

1 HB279
2 209490-5
3 By Representative Faulkner
4 RFD: Insurance
5 First Read: 02-FEB-21

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2 ENROLLED, An Act,

3 Relating to health insurance and health care payors
4 for health care services; to amend Section 35-11-371 of the
5 Code of Alabama 1975, as amended by Act 2019-273, 2019 Regular
6 Session, providing for the circumstances under which a
7 hospital may perfect a lien against an injured person; to
8 delete a provision allowing a contractual agreement between a
9 hospital and the injured person's health insurance or other
10 health care payor to supersede this law; to prohibit an
11 insurer or other health care payor from denying, delaying, or
12 deferring payment on a claim for payment to an injured party
13 based on the injured party being treated for injuries received
14 under circumstances that may give rise to a claim against a
15 third party; and to provide that this act would be prospective
16 in operation.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 35-11-371, Code of Alabama 1975,
19 as last amended by Act 2019-273, 2019 Regular Session, is
20 amended to read as follows:

21 "§35-11-371.

22 "(a) For the purposes of this section, the following
23 terms shall have the following meanings:

24 "(1) HEALTH CARE PAYOR. A health care insurer,
25 health maintenance organization, or health care service plan

1 organized under Article 6, Chapter 20, Title 10A, authorized
2 to provide health care coverage in the state.

3 "(2) SATISFY THE CLAIM. Receipt by the hospital of
4 either of the following:

5 "a. Full payment for services as billed.

6 "b. If the hospital has a contract with the injured
7 person's health care payor, payment together with all credits,
8 discounts, and contractual adjustments that the patient's bill
9 would be entitled under the contract, including recoupments,
10 between the hospital and the patient's health care payor which
11 extinguish the patient's obligation for the services rendered.

12 "(b) Unless ~~specifically contrary to any contractual~~
13 ~~agreement between the hospital and the injured person's health~~
14 ~~care payor or unless~~ contrary to any ~~statute~~ law or
15 governmental rule or regulation of the United States or this
16 state, no hospital shall perfect a lien as to any injured
17 person who was covered by a health care payor's policy, until
18 the hospital submits to the health care payor an accurate and
19 properly coded claim, or if a contract exists between the
20 hospital and the health care payor, in the form required
21 pursuant to the contract, and there is a failure to satisfy
22 the claim. Perfection of a lien shall be as follows:

23 "(1) A hospital may perfect its lien as to an
24 injured person who was covered by a health care payor's policy
25 that provides primary coverage for the care, if the hospital

1 takes the steps described in subsection (c), within 20 days
2 after its receipt of notice of the health care payor's denial
3 of an accurate and properly coded claim. Failure to satisfy an
4 accurate and properly coded claim within 45 days of submission
5 or the subsequent recoupment by the health care payor of
6 amounts previously paid, which results in a failure to satisfy
7 the claim, shall be deemed a denial of the claim.

8 "(2) A hospital may perfect its lien as to an
9 injured person who was not known to the hospital to be covered
10 by a health care payor, was covered by a governmental payor
11 including Medicare or Medicaid, or was covered by a policy not
12 described in subdivision (b)(1), if it takes the steps
13 described in subsection (c) within 20 days after discharge.

14 "(3) Where the hospital does not receive evidence of
15 the injured person's health care payor until after the lien
16 provided for by this section has been perfected, the hospital
17 shall bill the health care payor forthwith but may retain its
18 lien until satisfaction of the claim. If the claim is
19 satisfied, the hospital shall release the lien within 10 days.

20 "(c) In order to perfect a lien under this division,
21 the operator of the hospital, shall file with the probate
22 court of the county in which the hospital is located a
23 verified statement setting forth the name and address of the
24 patient, as it shall appear on the records of the hospital,
25 the name and location of the hospital and the name and address

1 of the operator thereof, the dates of admission and discharge
2 of the patient therefrom, the amount claimed to be due for the
3 hospital care, which shall give full credit for any health
4 care payor payments made, including agreed contractual
5 adjustments, and to the best of the claimant's knowledge, the
6 names and addresses of all persons, firms, or corporations
7 claimed by the injured person, or the legal representative of
8 the person, to be liable for damages arising from the
9 injuries. The claimant shall also within one day after the
10 filing of the claim or lien, mail a copy thereof by registered
11 or certified mail, postage prepaid, for each person, firm, or
12 corporation so claimed to be liable on account of the
13 injuries, at the addresses so given in the statement, and to
14 the patient, his or her guardian, or his or her personal
15 representative at the address given at the time of admission.

16 "(d) The filing of a claim or lien shall be notice
17 thereof to all persons, firms, or corporations liable for
18 damages, whether or not they are named in the claim or lien.
19 Nothing shall be deemed to preclude the hospital from
20 perfecting its lien outside of the time limits stated in this
21 section through providing actual notice to persons, firms, or
22 corporations.

23 "(e) The judge of probate shall endorse thereon the
24 date and hour of filing, and at the expense of the county
25 shall provide a hospital lien book with proper index in which

1 he or she shall enter the date and hour of the filing, the
2 names and addresses of the hospital, the operators thereof and
3 of the patient, the amount claimed and the names and addresses
4 of those claimed to be liable for damages. The information
5 shall be recorded in the name of the patient. The judge of
6 probate shall be paid one dollar (\$1) as his or her fee for
7 the filing."

8 Section 2. Section 27-12-25 is added to the Code of
9 Alabama 1975, to read as follows:

10 §27-12-25.

11 (a) Notwithstanding any other provision of law, any
12 health insurer, any health care service plan organized under
13 Article 6, Chapter 20, Title 10A, or any health maintenance
14 organization organized under Chapter 21A, Title 27, which
15 contracts for health insurance or pays for health care
16 services, may not deny, delay, or defer payment of an
17 otherwise valid claim for payment of health care services,
18 because the insured, who is the injured person, has been or is
19 being treated for injuries received under circumstances giving
20 rise to a possible injury liability claim or a claim for
21 benefits under an individual or group automobile insurance
22 policy that provides uninsured motorist or medical payment
23 coverage. Any provision in a health insurance policy or any
24 provision in a hospital contract with a health care payor, as
25 defined in Section 35-11-371, issued, entered into, amended,

1 or renewed in this state on or after the effective date of the
 2 act which attempts to coordinate benefits in violation of this
 3 section is void and unenforceable.

4 ~~This section does not restrict a health insurer,~~
 5 ~~health care service plan, or health maintenance organization~~
 6 ~~from recouping payments from a responsible third party.~~

7 This section does not restrict a health insurer,
 8 health care service plan, or health maintenance organization
 9 from recouping payments by exercising available subrogation
 10 rights against a responsible third party or by exercising
 11 available reimbursement rights against an injured person who
 12 is attempting to recover from, or has previously recovered
 13 from, a responsible third party or the injured party's
 14 uninsured or underinsured motorist insurance coverage, or
 15 both. Where a health insurer, health care service plan, or
 16 health maintenance organization seeks recoupment from a
 17 responsible third party, the amount of the recoupment may not
 18 exceed the amount paid by the health insurer, health care
 19 service plan, or health maintenance organization for health
 20 care services.

21 (b) The Department of Insurance shall adopt rules to
 22 carry out this section.

23 Section 3. The amendatory language in Section
 24 35-11-371, Code of Alabama 1975, and Section 2 shall apply

1 only to contracts entered into, amended, or renewed on or
2 after the effective date of this act.

3 Section 4. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-APR-21, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 20-APR-21 <hr/>	Amended and Passed
House	<hr/> 27-APR-21 <hr/>	Concurred in Senate Amendment