

Legislative Bulletin

Legislative Bulletin 2003-2

July 1, 2003

GOVERNOR BLAGOJEVICH SIGNS HEALTH CARE SERVICES LIEN ACT INTO LAW

On June 30, 2003 Governor Rod Blagojevich signed legislation into law that creates a new comprehensive Health Care Services Lien Act. This legislation was necessitated as a result of the Illinois Supreme Court's 1997 opinion in *Burrell v. Southern Truss*. Here are the highlights of what the new law does.

PA 93-0051 repeals the eight current lien statutes for health care professionals and providers and replaces it with one Act. It creates two classes of lienholders for health care liens: (1) health care professionals and (2) health care providers. Professionals are individuals such as doctors while providers are entities such as hospitals.

This Act prohibits the total amount of the liens against a settlement or award from exceeding 40% of the amount secured by or on behalf of the injured person. All lienholders share proportionate amounts within the 40%, but in no event may a lienholder receive more than one-third of the settlement or award.

If the total amount of the liens does exceed 40%, the professional liens may not exceed 20% of the settlement or award and the provider liens may not exceed 20% of the settlement or award. Reallocation of the unused amount within the aggregate total amount of 40% may be used to satisfy as much of the liens as possible, but in no event may a lienholder receive more than one-third of the settlement or award.

If the healthcare liens meet or exceed 40%, then the attorney's lien may not exceed 30% of the settlement or award at trial. If the case is appealed, this limitation does not apply.

To effectuate a lien, a health care professional or provider must serve written notice on the injured person and the party against whom the claim or right of action exists. Conversely, the injured person or his or her representative must give notice of the settlement or award to the lienholders who have given notice of a lien.

The Act gives the injured person, a health care professional, and a health care provider the right to file a petition in circuit court to adjudicate the rights of all interested parties and enforce these liens. Nothing in this Act prohibits any lienholder from pursuing a claim against a injured person for the remainder of the fees owed to the lienholder.

This Act is effective immediately (July 1, 2003).

For a copy of PA 93-0051, please call the ITLA office at 800-252-8501 or go to the ITLA website at www.iltla.com. We will be sending out additional legislative bulletins as other items of interest are acted upon by the Governor.

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