

Regular Session, 2011

SENATE BILL NO. 149

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PRIVILEGES/LIENS. Provides with respect to the health care provider privileges. (8/15/11)

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AN ACT

To amend and reenact R.S. 9:4752 and 4753(A) and to enact R.S. 9:4751(5), relative to proceeds recovered by injured persons; to provide with respect to the health care provider privilege; to provide that election to pursue and enforce a health care provider privilege is not considered an attempt to collect charges or fees from the injured person; to provide for definitions; to provide for the enforcement of a privilege; to provide with respect to health and accident insurance being secondary to the health care provider privilege; to provide with respect to written notice; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:4752 and 4753(A) are hereby amended and reenacted and R.S. 9:4751(5) is hereby enacted to read as follows:

§4751. Definitions

As used in this Part:

* * *

(5) "Third party" means a tortfeasor, liability insurer, or indemnity insurer.

1 §4752. Privilege on net proceeds collected from third party in favor of medical
2 providers for services and supplies furnished injured persons

3 A. A health care provider, hospital, or ambulance service that furnishes
4 services or supplies to any injured person shall have a privilege for the reasonable
5 charges or fees of such health care provider, hospital, or ambulance service on the
6 net amount payable **by a third party** to the injured person, his heirs, or legal
7 representatives, out of the total amount of any recovery or sum had, collected, or to
8 be collected, whether by judgment or by settlement or compromise, on account of
9 such injuries, and on the net amount payable by any insurance company under any
10 contract providing for indemnity or compensation to the injured person. **The**
11 **enforcement of the privilege created in this Section shall not be considered an**
12 **attempt to collect from the injured person the charges or fees of the health care**
13 **provider, hospital, or ambulance service, and any health and accident insurance**
14 **under which the injured person is a beneficiary shall become secondary to this**
15 **privilege.**

16 B. The privilege of an attorney shall have precedence over the privilege
17 created under this Section.

18 §4753. Written notice

19 A. The privilege created by R.S. 9:4752 shall become effective if, prior to
20 the payment of insurance proceeds, or to the payment of any judgment, settlement,
21 or compromise **by a third party** on account of injuries, a written notice containing
22 the name and address of the injured person and the name and location of the
23 interested health care provider, hospital, or ambulance service is delivered by
24 certified mail, return receipt requested, or by ~~facsimile~~ **electronic** transmission with
25 proof of receipt of transmission by the interested health care provider, hospital, or
26 ambulance services, or the attorney or agent for the interested health care provider,
27 hospital, or ambulance service, to the injured person, to his attorney, to the person
28 alleged to be liable to the injured person on account of the injuries sustained, to any
29 insurance carrier which has insured such person against liability, and to any

1 insurance company obligated by contract to pay indemnity or compensation to the
2 injured person. This privilege shall be effective against all persons given notice
3 according to the provisions of this Section and shall not be defeated nor rendered
4 ineffective as against any person that has been given the required notice because of
5 failure to give the notice to all those persons named in this Subsection.

6 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Proposed law defines "third party" as a tortfeasor, liability insurer or indemnity insurer.

Present law provides that a health care provider, hospital or ambulance service which furnishes services to an injured person shall have a privilege for certain charges or fees on the net amount payable to the injured person.

Proposed law provides that the privilege created by present law is on the net amount payable by a third party to the injured person.

Proposed law provides that when a health care provider, hospital or ambulance service seeks to enforce the privilege created by present law the enforcement shall not be considered an attempt to collect from the injured person.

Proposed law additionally provides that when the health care provider, hospital or ambulance service enforces the privilege, any health and accident insurance the injured party shall become secondary to this privilege.

Present law provides that prior to the payment of insurance proceeds, any judgment, settlement or compromise, the privilege created shall become effective if certain conditions are met.

Proposed law provides that the privilege will become effective if certain conditions are met prior to the payment of insurance proceeds, or the payment of any judgment, settlement, or compromise by a third party.

Effective August 15, 2011.

(Amends R.S. 9:4752 and 4753(A); adds R.S. 9:4751(5))