

By Senator Berman

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1                                   A bill to be entitled  
2           An act relating to liens to recover charges for health  
3           care services; creating a new part IV of ch. 713,  
4           F.S., relating to health care services liens; creating  
5           s. 713.826, F.S.; providing a short title; creating s.  
6           713.827, F.S.; providing that physicians and  
7           chiropractors who provide services to an individual  
8           injured as a result of the negligent act of another  
9           have a lien for the amount due for such services  
10          against any amount recovered by the injured individual  
11          in a civil action filed against the individual who  
12          caused the injury; providing that such liens are  
13          inferior to certain liens or claims; providing a lien  
14          is deemed timely if the physician or chiropractor  
15          submits to the attorney of the injured individual an  
16          itemized statement; providing such a statement is  
17          admissible at trial or in negotiating a settlement;  
18          requiring the physician or chiropractor to present to  
19          the attorney written notice of lien specifying the  
20          total amount requested; creating s. 713.828, F.S.;  
21          providing for attachment of a lien on all funds from a  
22          settlement or judgement in the civil action; requiring  
23          that an amount sufficient to pay liens be set aside  
24          before disbursement of such funds; providing that  
25          certain records are admissible in certain proceedings;  
26          requiring lienholders to share, on a pro rata basis,  
27          the total amount available for liens if the total  
28          amount of the lien exceeds a certain percentage;  
29          defining the term "net proceeds"; providing that the

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30 injured individual's instructions regarding  
31 disbursement of funds is not binding on the person  
32 charged with disbursing them; providing construction;  
33 creating s. 713.829, F.S.; requiring that persons  
34 disbursing funds provide to the lienholder a  
35 certification with sufficient information to  
36 demonstrate that the distribution complies with  
37 specified requirements, under certain circumstances;  
38 providing that the provision of specified information  
39 to a lienholder does not constitute a breach of the  
40 attorney-client privilege; providing requirements for  
41 the certification; providing construction; providing  
42 for the enforcement of liens; requiring that actions  
43 for enforcement of liens be brought within a specified  
44 timeframe; providing for the awarding of attorney fees  
45 and costs in connection with certain disputes;  
46 creating s. 713.831, F.S.; requiring that any lien  
47 claim be fully determined before payment if the amount  
48 is in dispute; providing an effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Present part IV of chapter 713, Florida  
53 Statutes, is redesignated as part V, and a new part IV is  
54 created, consisting of ss. 713.827-713.831, Florida Statutes,  
55 entitled "Health Care Services Liens."

56 Section 2. Section 713.826, Florida Statutes, is created to  
57 read:

58 713.826 Short title.—Sections 713.827-713.831 may be cited

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59 as the "Health Care Services Lien Act."

60 Section 3. Section 713.827, Florida Statutes, is created to  
61 read:

62 713.827 Liens for physician and chiropractic services.—

63 (1) A physician licensed under chapter 458 or chapter 459  
64 or a chiropractor licensed under chapter 460 who provides  
65 services within his or her scope of practice to an individual  
66 injured as a result of the negligent act of another, subject to  
67 compliance with subsection (2), has a lien for the amount due  
68 for such services rendered to the injured individual against any  
69 amount recovered by that individual, or his or her heirs,  
70 personal representative, or next of kin, in a civil action filed  
71 against the individual who caused the injury. Such lien is  
72 inferior to any lien or claim of an attorney representing the  
73 injured individual. When damages are recovered for and on behalf  
74 of minors, the lien attaches to the sum recovered as if the  
75 individual were of the age of majority.

76 (2) A lien under this section is contingent upon timely  
77 submission by the physician or the chiropractor, as applicable,  
78 to the attorney representing the injured individual in such  
79 civil action of an itemized statement for services provided,  
80 which the attorney may use at trial or in negotiating a  
81 settlement. Upon presenting such an itemized statement, the  
82 physician or chiropractor, as applicable, shall present to the  
83 attorney a written notice of lien under this section, which must  
84 specify the total amount sought by the physician.

85 Section 4. Section 713.828, Florida Statutes, is created to  
86 read:

87 713.828 Receiving person charged with duty of retaining

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88 funds; evidence; attorney fees; charges.—

89 (1) A lien under s. 713.827 attaches upon all funds paid to  
90 any person in compensation for or settlement of the claim for  
91 injury, whether in litigation or otherwise. If an attorney  
92 represents the injured individual, the lien is perfected once  
93 served upon an injured individual's attorney as provided under.  
94 s. 713.827.

95 (2) Prior to disbursement of funds recovered by or on  
96 behalf of the injured individual, an amount sufficient to  
97 satisfy the lien under s. 713.827 must be set aside. Evidence as  
98 to the amounts for any treatment, supplies, or services rendered  
99 is admissible during the pendency of the proceedings.

100 (3) If the lien for physician or chiropractic services is  
101 for 60 percent or more of the total amount recovered by or on  
102 behalf of the injured individual, each physician or chiropractor  
103 who holds a lien must proportionately share an amount equal to  
104 60 percent of the net proceeds, based on the amount of his or  
105 her lien as a percentage of the total amount of liens. For  
106 purposes of this subsection, the term "net proceeds" means the  
107 amount remaining after the payment of contractual attorney fees  
108 in connection with the civil action. All costs incurred by the  
109 injured individual may not reduce the amount of the lien and  
110 must be paid by the injured person.

111 (4) Except as otherwise provided in this act, an injured  
112 individual's instruction for the disbursement of settlement or  
113 judgment proceeds is not binding on the attorney disbursing the  
114 proceeds to the extent that the injured individual's  
115 instructions conflict with this act.

116 (5) This section may not be construed to interfere with any

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117 amount contractually due for attorney fees.

118 Section 5. Section 713.829, Florida Statutes, is created to  
119 read:

120 713.829 Accounting of disbursements; enforcement of lien  
121 rights.-

122 (1) Notwithstanding any confidentiality agreement entered  
123 into between the injured individual and the payor of proceeds as  
124 settlement of compensation for injuries, upon the written  
125 request for payment and the executed confidentiality agreement,  
126 a person distributing funds to a lienholder under this act in an  
127 amount less than the amount claimed by the lienholder shall  
128 provide to that lienholder a certification with sufficient  
129 information to demonstrate that the distribution was pro rata  
130 and consistent with s. 713.828(3). If the person distributing  
131 settlement or judgment proceeds is an attorney, the  
132 certification required by this subsection does not constitute a  
133 breach of the attorney-client privilege.

134 (2) The certification required under subsection (1) must  
135 include a statement of all of the following:

136 (a) The total amount of the settlement.

137 (b) The total distribution to lienholders, the amount of  
138 each lien claimed, and the percentage of each lien paid, if not  
139 paid in full.

140 (c) The total amount of attorney fees.

141 (3) This act may not be construed to require any person to  
142 act contrary to the requirements of the Health Insurance  
143 Portability and Accountability Act of 1996, Pub. L. No. 104-191,  
144 and rules adopted pursuant to this act.

145 (4) A lien under s. 713.827 may be enforced by civil action

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146 in the jurisdiction where the lien was filed. Such action must  
147 be brought within 1 year after the lienholder becomes aware of  
148 final judgment, settlement, or compromise of the claim asserted  
149 or maintained by or on behalf of the injured individual. With  
150 respect to any dispute under this act between the lienor and the  
151 lienholder, or between an assignee of a lienholder and lienor,  
152 the prevailing party must be awarded reasonable attorney fees  
153 and costs.

154 Section 6. Section 713.831, Florida Statutes, is created to  
155 read:

156 713.831 Disputed claims to be established before payment.-  
157 If the amount demanded for health care or medical services is in  
158 dispute, payment may not be compelled until the claim is fully  
159 determined. Liens under s. 713.827 may be enforced as provided  
160 in s. 713.829(4).

161 Section 7. This act shall take effect July 1, 2024.