 cost of such services, computed at reasonable rates not to exceed the customary charges for the
15 services and the customary charges for necessary X-ray, laboratory, operating room and
16 medication services as such hospital, clinic or other institution shall render such injured person
17 on account of his **or her** conditions. The lien set forth in this section shall not be applied or
18 considered valid against anyone coming under the workers' compensation law in this state. The
19 lien set forth in this section shall be considered valid and may be applied against medical benefits
20 paid anyone under the provisions of chapter 208, RSMo, whether such benefits are paid from
21 state or federal funds, or a combination thereof.

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