

House Engrossed Senate Bill
health care liens; limitation

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1021

AN ACT

AMENDING SECTION 33-931, ARIZONA REVISED STATUTES; AMENDING TITLE 33,
CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-937;
RELATING TO HEALTH CARE PROVIDER LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-931, Arizona Revised Statutes, is amended to
3 read:

4 33-931. Lien of health care provider on damages recovered by
5 injured person receiving services; hospital
6 priority; enforcement

7 A. Every individual, partnership, firm, association, corporation or
8 institution or any governmental unit that maintains and operates a health
9 care institution or provides health care services in this state and that
10 has been duly licensed by this state, or any political subdivision or
11 private entity with ambulances operated, licensed or registered pursuant
12 to title 36, chapter 21.1, is entitled to a lien for the care and
13 treatment or transportation of an injured person **AS PRESCRIBED BY**
14 **SUBSECTION E OF THIS SECTION**. The lien shall be for the claimant's
15 customary charges for care and treatment or transportation of an injured
16 person. A lien pursuant to this section extends to all claims of
17 liability or indemnity, except health insurance **AND MEDICAL PAYMENTS**
18 **COVERAGE** and underinsured **MOTORIST** and uninsured motorist coverage as
19 defined in section 20-259.01, for damages accruing to the person to whom
20 the services are rendered, or to that person's legal representative, on
21 account of the injuries that gave rise to the claims and that required the
22 services.

23 B. If a county maintains, operates or provides health care
24 services, ~~it~~ **THE COUNTY** is entitled to an assignment by operation of law
25 for the care and treatment or transportation of an injured person **AS**
26 **PRESCRIBED BY SUBSECTION E OF THIS SECTION**. The assignment shall be for
27 the claimant's customary charges for care and treatment or transportation
28 of an injured person. An assignment pursuant to this section extends to
29 any claims of liability or indemnity, except health insurance **AND MEDICAL**
30 **PAYMENTS COVERAGE** and underinsured **MOTORIST** and uninsured motorist
31 coverage as defined in section 20-259.01, for damages accruing to the
32 person to whom the services are rendered, or to that person's legal
33 representative, on account of injuries that gave rise to the claims and
34 that required the services.

35 C. The lien entitlements authorized by subsection A of this section
36 and the assignment authorized by subsection B of this section are
37 applicable to all customary charges by hospitals or ambulances of
38 political subdivisions, but are restricted to customary charges in excess
39 of ~~two hundred fifty dollars~~ **\$250** by all other providers and privately
40 owned ambulance companies excluding interest and service charges.

41 D. Liens perfected pursuant to this article by a hospital have
42 priority for payment over all other liens authorized by this article.

1 E. THE LIENS AND ASSIGNMENTS AUTHORIZED BY THIS SECTION ARE
2 ENFORCEABLE BY A CAUSE OF ACTION PRESCRIBED BY SECTION 33-934 AND ARE
3 SUBJECT TO THE FOLLOWING:

4 1. ONE-THIRD OF ANY THIRD-PARTY JUDGMENT, SETTLEMENT OR AWARD IS
5 EXEMPT FROM ANY LIEN OR ASSIGNMENT AUTHORIZED BY THIS SECTION.

6 2. IF THE INJURED PERSON IS COVERED AS AN INSURED OR DEPENDENT
7 UNDER A HEALTH INSURANCE OR SIMILAR MEDICAL BENEFIT PLAN AND THE HEALTH
8 CARE PROVIDER HAS A VALID AND BINDING CONTRACT WITH THAT INSURER OR PLAN
9 AS AN IN-NETWORK PROVIDER, THE CONTRACT MUST EXPRESSLY ALLOW THE HEALTH
10 CARE PROVIDER TO ASSERT A LIEN OR ASSIGNMENT THAT IS AUTHORIZED BY THIS
11 SECTION. IN THE ABSENCE OF THAT CONTRACT PROVISION, THE LIEN OR
12 ASSIGNMENT IS INVALID AND MAY NOT BE ENFORCED BY A CAUSE OF ACTION
13 PRESCRIBED BY SECTION 33-934 EXCEPT AS ALLOWED UNDER PARAGRAPH 3 OR 4 OF
14 THIS SUBSECTION.

15 3. PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY IF ANY OF THE
16 FOLLOWING EXCEPTIONS ARE MET:

17 (a) THE SERVICES PROVIDED ARE NOT COVERED BY THE INJURED PERSON'S
18 HEALTH INSURANCE OR SIMILAR MEDICAL BENEFIT PLAN.

19 (b) THE HEALTH CARE PROVIDER DOES NOT HAVE A VALID AND BINDING
20 CONTRACT WITH THE INSURER OR PLAN AS AN IN-NETWORK PROVIDER.

21 (c) THE INJURED PERSON IS NOT COVERED BY ANY HEALTH INSURANCE OR
22 ANY SIMILAR MEDICAL BENEFIT PLAN.

23 (d) THE INJURED PERSON AND THE HEALTH CARE PROVIDER HAVE A WRITTEN
24 AND SIGNED DOCUMENT STATING THAT THEY ELECT NOT TO USE ANY COVERAGE
25 POTENTIALLY AVAILABLE UNDER A HEALTH INSURANCE OR SIMILAR MEDICAL BENEFIT
26 PLAN THAT COVERS THE INJURED AS AN INSURED OR DEPENDENT.

27 4. NOTWITHSTANDING PARAGRAPHS 1, 2, AND 3 OF THIS SUBSECTION, A
28 HEALTH CARE PROVIDER MAY ENFORCE A LIEN OR ASSIGNMENT AUTHORIZED BY THIS
29 SECTION BY A CAUSE OF ACTION PRESCRIBED BY SECTION 33-934 FOR ALL AMOUNTS
30 FOR WHICH A PATIENT IS PERSONALLY RESPONSIBLE, INCLUDING OUTSTANDING
31 COINSURANCE AMOUNTS, COPAYMENTS AND DEDUCTIBLES THAT ARE DUE UNDER THE
32 INJURED PERSON'S OR DEPENDENT'S HEALTH INSURANCE OR SIMILAR MEDICAL
33 BENEFIT PLAN.

34 5. ANY VALID AND ENFORCEABLE LIEN OR ASSIGNMENT AUTHORIZED BY THIS
35 SECTION SHALL BE COMPROMISED PURSUANT TO THE CRITERIA PRESCRIBED BY
36 SECTION 33-937.

37 6. ANY VALID AND ENFORCEABLE LIEN OR ASSIGNMENT AUTHORIZED BY THIS
38 SECTION SHALL BE SUBORDINATE TO ANY LIEN WITH HIGHER PRIORITY.

39 F. THIS SECTION DOES NOT AFFECT THE RIGHTS OF A HEALTH CARE
40 PROVIDER TO ENFORCE A CONSENSUAL AGREEMENT, WHETHER CALLED A LIEN OR
41 CONTRACT, AGAINST THE PATIENT WHO HAS SIGNED THE AGREEMENT.

1 Sec. 2. Title 33, chapter 7, article 3, Arizona Revised Statutes,
2 is amended by adding section 33-937, to read:

3 33-937. Limitation of lien or assignment; compromise; cause
4 of action; attorney fees

5 A. ALL INTERESTED PARTIES, INCLUDING THE HEALTH CARE PROVIDER,
6 PATIENT AND PATIENT'S ATTORNEY, SHALL COMPROMISE ANY LIEN OR ASSIGNMENT
7 GRANTED PURSUANT TO SECTION 33-931 AND THE AMOUNTS OWED PURSUANT TO ANY
8 SUCH LIEN OR ASSIGNMENT TO PROVIDE A SETTLEMENT OF THE CLAIM THAT IS FAIR
9 AND EQUITABLE TO ALL PARTIES.

10 B. IN DETERMINING THE EXTENT OF THE COMPROMISE REQUIRED BY
11 SUBSECTION A OF THIS SECTION, THE HEALTH CARE PROVIDER SHALL CONSIDER THE
12 FOLLOWING FACTORS:

13 1. THE NATURE AND EXTENT OF THE PATIENT'S INJURY OR ILLNESS.

14 2. THE SUFFICIENCY OF LIABILITY INSURANCE OR OTHER SOURCES OF
15 INDEMNITY AVAILABLE TO THE PATIENT FROM THE TORTFEASOR OR THE TORTFEASOR'S
16 INSURER. THE POTENTIAL AVAILABILITY OF HEALTH INSURANCE OR A SIMILAR
17 MEDICAL BENEFIT PLAN THAT COVERS THE PATIENT AS AN INSURED OR DEPENDENT
18 MAY NOT BE CONSIDERED AS A FACTOR IN ANY COMPROMISE, IF THE PATIENT AND
19 THE HEALTH CARE PROVIDER HAVE AGREED NOT TO USE THAT HEALTH INSURANCE OR
20 SIMILAR MEDICAL BENEFIT PLAN COVERAGE.

21 3. WHETHER THE HEALTH CARE PROVIDER, THE HOSPITAL OR AN ASSIGNEE
22 HAS RECEIVED ANY PAYMENT REDUCING THE PATIENT'S FINANCIAL OBLIGATION TO
23 PAY THE LIEN BALANCE.

24 4. THE NATURE AND COMPLEXITY OF THE SERVICES RENDERED BY THE HEALTH
25 CARE PROVIDER TO THE PATIENT.

26 5. THE HEALTH CARE PROVIDER'S CUSTOMARY CHARGES FOR THE SERVICES
27 RENDERED TO THE PATIENT.

28 6. THE TOTAL AMOUNT OF THE THIRD-PARTY JUDGMENT, SETTLEMENT OR
29 AWARD.

30 7. OTHER VALID LIENS MADE PURSUANT TO SECTION 33-931 THAT ARE
31 ATTACHED TO ANY THIRD-PARTY JUDGMENT, SETTLEMENT OR AWARD AND THE PRIORITY
32 POSITION OF THE LIENS.

33 8. THE PATIENT'S ATTORNEY FEES AND COSTS.

34 9. ANY REDUCTIONS AGREED TO BY ANY OTHER CLAIMANTS TO THE TOTAL
35 AMOUNT OF THE THIRD-PARTY JUDGMENT, SETTLEMENT OR AWARD.

36 10. OTHER VALID CLAIMS AGAINST THE THIRD-PARTY JUDGMENT, SETTLEMENT
37 OR AWARD, INCLUDING HEALTH INSURANCE REIMBURSEMENT AND SUBROGATION CLAIMS.

38 11. ANY OTHER FACTOR RELEVANT TO A FAIR AND EQUITABLE SETTLEMENT
39 UNDER THE CIRCUMSTANCES OF THAT PARTICULAR CASE.

40 C. ON REQUEST OF THE HEALTH CARE PROVIDER, THE PATIENT SHALL
41 PROVIDE A PROPOSED DISTRIBUTION OF THE SETTLEMENT MONIES THAT CONTAINS A
42 COMPLETE LISTING OF HOW THE MONIES WOULD BE DISTRIBUTED AMONG ALL PARTIES
43 ALONG WITH A STATEMENT OF THE MONIES THAT THE PATIENT WOULD RECEIVE IF THE
44 LIENS ARE COMPROMISED.

1 D. IF THE INTERESTED PARTIES CANNOT AGREE ON A COMPROMISE OF A LIEN
2 OR ASSIGNMENT AS PRESCRIBED BY THIS SECTION, AN ACTION MAY BE FILED FOR A
3 JUDICIAL DETERMINATION OF AN APPROPRIATE COMPROMISE OF THE LIEN OR
4 ASSIGNMENT BASED ON THE FACTORS PRESCRIBED BY THIS SECTION. THE ACTION
5 MAY BE FILED BY THE INJURED PERSON WHOSE CARE, TREATMENT OR TRANSPORTATION
6 IS SUBJECT TO A LIEN OR ASSIGNMENT PURSUANT TO SECTION 33-931, THE
7 HEALTH CARE PROVIDER OR ASSIGNEE, OR THE PERSON, FIRM OR CORPORATION
8 LIABLE FOR DAMAGES, OR ANY INSURER OR OTHER PERSON, FIRM OR CORPORATION
9 THAT IS RESPONSIBLE FOR PAYING ALL OR PART OF THE DAMAGES. IN ANY ACTION
10 BROUGHT PURSUANT TO THIS SECTION, THE PREVAILING PARTY MAY NOT RECOVER
11 ATTORNEY FEES AUTHORIZED BY SECTION 33-934.

12 Sec. 3. Applicability

13 Section 33-931, Arizona Revised Statutes, as amended by this act,
14 and section 33-937, Arizona Revised Statutes, as added by this act, apply
15 to liens that are filed for services that are provided from and after
16 December 31, 2022.