

1 A bill to be entitled

2 An act relating to liens for professional services of
3 physicians; creating s. 713.656, F.S.; providing a
4 short title; providing that a physician, acting within
5 his or her scope of practice, has a lien for the
6 amount due for professional services under certain
7 circumstances; providing when such lien is perfected;
8 providing requirements for such lien; requiring the
9 physician to provide certain information to certain
10 persons; limiting further liability of certain
11 persons; providing that certain evidence is admissible
12 at trial; requiring certain persons to set aside funds
13 for services rendered by the physician before the
14 disbursement of such funds; specifying how funds are
15 to be disbursed if there are multiple liens; defining
16 the term "net proceeds"; prohibiting certain
17 instructions for the disbursement of funds; requiring,
18 notwithstanding any confidentiality agreements, a
19 specified accounting and certification to be given to
20 a lienholder if certain conditions are met; providing
21 requirements for such certification; requiring certain
22 disputes to be settled before funds may be disbursed;
23 prohibiting a lien that exceeds the total amount of
24 the bills for services rendered; authorizing
25 reasonable attorney fees and costs; providing for

26 enforcement of a lien; providing construction;
 27 preempting the regulation of physician liens to the
 28 state; providing an effective date.

30 Be It Enacted by the Legislature of the State of Florida:

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 32 Section 1. This act may be cited as the "Physician
 33 Services Lien Act."

34 Section 2. Section 713.656, Florida Statutes, is created
 35 to read:

36 713.656 Liens for professional services of physicians.—

37 (1) CREATION OF LIEN.—

38 (a) If a physician covered by s. 627.419 performs, within
 39 his or her scope of practice, medical or chiropractic services
 40 on a person who was injured by an act of a third party, and the
 41 injured person asserts or maintains a claim against the third
 42 party for damages on account of such injuries, the physician has
 43 a lien on the part of any settlement, compromise, or judgment
 44 belonging to the injured person, or his or her heirs, personal
 45 representative, or next of kin, for the amount due for the
 46 medical or chiropractic services. If an attorney represents the
 47 injured person, the lien is perfected in accordance with this
 48 subsection. Such lien is inferior to a lien or claim of the
 49 attorney handling the claim for or on behalf of the injured
 50 person. If damages are recovered for or on behalf of a minor,

51 the lien attaches to the sum recovered as fully as if the minor
52 were of the age of majority.

53 (b) Notwithstanding paragraph (a), a lien created under
54 this subsection is not valid unless the physician entitled to
55 the lien provides the following information to the injured
56 person or the attorney representing the injured person:

57 1. Upon request and without charge, an itemized statement
58 or medical report to be used in the negotiation, settlement, or
59 trial of the claim.

60 2. A written notice of lien sent by certified mail to the
61 injured person or to the attorney representing the injured
62 person.

63 (c) If a physician elects to provide a written notice of
64 lien under this subsection in order to recover the amount due
65 for his or her medical or chiropractic services, the physician
66 releases the injured person from any further liability relating
67 to the cost of treatment, supplies, or services rendered by the
68 physician at that point in time.

69 (d) Evidence of the amount of a physician's charges for
70 services is considered competent evidence at trial and is
71 admissible.

72 (e) The costs incurred by the injured person do not reduce
73 the amount of a physician's lien and must be paid by the injured
74 person.

75 (2) RETENTION, DISBURSEMENT, AND ACCOUNTING OF FUNDS;

76 CONFIDENTIALITY.—

77 (a) A lien created under subsection (1) attaches to all
 78 funds paid to or on behalf of the injured person as compensation
 79 for or settlement of the person's injuries, regardless of
 80 whether such funds were a result of litigation. After receiving
 81 a written notice of lien, the person who receives such funds
 82 must set aside an amount sufficient to pay the claims for any
 83 treatment, supplies, or services rendered by the physician
 84 before the disbursement of such funds.

85 (b) If multiple physicians provide a notice of lien and
 86 the liens of the physicians exceed 60 percent of the amount
 87 awarded to the injured person, each physician shall share in up
 88 to 60 percent of the net proceeds due to the injured person in
 89 the proportion that each claim bears to the total amount of all
 90 other liens of physicians. As used in this paragraph, the term
 91 "net proceeds" means the amount of funds remaining after the
 92 payment of contractual attorney fees. This section may not be
 93 construed to interfere with any amount due for attorney
 94 services.

95 (c) An injured person's instructions for the disbursement
 96 of settlement, compromise, or judgement proceeds are not binding
 97 on the person disbursing such funds to the extent that the
 98 instructions conflict with this section.

99 (d)1. Notwithstanding any confidentiality agreement
 100 between the injured person and the person providing compensation

101 for such injuries, if the person disbursing funds to a
102 lienholder under this section disburses an amount less than the
103 amount the lienholder claimed, upon the lienholder's written
104 request, the person disbursing the funds must provide a
105 certification to such lienholder with sufficient information to
106 demonstrate that the disbursement was pro rata and consistent
107 with this section.

108 2. If the person disbursing the funds under this section
109 is an attorney, the accounting and certification required by
110 this paragraph is not a breach of the attorney-client privilege.

111 3. The protections under this paragraph relating to
112 confidentiality only apply if the lienholder agrees in writing
113 to be bound by any confidentiality agreements regarding the
114 contents of the accounting.

115 4. This paragraph may not be construed to require a person
116 to act contrary to the requirements of the Health Insurance
117 Portability and Accountability Act of 1996; Pub. L. No. 104-191
118 and its implementing regulations; the Federal Privacy Act of
119 1974, 5 U.S.C. s. 552(a), and its implementing regulations; and
120 any other federal law that would prohibit the disclosure of
121 patient privacy information.

122 (e) The certification required under paragraph (d) must
123 include all of the following information:

124 1. The total amount of the settlement, compromise, or
125 judgment.

126 2. The amount of each lien claimed and the percentage of
 127 each lien paid.

128 3. The total disbursements made to lienholders.

129 4. The total amount of attorney fees.

130 (3) DISPUTES.—If the amount demanded by a physician under
 131 this section for the provision of medical or chiropractic
 132 services is in dispute, such dispute must be settled, and the
 133 physician's claim must be fully established and determined in
 134 the manner provided by law before funds may be disbursed under
 135 this section. However, in no event may the amount claimed by the
 136 physician's lien exceed the total amount of the bills for
 137 services rendered. With respect to any dispute between the
 138 lienor and the lienholder, or the lienor and the assignee of a
 139 lienholder, the prevailing party is entitled to reasonable
 140 attorney fees and costs.

141 (4) ENFORCEMENT.—The liens provided for in this section
 142 may be enforced by bringing a civil action in the district court
 143 of the county in which the lien was filed within 1 year after
 144 the physician becomes aware of a final judgment, settlement, or
 145 compromise of the claim asserted or maintained by or on behalf
 146 of the injured person. Civil actions instituted under this
 147 subsection are governed by the Florida Rules of Civil Procedure.

148 (5) PREEMPTION.—Notwithstanding any other law to the
 149 contrary, the creation, enforcement, extension, or impairment of
 150 physician liens is expressly preempted to the state. This

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151 section supersedes any local government regulations on matters
152 covered under this section which are inconsistent with this
153 section.

154 Section 3. This act shall take effect July 1, 2024.