

CS FOR HOUSE BILL NO. 306(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/28/95

Referred: Rules

Sponsor(s): REPRESENTATIVES TOOHEY, B.Davis, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a lien for services provided by a hospital, nurse, or
2 physician."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 34.35.450(a) is amended to read:

5 (a) An operator of a hospital in the state, [OR] a licensed special nurse in a
6 hospital in the state, or a physician who furnishes service to a person who has a
7 traumatic injury has a lien upon any sum awarded to the injured person or the personal
8 representative of the injured person by judgment or obtained by a settlement or
9 compromise to the extent of the amount due the hospital, [OR] nurse, or physician for
10 the reasonable value of the service furnished before the date of judgment, settlement,
11 or compromise, together with costs and reasonable attorney fees that the court allows,
12 incurred in the enforcement of the lien. AS 34.35.450 - 34.35.480 do not apply to a
13 claim, right of action, or money accruing under AS 23.30 (Workers' Compensation
14 Act).

1 * **Sec. 2.** AS 34.35.455 is amended to read:

2 Sec. 34.35.455. **LIMITATION ON EXTENT OF LIEN.** Except as otherwise
3 provided, a lien under AS 34.35.450 - 34.35.480 may not be allowed for
4 hospitalization or the services of a physician or licensed special nurse furnished after
5 a settlement is made by or on behalf of the person causing the injury unless the
6 settlement is made within 20 days from the date of the injury. A lien is not allowed
7 for necessary attorney fees, costs, and expenses incurred by the injured person in
8 securing a settlement, compromise, or judgment.

9 * **Sec. 3.** AS 34.35.460 is amended to read:

10 Sec. 34.35.460. **NOTICE OF LIEN.** To perfect the lien described in
11 AS 34.35.450 - 34.35.480, the hospital or the owner or operator of the hospital, or the
12 physician or licensed special nurse, shall, not later than **90** [20] days after the date of
13 injury, or in no event later than **90** [15] days after the discharge of the injured person
14 from the hospital or the provision of the physician's services, file a notice of lien
15 substantially in the form prescribed in AS 34.35.465, containing **a general description**
16 **of the services rendered and a** [AN ITEMIZED] statement of the amount claimed,
17 with **a recorder's office** [THE RECORDING OFFICER OF THE RECORDING
18 DISTRICT OR BOROUGH IN WHICH THE INJURY OCCURRED], and shall, after
19 the **90-day** [20-DAY] period, before the date of judgment, settlement, or compromise,
20 serve a [CERTIFIED] copy of the notice of lien by registered mail, at the last known
21 address, upon the person alleged to be responsible for causing the injury and from
22 whom damages are claimed, and upon the insurance carrier that has insured against the
23 liability, if the insurance carrier is known.

24 * **Sec. 4.** AS 34.35.465 is amended to read:

25 Sec. 34.35.465. **FORM OF NOTICE.** The form of notice required by
26 AS 34.35.450 - 34.35.480 shall be substantially as follows:

27 NOTICE is hereby given that _____ has rendered services for
28 hospitalization, **physician services**, or special nurses' services for _____,
29 a person who was injured on the _____ day of _____ at _____ in the
30 state, and the _____ (claimant) hereby claims a lien upon any
31 money due or owing or any claim for compensation, damages, contribution, settlement,

1 or judgment from _____ alleged to have caused the
2 injuries and any other person liable for the injury or obligated to compensate the
3 injured person on account of the injuries; the hospitalization, physician services, [(
4 or special nurses' services [])] were [WAS] rendered to the injured person between the
5 _____ day of _____ and _____:

6 **General Description of Services Rendered and**

7 **Statement of Amount Due**

8 [(ITEMIZED STATEMENT)]

9 _____
10 and that 90 [15] days have not elapsed since that time; that the claimant's demands for
11 care and service is in the sum of \$_____ and that no part of the demands has
12 been paid, except \$_____, and that there is now due and owing and remaining
13 unpaid thereof, after deducting all credits and offsets, the sum of \$_____, in which
14 amount lien is hereby claimed.

15 United States of America

16 State of Alaska ss.

17 _____ Judicial District

18 I, _____, being first duly sworn on oath say: That
19 I am _____ named in the foregoing claim of lien; that I have
20 read the same and know the contents thereof and believe the same to be true.

21 _____
22 Subscribed and sworn to before me this _____ day of _____,
23 19____.

24 _____
25 Notary Public for Alaska

26 * **Sec. 5.** AS 34.35.475 is amended to read:

27 Sec. 34.35.475. SETTLEMENT AFTER NOTICE. (a) A person or insurer
28 is liable to a hospital, physician, or nurse, in the amount that the hospital, physician,
29 or nurse is entitled to receive, for 180 days after the date of a payment to the injured
30 person, the heirs of the injured person, personal representatives, or the attorney of
31 them, when the person or insurer

1 (1) receives a [THE CERTIFIED] copy of notice of lien, or the lien is
2 recorded as provided in AS 34.35.460 and 34.35.465;

3 (2) makes the payment after receipt of notice or the recording of the
4 lien as compensation for the injury suffered; and

5 (3) does not pay the hospital, physician, or the licensed special nurse
6 for the reasonable value of the services rendered to the injured person and claimed in
7 the notice of lien, or so much of the value of the services as can be satisfied out of a
8 judgment, settlement, or compromise, after paying the attorney fees, costs, and
9 expenses incurred in connection with it.

10 (b) The hospital, physician, or nurse has a cause of action, during the 180
11 days, against the person or insurer.

12 * **Sec. 6.** AS 34.35 is amended by adding a new section to read:

13 Sec. 34.35.482. DEFINITION. In AS 34.35.450 - 34.35.482, "physician"
14 means a person licensed as a chiropractor under AS 08.20 or a person licensed as a
15 doctor of medicine under AS 08.64.

16 * **Sec. 7.** AS 34.35.470 is repealed.