

1 AMENDMENT TO SENATE BILL 274

2 AMENDMENT NO. _____. Amend Senate Bill 274 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Health Care Services Lien Act.

6 Section 5. Definitions. In this Act:

7 "Health care professional" means any individual in any of
8 the following license categories: licensed physician,
9 licensed dentist, licensed optometrist, licensed naprapath,
10 licensed clinical psychologist, or licensed physical
11 therapist.

12 "Heath care provider" means any entity in any of the
13 following license categories: licensed hospital, licensed
14 home health agency, licensed ambulatory surgical treatment
15 center, or licensed emergency medical services personnel.

16 Section 10. Lien created; limitation.

17 (a) Every health care professional and health care
18 provider that renders any service in the treatment, care, or
19 maintenance of an injured person, except services rendered
20 under the provisions of the Workers' Compensation Act or the
21 Workers' Occupational Diseases Act, shall have a lien upon

1 all claims and causes of action of the injured person for the
2 amount of the health care professional's or health care
3 provider's reasonable charges up to the date of payment of
4 damages to the injured person. The total amount of all liens
5 under this Act, however, shall not exceed 40% of the verdict,
6 judgment, award, settlement, or compromise secured by or on
7 behalf of the injured person on his or her claim or right of
8 action.

9 (b) The lien shall include a written notice containing
10 the name and address of the injured person, the date of the
11 injury, the name and address of the health care professional
12 or health care provider, and the name of the party alleged to
13 be liable to make compensation to the injured person for the
14 injuries received. The lien notice shall be served on both
15 the injured person and the party against whom the claim or
16 right of action exists. Notwithstanding any other provision
17 of this Act, payment in good faith to any person other than
18 the healthcare professional or healthcare provider claiming
19 or asserting such lien prior to the service of such notice of
20 lien shall, to the extent of the payment so made, bar or
21 prevent the creation of an enforceable lien. Service shall be
22 made by registered or certified mail or in person.

23 (c) All health care professionals and health care
24 providers holding liens under this Act with respect to a
25 particular injured person shall share proportionate amounts
26 within the statutory limitation set forth in subsection (a).
27 The statutory limitations under this Section may be waived or
28 otherwise reduced only by the lienholder. No individual
29 licensed category of health care professional (such as
30 physicians) or health care provider (such as hospitals) as
31 set forth in Section 5, however, may receive more than
32 one-third of the verdict, judgment, award, settlement, or
33 compromise secured by or on behalf of the injured person on
34 his or her claim or right of action. If the total amount of

1 all liens under this Act meets or exceeds 40% of the verdict,
2 judgment, award, settlement, or compromise, then:

3 (1) all the liens of health care professionals
4 shall not exceed 20% of the verdict, judgment, award,
5 settlement, or compromise; and

6 (2) all the liens of health care providers shall
7 not exceed 20% of the verdict, judgment, award,
8 settlement, or compromise;

9 provided, however, that health care services liens shall be
10 satisfied to the extent possible for all health care
11 professionals and health care providers by reallocating the
12 amount unused within the aggregate total limitation of 40%
13 for all health care services liens under this Act; and
14 provided further that the amounts of liens under paragraphs
15 (1) and (2) are subject to the one-third limitation under
16 this subsection.

17 If the total amount of all liens under this Act meets
18 or exceeds 40% of the verdict, judgment, award, settlement,
19 or compromise, the total amount of all the liens of attorneys
20 under the Attorneys Lien Act shall not exceed 30% of the
21 verdict, judgment, award, settlement, or compromise. If an
22 appeal is taken by any party to a suit based on the claim or
23 cause of action, however, the attorney's lien shall not be
24 affected or limited by the provisions of this Act.

25 (d) If services furnished by health care professionals
26 and health care providers are billed at one all-inclusive
27 rate, the total reasonable charges for those services shall
28 be reasonably allocated among the health care professionals
29 and health care providers and treated as separate liens for
30 purposes of this Act, including the filing of separate lien
31 notices. For services provided under an all-inclusive rate,
32 the liens of health care professionals and health care
33 providers may be asserted by the entity that bills the
34 all-inclusive rate.

1 (e) Payments under the liens shall be made directly to
2 the health care professionals and health care providers. For
3 services provided under an all-inclusive rate, payments under
4 liens shall be made directly to the entity that bills the
5 all-inclusive rate.

6 Section 15. Notice of judgment or award. A judgment,
7 award, settlement, or compromise secured by or on behalf of
8 an injured person may not be satisfied without the injured
9 person or his or her authorized representative first giving
10 notice of the judgment, award, settlement, or compromise to
11 the health care professional or health care provider that
12 rendered a service in the treatment, care, or maintenance of
13 the injured person and that has served a lien notice pursuant
14 to subsection (b) of Section 10. The notice shall be in
15 writing and served upon the lien holder or, in the case of a
16 lien holder operated entirely by a unit of local government,
17 upon the individual or entity authorized to receive service
18 under Section 2-211 of the Code of Civil Procedure.

19 Section 20. Items to which lien attaches. The lien of a
20 health care professional or health care provider under this
21 Act shall, from and after the time of the service of the lien
22 notice, attach to any verdict, judgment, award, settlement,
23 or compromise secured by or on behalf of the injured person.
24 If the verdict, judgment, award, settlement, or compromise is
25 to be paid over time by means of an annuity or otherwise, any
26 lien under this Act shall be satisfied by the party obligated
27 to compensate the injured person to the fullest extent
28 permitted by Section 10 before the establishment of the
29 annuity or other extended payment mechanism.

30 Section 25. Examination of health care records.

31 (a) Upon written request by medical authorization signed

1 by the patient or the patient's representative, or by
2 subpoena, any party to a pending court action against whom a
3 claim is asserted for damages resulting from injuries shall
4 be permitted to examine the records of any health care
5 professional or health care provider concerning the health
6 care professional's or health care provider's treatment,
7 care, or maintenance of the injured person. Within 20 days
8 after receiving a written request by medical authorization
9 signed by the patient or the patient's representative, or by
10 subpoena, a health care professional or health care provider
11 claiming a lien under this Act must furnish to the requesting
12 party, or file with the clerk of the court in which the
13 action is pending, all of the following:

14 (1) A written statement of the nature and extent of
15 the injuries sustained by the injured person.

16 (2) A written statement of the nature and extent of
17 the treatment, care, or maintenance given to or furnished
18 for the injured person by the health care professional or
19 health care provider.

20 (3) A written statement of the history, if any, as
21 given by the injured person, insofar as shown by the
22 health care records, as to the manner in which the
23 injuries were received.

24 (b) If a health care professional or health care
25 provider fails or refuses to give or file a written statement
26 in conformity with and as required by subsection (a) after
27 being so requested in writing in conformity with subsection
28 (a), the lien of that health care professional or health care
29 provider under this Act shall immediately become null and
30 void.

31 Section 30. Adjudication of rights. On petition filed by
32 the injured person or the health care professional or health
33 care provider and on the petitioner's written notice to all

1 interested adverse parties, the circuit court shall
2 adjudicate the rights of all interested parties and enforce
3 their liens.

4 Section 35. Liens created under prior law. A lien
5 validly created under the Clinical Psychologists Lien Act,
6 the Dentists Lien Act, the Emergency Medical Services
7 Personnel Lien Act, Home Health Agency Lien Act, the Hospital
8 Lien Act, the Optometrists Lien Act, the Physical Therapist
9 Lien Act, or the Physicians Lien Act remains in full force
10 and effect on and after July 1, 2003. Such a lien shall be
11 enforceable according to, and otherwise governed by, the
12 provisions of the Act or Code under which it was created, as
13 those provisions existed on June 30, 2003.

14 Section 40. Attorney's lien. Nothing in this Act shall
15 affect the priority of any attorney's lien under the
16 Attorneys Lien Act.

17 Section 45. Amounts not recovered under lien. Nothing
18 in this Act shall be construed as limiting the right of a
19 health care professional or health care provider, or
20 attorney, to pursue collection, through all available means,
21 of its reasonable charges for the services it furnishes to an
22 injured person. Notwithstanding any other provision of law, a
23 lien holder may seek payment of the amount of its reasonable
24 charges that remain not paid after the satisfaction of its
25 lien under this Act.

26 Section 900. The Attorneys Lien Act is amended by
27 changing Section 1 as follows:

28 (770 ILCS 5/1) (from Ch. 13, par. 14)

29 Sec. 1. Attorneys at law shall have a lien upon all

1 claims, demands and causes of action, including all claims
2 for unliquidated damages, which may be placed in their hands
3 by their clients for suit or collection, or upon which suit
4 or action has been instituted, for the amount of any fee
5 which may have been agreed upon by and between such attorneys
6 and their clients, or, in the absence of such agreement, for
7 a reasonable fee, for the services of such suits, claims,
8 demands or causes of action, plus costs and expenses. In the
9 case of a claim, demand, or cause of action with respect to
10 which the total amount of all liens under the Health Care
11 Services Lien Act meets or exceeds 40% of the sum paid or due
12 the injured person, the total amount of all liens under this
13 Act shall not exceed 30% of the sum paid or due the injured
14 person. All attorneys shall share proportionate amounts
15 within this statutory limitation. If an appeal is taken by
16 any party to a suit based on the claim or cause of action,
17 however, the attorney's lien shall not be affected or limited
18 by the provisions of this Act.

19 To enforce such lien, such attorneys shall serve notice
20 in writing, which service may be made by registered or
21 certified mail, upon the party against whom their clients may
22 have such suits, claims or causes of action, claiming such
23 lien and stating therein the interest they have in such
24 suits, claims, demands or causes of action. Such lien shall
25 attach to any verdict, judgment or order entered and to any
26 money or property which may be recovered, on account of such
27 suits, claims, demands or causes of action, from and after
28 the time of service of the notice. On petition filed by such
29 attorneys or their clients any court of competent
30 jurisdiction shall, on not less than 5 days' notice to the
31 adverse party, adjudicate the rights of the parties and
32 enforce the lien.

33 (Source: P.A. 86-1156; 87-425.)

1 (770 ILCS 10/Act rep.)

2 Section 905. The Clinical Psychologists Lien Act is
3 repealed.

4 (770 ILCS 20/Act rep.)

5 Section 910. The Dentists Lien Act is repealed.

6 (770 ILCS 22/Act rep.)

7 Section 915. The Emergency Medical Services Personnel
8 Lien Act is repealed.

9 (770 ILCS 25/Act rep.)

10 Section 920. The Home Health Agency Lien Act is
11 repealed.

12 (770 ILCS 35/Act rep.)

13 Section 925. The Hospital Lien Act is repealed.

14 (770 ILCS 72/Act rep.)

15 Section 930. The Optometrists Lien Act is repealed.

16 (770 ILCS 75/Act rep.)

17 Section 935. The Physical Therapist Lien Act is
18 repealed.

19 (770 ILCS 80/Act rep.)

20 Section 940. The Physicians Lien Act is repealed.

21 Section 945. If and only if the provisions of House Bill
22 1205 of the 93rd General Assembly creating the Naprapathic
23 Lien Act become law, the Naprapathic Lien Act is repealed.

24 Section 999. Effective date. This Act takes effect on
25 July 1, 2003."