

HOUSE BILL NO. 306

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES TOOHEY, B.Davis

Introduced: 4/11/95

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a lien for services provided by a physician."**

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

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

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

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

15 Sec. 34.35.455. LIMITATION ON EXTENT OF LIEN. Except as otherwise

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

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

8 Sec. 34.35.460. NOTICE OF LIEN. To perfect the lien described in
9 AS 34.35.450 - 34.35.480, the hospital or the owner or operator of the hospital, or the
10 **physician or** licensed special nurse, shall, not later than 20 days after the date of
11 injury, or in no event later than 15 days after the discharge of the injured person from
12 the hospital **or the provision of the physician's services**, file a notice of lien
13 substantially in the form prescribed in AS 34.35.465, containing an itemized statement
14 of the amount claimed, with the recording officer of the recording district or borough
15 in which the injury occurred, and shall, after the 20-day period, before the date of
16 judgment, settlement, or compromise, serve a certified copy of the notice of lien by
17 registered mail, at the last known address, upon the person alleged to be responsible
18 for causing the injury and from whom damages are claimed, and upon the insurance
19 carrier that has insured against the liability, if the insurance carrier is known.

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

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

23 NOTICE is hereby given that has rendered services for
24 hospitalization, **physician services**, or special nurses' services for, a
25 person who was injured on the day ofat in the state, and
26 the (claimant) hereby claims a lien upon any money due or
27 owing or any claim for compensation, damages, contribution, settlement, or judgment
28 from alleged to have caused
29 the injuries and any other person liable for the injury or obligated to compensate the
30 injured person on account of the injuries; the hospitalization, **physician services**, [(
31 or special nurses' services)] **were** [WAS] rendered to the injured person between the

1 day of and :

2 (Itemized statement)

3

4 and that 15 days have not elapsed since that time; that the claimant's demands for care
5 and service is in the sum of \$. and that no part of the demands has been
6 paid, except \$. , and that there is now due and owing and remaining
7 unpaid thereof, after deducting all credits and offsets, the sum of \$. , in which
8 amount lien is hereby claimed.

9 United States of America

10 State of Alaska ss.

11 Judicial District

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

16

17 Subscribed and sworn to before me this day of ,
18 19. . . .

19

20 Notary Public for Alaska

21 * **Sec. 5.** AS 34.35.470 is amended to read:

22 Sec. 34.35.470. LIEN DOCKET. Each recording officer shall maintain a
23 hospital, physician, and nurses' lien docket in which, upon filing of a notice of lien,
24 the officer shall enter the name of the injured person, the approximate date of the
25 injury, the name and address of the hospital, physician, or nurse filing the notice, and
26 the amount claimed. The recorder shall make an index in the name of the injured
27 person. Notwithstanding any other provision of AS 34.35.450 - 34.35.480, the
28 docketing of the lien is sufficient notice to a tortfeasor or the tortfeasor's insurer.

29 * **Sec. 6.** AS 34.35.475 is amended to read:

30 Sec. 34.35.475. SETTLEMENT AFTER NOTICE. (a) A person or insurer
31 is liable to a hospital, physician, or nurse, in the amount that the hospital, physician,

1 or nurse is entitled to receive, for 180 days after the date of a payment to the injured
2 person, the heirs of the injured person, personal representatives, or the attorney of
3 them, when the person or insurer

4 (1) receives the certified copy of notice of lien, or the lien is recorded
5 as provided in AS 34.35.460 and 34.35.465;

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

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

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

15 * **Sec. 7.** AS 34.35 is amended by adding a new section to read:

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