

## **CHAPTER 35-18 HOSPITAL LIEN**

### **35-18-01. Hospital lien authorized for services to injured persons - Attachment to claims for relief, insurance, and other claims.**

Any charitable association, corporation, or other institution maintaining a hospital in this state is entitled to a lien for the reasonable value of hospitalization services rendered to a person injured in any accident. The lien attaches to all claims for relief, claims, demands, and judgments recovered on account of the injuries against persons or corporations liable to the injured person in tort for damages occasioned by negligence causing the injuries, and attaches to the proceeds of the settlement of such claims or demands, and to insurance of the tort-feasor payable by reason of the liability occasioned by such injury, and to any insurance or indemnity payable to the injured person by any insurer.

### **35-18-02. Service of notice of intention to file hospital lien.**

A notice of intention to file a hospital lien must be served upon the person, corporation, or limited liability company claimed to be liable for the damages arising from the injury, by registered or certified mail or by personal service in the manner provided for the service of a summons in a civil action. Proof of such service must be filed with the lien statement.

### **35-18-03. Lien statement - Contents - Verification - Filing.**

The lien claimant, at any time after the rendering of the hospital services, or some part thereof, or from time to time as the services are rendered, as the lien claimant may deem best, but not later than thirty days after the services have been rendered and terminated, shall file a lien statement in the office of the clerk of the district court of the county in which the services were rendered containing all of the following:

1. The name of the injured person to whom the services were rendered.
2. The address of the injured person as shown upon the records of the hospital or institution.
3. The date upon which the injured person was admitted to the hospital and the date of that person's release, if that person has been released from the hospital at the time of the filing of the statement.
4. The name, if known, of the person, corporation, or limited liability company alleged or claimed to be guilty of the negligence causing the injuries, and the address, if known, or ascertainable from the hospital records.
5. The name and address of any person, corporation, or limited liability company insuring the tort-feasor against liability on account of negligence, if the same are known or ascertainable from the hospital records.
6. The name of any insurer liable for insurance to the injured person, if known.
7. An itemized statement of the charges for hospital services and the total sum claimed to be due.

Such statement must be signed in the name of the hospital or institution claiming the lien and verified on behalf of the institution by some person authorized so to do and possessing knowledge of the facts. The verification must show that the facts therein set forth are true to the best of the knowledge, information, and belief of the person making the same, that the charges for services are the reasonable and usual charges of the institution for such services, and that the sum claimed is due and unpaid.

### **35-18-04. Clerk of court - Filing - Record - Fee.**

The clerk of the district court with whom the lien statement and proof of service are filed shall endorse on those filings the date and hour of filing and shall keep a record of all lien statements filed in the county, and of any orders, or responses relating to any orders, by the district court. The clerk shall establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. The clerk shall

collect a fee as prescribed in subdivision d of subsection 1 of section 27-05.2-03 for filing and indexing each lien.

**35-18-05. Filing is notice to whom - Effect of payment or release of claim.**

The filing of a hospital statement, from the time of filing thereof, is constructive notice to all persons of the claim of the hospital and of its right to a lien upon any claim or demand or claim for relief against the tort-feasors and the insurer or insurers of the tort-feasors, or an insurer of the injured person, and no release of any judgment, claim, or demand by the injured person is valid or effective as against the lien. The person, corporation, or limited liability company making any payment to the injured person, or to the injured person's legal representative, as compensation for injuries sustained, in settlement of a claim for relief claimed to exist for negligence causing such injuries, or out of insurance carried by the tort-feasor, shall remain liable to the hospital for the amount of the reasonable charges due at the time of such payment to the extent of the full amount so paid or given to the injured person.

**35-18-06. Hospital lien enforced by action.**

Any hospital or institution securing a lien under this chapter may enforce its lien in a civil action against the tort-feasor, the insurer of the tort-feasor, or the insurer of the injured person. A judgment obtained against the tort-feasor or any insurer does not bar the hospital or institution from collecting the amount of its account from the person for whom the services were rendered, or that person's insurer, unless payment has been made by the tort-feasor or tort-feasor's insurer to the hospital, and then only to the extent that payment has been made.

**35-18-07. Judgment for damages to contain reference to lien - Proceeds of judgment applied on lien or deposited.**

Upon the trial of any action for damages for personal injuries wherein it appears at the trial that services were rendered in hospitalization of the injured person, the court before whom the action is tried shall require the clerk of the district court to search the records for information as to whether a lien has been filed, and if a lien has been filed, mention of that fact and a statement of the amount claimed must be made in the judgment. If the parties to the action admit the facts set forth in any lien described in the judgment, and the judgment is collected under execution, an amount equal to the amount claimed in the lien must be deposited with the clerk of the district court for the payment of the lien when the execution is returned. If the lien is contested, the deposit must be held to abide the final event of an action to enforce the lien, which action must be brought by the hospital or the institution within sixty days after a demand therefor is made by any of the parties interested.

**35-18-08. Insurance - Payment to holder of lien - Deposit with clerk.**

If an injured person receiving hospitalization has a contract providing for indemnity or compensation for the sum incurred for hospitalization, the hospital has a lien upon the amount payable under such contract, and the party obligated to make reimbursement for the hospitalization under the contract may pay the sum due thereunder directly to the hospital, and such payment constitutes a release of the party making the payment under such contract to the amount of the payment. If the amount of the claim is contested, payment must be made to the clerk of the district court and is subject to all of the terms and conditions stated in section 35-18-07.

**35-18-09. Hospital records open to inspection.**

Any person, firm, corporation, or limited liability company legally liable under this chapter and against whom a claim is asserted for compensation for injuries must be permitted to examine the records of any hospital which has filed a lien statement in reference to treatment, care, and maintenance of the injured person.

**35-18-10. Workforce safety and insurance excepted from application of chapter.**

The provisions of this chapter do not apply to any money paid or payable under title 65.

**35-18-11. Action on lien - Limitations.**

An action to enforce a hospital lien must be commenced within one year after the filing of the lien, except that when the claim for relief against a tort-feasor or insurer has not become barred or an action is pending involving the question of liability, the lien continues in effect until the final termination of such action and for a period of one year thereafter.