



1997 ASSEMBLY BILL 435

June 24, 1997 - Introduced by Representatives F. LASEE, UNDERHEIM, KUNICKI, LADWIG, MUSSER, TURNER, SYKORA, MEYER, GROTHMAN, BOYLE, KREIBICH, GUNDERSON, PORTER, HAHN and LORGE, cosponsored by Senators MOEN, DECKER, GROBSCHMIDT and SCHULTZ. Referred to Committee on Health.

1 **AN ACT** *to renumber and amend* 779.80 (1), 779.80 (3) (intro.) and 779.80 (3)
2 (a); *to amend* subchapter IX (title) of chapter 779 [precedes 779.80], 779.80
3 (title), 779.80 (2), 779.80 (3) (b) and (c), 779.80 (4), 779.80 (5) and 779.80 (6); and
4 **to create** 779.80 (1b) of the statutes; **relating to:** creating a lien for services
5 provided by a chiropractor.

Analysis by the Legislative Reference Bureau

Under current law, charitable institutions maintaining a hospital in this state have a lien for services rendered to any person who has sustained personal injuries as a result of the negligence, wrongful act or any tort of any other person. Among other things, the lien attaches to rights of action, judgments and settlements that the injured person has against other persons for damages on account of the injuries. The lien is effective only if certain notice and filing requirements are met. The lien does not apply if the injured person is eligible for worker's compensation, and certain attorney fees and court costs have priority over the lien. This bill expands the hospital lien provisions to cover services provided by chiropractors licensed in this state.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** Subchapter IX (title) of chapter 779 [precedes 779.80] of the
2 statutes is amended to read:

3 **CHAPTER 779**

4 SUBCHAPTER IX

5 HOSPITAL HEALTH CARE

6 PROVIDER LIENS

7 **SECTION 2.** 779.80 (title) of the statutes is amended to read:

8 **779.80** (title) **Hospital Health care provider liens.**

9 **SECTION 3.** 779.80 (1) of the statutes is renumbered 779.80 (1m) and amended
10 to read:

11 779.80 (1m) ~~Every corporation, association or other organization operating as~~
12 ~~a charitable institution and maintaining a hospital in this state shall have health~~
13 ~~care provider has a lien for services rendered, by way of treatment, care or~~
14 maintenance, to any person who has sustained personal injuries as a result of the
15 negligence, wrongful act or any tort of any other person.

16 **SECTION 4.** 779.80 (1b) of the statutes is created to read:

17 779.80 (1b) In this section, "health care provider" means all of the following:

18 (a) A corporation, association or other organization operating as a charitable
19 institution and maintaining a hospital in this state.

20 (b) A chiropractor licensed under ch. 446.

21 **SECTION 5.** 779.80 (2) of the statutes is amended to read:

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1 779.80 (2) ~~Such lien shall attach to any and~~ The lien under this section attaches
2 to all rights of action, suits, claims, demands and upon any judgment, award or
3 determination, and upon the proceeds of any settlement which such the injured
4 person, or legal representatives might have against any such other person for
5 damages on account of such the injuries, for the amount of the reasonable and
6 necessary charges of such hospital the health care provider.

7 **SECTION 6.** 779.80 (3) (intro.) of the statutes is renumbered 779.80 (3) (ae) and
8 amended to read:

9 779.80 (3) (ae) ~~No such lien shall be~~ A lien under this section is not effective
10 unless the health care provider files a written notice containing under this
11 paragraph. The notice shall contain the name and address of the injured person, the
12 date and location of the event causing such the injuries, the name and location
13 address of the hospital health care provider, and if ascertainable by reasonable
14 diligence, the names and addresses of the persons alleged to be liable for damages
15 sustained by such the injured person, The notice shall be filed in the office of the
16 clerk of circuit court in the county in which such the injuries have occurred, or in the
17 county in which such hospital the health care provider is located, or in the county in
18 which suit for recovery of such damages is pending. The notice shall be filed prior
19 to the payment of any moneys to such the injured person or legal representatives, but
20 in no event later than 60 days after discharge of such injured person from the hospital
21 the date that the health care provider last provided services to the injured person for
22 the injuries.

23 **SECTION 7.** 779.80 (3) (a) of the statutes is renumbered 779.80 (3) (am) and
24 amended to read:

ASSEMBLY BILL 435**SECTION 7**

1 779.80 (3) (am) The clerk of circuit court shall enter all ~~hospital~~ liens created
2 under this section in the judgment and lien docket, including the name of the injured
3 person, the date of the event causing the injury and the name of the ~~hospital or other~~
4 ~~institution~~ health care provider making the claim. The clerk of circuit court shall
5 receive the fee prescribed in s. 814.61 (5) for entering each lien.

6 **SECTION 8.** 779.80 (3) (b) and (c) of the statutes are amended to read:

7 779.80 (3) (b) Within 10 days after filing of the notice of lien under par. (ae),
8 the ~~hospital~~ health care provider shall send by certified mail or registered mail or
9 serve personally a copy of such ~~the~~ notice with the date of filing thereof to or upon
10 the injured person and the person alleged to be liable for damages sustained by such
11 ~~the~~ injured person, if ascertained by reasonable diligence. If ~~such hospital~~ the health
12 care provider fails to give notice if the name and address of the person injured or the
13 person allegedly liable for the injury are known or should be known, the lien ~~shall~~
14 ~~be is~~ void.

15 (c) The ~~hospital~~ health care provider shall also serve a copy of such ~~the~~ notice
16 under par. (ae), as provided in par. (b), to any insurer ~~which that~~ has insured such
17 ~~the~~ person alleged to be liable for the injury against such liability, if the name and
18 address may be ascertained by reasonable diligence.

19 **SECTION 9.** 779.80 (4) of the statutes is amended to read:

20 779.80 (4) After filing and service of the notice of lien, no release of any
21 judgment, claim or demand by the injured person ~~shall be is~~ valid as against such
22 ~~the~~ lien under this section, and the person making any payment to such ~~the~~ injured
23 person or legal representatives as compensation for the injuries sustained shall, for
24 a period of one year ~~from~~ after the date of such ~~the~~ payment, remain liable to the
25 ~~hospital~~ health care provider for the amount of such ~~the~~ lien.

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1 **SECTION 10.** 779.80 (5) of the statutes is amended to read:

2 779.80 ~~(5) Such lien shall~~ The lien under this section does not in any way
3 prejudice or interfere with any lien or contract ~~which~~ that may be made by ~~such~~ the
4 injured person or legal representatives with any attorney ~~or attorneys~~ for legal
5 services rendered with respect to the claim of the injured person or legal
6 representatives against the person alleged to be liable for ~~such~~ the injury. Said lien
7 ~~shall also be subservient to actual~~ Actual taxable court costs, and actual
8 disbursements made by the attorney in prosecuting the court action have priority
9 over the lien under this section.

10 **SECTION 11.** 779.80 (6) of the statutes is amended to read:

11 779.80 ~~(6) No hospital is~~ A health care provider is not entitled to any lien under
12 this section if the person injured is eligible for compensation under ch. 102 or any
13 other worker's compensation act.

14 **SECTION 12. Initial applicability.**

15 (1) This act first applies to services provided by a chiropractor on the effective
16 date of this subsection.

17

(END)