

1 HB11  
2 198994-4  
3 By Representative Rowe  
4 RFD: Insurance  
5 First Read: 05-MAR-19  
6 PFD: 01/10/2019

1  
2 ENROLLED, An Act,

3           Relating to hospitals; to amend Sections 35-11-371  
4 and 35-11-372, Code of Alabama 1975, to require a hospital  
5 that provides medical treatment to an injured person to seek  
6 compensation solely from that person's health insurance  
7 provider, with the exception of approved copayments and  
8 deductibles, unless certain circumstances apply; and to allow  
9 a hospital to perfect a hospital lien against any recovery the  
10 injured person may be awarded for injuries by way of  
11 settlement or judgment in certain circumstances.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13           Section 1. Sections 35-11-371 and 35-11-372, Code of  
14 Alabama 1975, are amended to read as follows:

15           "§35-11-371.

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

18           "(1) HEALTH CARE PAYOR. A health care insurer,  
19 health maintenance organization, or health care service plan  
20 organized under Article 6, Chapter 20, Title 10A, authorized  
21 to provide health care coverage in the state.

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

24           "a. Full payment for services as billed.

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

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

17 Perfection of a lien shall be as follows:

18           "(1) A hospital may perfect its lien as to an  
19 injured person who was covered by a health care payor's policy  
20 that provides primary coverage for the care, if the hospital  
21 takes the steps described in subsection (c), within 20 days  
22 after its receipt of notice of the health care payor's denial  
23 of an accurate and properly coded claim. Failure to satisfy an  
24 accurate and properly coded claim within 45 days of submission  
25 or the subsequent recoupment by the health care payor of

1 amounts previously paid, which results in a failure to satisfy  
2 the claim, shall be deemed a denial of the claim.

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

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

15 "(c) In order to perfect ~~such a~~ lien ~~under this~~  
16 ~~division,~~ the operator of ~~such the~~ hospital, ~~before or within~~  
17 ~~10 days after such person shall have been discharged therefrom~~  
18 shall file ~~in with~~ the ~~office of the judge of probate of the~~  
19 ~~county or counties~~ probate court of the county in which ~~such~~  
20 ~~cause of action arose~~ the hospital is located a verified  
21 statement setting forth the name and address of ~~such the~~  
22 patient, as it shall appear on the records of ~~such the~~  
23 hospital, the name and location of ~~such the~~ hospital and the  
24 name and address of the operator thereof, the dates of  
25 admission and discharge of ~~such the~~ patient therefrom, the

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

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

23 "~~(b)~~ (e) The judge of probate shall endorse thereon  
24 the 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 ~~such~~ the filing,  
2 the names and addresses of ~~such~~ the hospital, the operators  
3 thereof and of ~~such~~ the patient, the amount claimed and the  
4 names and addresses of those claimed to be liable for damages.  
5 ~~Such~~ The information shall be recorded in the name of the  
6 patient. The judge of probate shall be paid ~~\$1.00~~ one dollar  
7 (\$1) as his or her fee for ~~such~~ the filing.

8 "§35-11-372.

9 "(a) During the period of time allowed by Section  
10 35-11-371 for perfecting the lien ~~provided for by this~~  
11 ~~division, including that period of time during which the~~  
12 ~~hospital is awaiting payment or denial by the patient's health~~  
13 ~~care payor, and also after the lien provided for by this~~  
14 ~~division has been perfected, as provided in this division, by~~  
15 any lienholder entitled thereto, no release or satisfaction of  
16 any action, claim, counterclaim, demand, judgment, settlement,  
17 or settlement agreement, or of any of them, shall be valid or  
18 effectual as against ~~such~~ the lien unless ~~such~~ the lienholder  
19 shall join therein or execute a release of ~~such~~ the lien.

20 "(b) Any acceptance of a release or satisfaction of  
21 any ~~such~~ action, claim, counterclaim, demand or judgment and  
22 any settlement of any of the foregoing in the absence of a  
23 release or satisfaction of the lien referred to in this  
24 division shall prima facie constitute an impairment of ~~such~~  
25 the lien, and the lienholder shall be entitled to a civil

1 action for damages on account of ~~such~~ the impairment, and in  
2 ~~such~~ the action may recover from the one accepting ~~such~~ the  
3 release or satisfaction or making ~~such~~ the settlement the  
4 reasonable ~~cost of such~~ charges for the hospital care,  
5 treatment, and maintenance. Satisfaction of any judgment  
6 rendered in favor of the lienholder in any ~~such~~ action shall  
7 operate as a satisfaction of the lien. Any action by the  
8 lienholder shall be brought in any court having jurisdiction  
9 thereof and may be brought and maintained in the county  
10 wherein the lienholder has his or her, its, or their residence  
11 or place of business. If the lienholder shall prevail in ~~such~~  
12 the action, the lienholder shall be entitled to recover from  
13 the defendant, costs and reasonable attorney's fees. ~~Such~~ The  
14 action shall be commenced against the person liable for ~~such~~  
15 the damages within one year after the date ~~such~~ the liability  
16 shall be finally determined by a settlement release covenant  
17 not to sue or by the judgment of a court of competent  
18 jurisdiction."

19 Section 2. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law and  
22 shall apply to claims for hospital services that arise  
23 following the effective date.

