

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-1019.01 Megan Waples x4348

**SENATE BILL 19-217**

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**SENATE SPONSORSHIP**

**Foote and Tate,**

**HOUSE SPONSORSHIP**

**Snyder,**

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**Senate Committees**  
Health & Human Services

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING HEALTHCARE PROVIDER LIENS RELATED TO CHARGES**  
102                    **FOR MEDICAL CARE PROVIDED TO A PERSON INJURED AS A**  
103                    **RESULT OF THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER**  
104                    **PERSON.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill establishes requirements for the creation of a healthcare provider lien. A healthcare provider lien is a lien related to charges for medical care provided to a person injured by the negligence or wrongful

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

act of another person, which is asserted against money the injured person may receive from a personal injury claim or uninsured motorist claim. A healthcare provider or healthcare provider's assignee creating a lien must advise the injured person of their options for payment, including the use of benefits from an insurance plan or other payer of benefits, before or at the time of creating the lien. The lien amount cannot include any additional amounts over the amount of the charges for services provided, billed at the provider's usual and customary rates.

A healthcare provider may assign a lien to another person or entity. The fact of the assignment, its terms, and the amount paid by the assignee is not discoverable or admissible as evidence in any third-party or first-party action.

The provisions of the bill do not apply to hospital liens.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 27.5 to  
3 title 38 as follows:

4 **ARTICLE 27.5**

5 **Medical Provider Liens**

6 **38-27.5-101. Legislative declaration.** (1) THE GENERAL  
7 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) RESIDENTS OF THE STATE WHO ARE INJURED AS THE RESULT OF  
9 THE NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER PERSON SHOULD  
10 RECEIVE TIMELY MEDICAL SERVICES FOR THEIR INJURIES, EVEN IF THEY  
11 HAVE LIMITED OR NO HEALTH INSURANCE;

12 (b) HEALTHCARE PROVIDERS SOMETIMES PROVIDE MEDICAL  
13 SERVICES AND CARE TO INJURED PERSONS AND AGREE TO DELAYED  
14 PAYMENT IN EXCHANGE FOR A LIEN ON ANY SETTLEMENT FUNDS RECEIVED  
15 BY THE INJURED PERSON FROM A PERSONAL INJURY CLAIM ASSERTED  
16 AGAINST THE RESPONSIBLE PARTY;

17 (c) IT IS IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE  
18 TO ENSURE THAT COMPENSATION TO AN INJURED PARTY IS NOT REDUCED

1 MERELY BECAUSE A HEALTHCARE PROVIDER ASSIGNS OR SELLS SUCH A  
2 LIEN TO ANOTHER PERSON;

3 (d) IT IS IN THE BEST INTERESTS OF THE RESIDENTS OF THE STATE  
4 TO ENSURE THAT THE CHARGES UNDERLYING HEALTHCARE PROVIDER  
5 LIENS ARE NOT EXCESSIVE, UNREASONABLE, OR INFLATED AND THAT  
6 HEALTHCARE PROVIDER LIENS ARE NOT SUBJECT TO SURCHARGES,  
7 FINANCE CHARGES, INTEREST, OR OTHER INCREASES TO THE AMOUNT OF  
8 THE HEALTHCARE PROVIDER LIEN; AND

9 (e) THIS ARTICLE 27.5 IS INTENDED TO ENCOURAGE HEALTHCARE  
10 PROVIDERS TO PROMPTLY TREAT PEOPLE WHO HAVE LIMITED OR NO  
11 HEALTH INSURANCE AND WHO HAVE BEEN INJURED AS THE RESULT OF THE  
12 NEGLIGENCE OR WRONGFUL ACTS OF ANOTHER PERSON AND TO PROTECT  
13 INJURED PEOPLE FROM EXCESSIVE, UNREASONABLE, OR INFLATED MEDICAL  
14 SERVICE CHARGES AND SURCHARGES ASSOCIATED WITH HEALTHCARE  
15 PROVIDER LIENS.

16 **38-27.5-102. Definitions.** AS USED IN THIS ARTICLE 27.5, UNLESS  
17 THE CONTEXT OTHERWISE REQUIRES:

18 (1) "HEALTHCARE PROVIDER" MEANS A PERSON LICENSED OR  
19 CERTIFIED IN THE STATE TO PRACTICE MEDICINE, PHARMACY,  
20 CHIROPRACTIC, NURSING, PHYSICAL THERAPY, PODIATRY, DENTISTRY,  
21 OPTOMETRY, OCCUPATIONAL THERAPY, OR OTHER HEALING ARTS,  
22 AND ANY OTHER LICENSED HEALTHCARE PROVIDER AS PERMITTED BY THE  
23 LAWS OF THE STATE.

24 (2) "HEALTHCARE PROVIDER LIEN" MEANS A LIEN CREATED BY A  
25 HEALTHCARE PROVIDER OR ITS ASSIGNEE RELATED TO CHARGES FOR  
26 MEDICAL SERVICES AND CARE GIVEN TO A PERSON INJURED AS A RESULT  
27 OF THE NEGLIGENCE OR WRONGFUL ACT OF ANOTHER PERSON, WHICH LIEN

1 IS ASSERTED AGAINST MONEY RECEIVED AS A RESULT OF A CLAIM OR  
2 CLAIMS THAT THE INJURED PERSON ASSERTS AGAINST THIRD PARTIES OR  
3 UNDER AN UNINSURED OR UNDERINSURED MOTORIST INSURANCE POLICY.

4 **38-27.5-103. Healthcare provider lien - options for payments**

5 **- limitations.** (1) (a) BEFORE A HEALTHCARE PROVIDER LIEN IS CREATED,  
6 A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL ADVISE THE INJURED  
7 PARTY ORALLY AND IN WRITING OF THE AVAILABLE METHODS FOR  
8 PAYMENT OF THE HEALTHCARE PROVIDER'S CHARGES FOR TREATMENT OF  
9 THE INJURED PARTY. THESE OPTIONS MAY INCLUDE:

10 (I) THE CREATION OF A HEALTHCARE PROVIDER LIEN, INCLUDING  
11 AN EXPLANATION OF THE LIENHOLDER'S POTENTIAL RIGHTS OF RECOVERY  
12 AGAINST THE INJURED PARTY;

13 (II) THE USE OF BENEFITS AVAILABLE FROM ANY PAYER OF  
14 BENEFITS, AS DEFINED IN SECTION 38-27-101 (9), TO WHICH THE INJURED  
15 PERSON IS A BENEFICIARY;

16 (III) ANY OTHER PAYMENT METHOD OR ARRANGEMENT  
17 AGREEABLE TO BOTH THE HEALTHCARE PROVIDER OR ITS ASSIGNEE AND  
18 THE INJURED PERSON; OR

19 (IV) A COMBINATION OF THE PAYMENT METHODS SPECIFIED IN  
20 SUBSECTIONS (1)(a)(I) TO (1)(a)(III) OF THIS SECTION.

21 (b) BEFORE AN INJURED PARTY SIGNS AN AGREEMENT CREATING  
22 A HEALTHCARE PROVIDER LIEN, A HEALTHCARE PROVIDER OR ITS ASSIGNEE  
23 SHALL ADVISE THE INJURED PARTY ORALLY AND IN WRITING:

24 (I) THAT THE HEALTHCARE PROVIDER OR ITS ASSIGNEE IS NOT A  
25 HEALTH INSURER OR PAYER OF BENEFITS AS THAT TERM IS DEFINED IN  
26 SECTION 10-1-135 (2)(c)(I);

27 (II) THAT EXCEPT IN THE EVENT OF FRAUD BY THE INJURED PARTY,

1 THE LIENHOLDER MAY ONLY ASSIGN TO A COLLECTION AGENCY OR DEBT  
2 COLLECTOR AN AMOUNT EQUAL TO THE TOTAL AMOUNT ACTUALLY PAID  
3 BY THE LIENHOLDER TO HEALTHCARE PROVIDERS;

4 (III) OF ANY INVOLVEMENT BETWEEN THE LIENHOLDER AND THE  
5 INJURED PARTY'S LEGAL COUNSEL; AND

6 (IV) OF ANY INVOLVEMENT BETWEEN THE LIENHOLDER AND ANY  
7 HEALTHCARE PROVIDER WHO IS PROVIDING TREATMENT OR WHO MAY  
8 PROVIDE TREATMENT TO THE INJURED PERSON UNDER THE TERMS OF THE  
9 HEALTHCARE PROVIDER LIEN.

10 (c) (I) IF A HEALTHCARE PROVIDER OR ITS ASSIGNEE IS INFORMED  
11 DURING THE COURSE OF TREATMENT BY THE INJURED PARTY OR THE  
12 INJURED PARTY'S LEGAL COUNSEL THAT THE INJURED PARTY HAS  
13 OBTAINED HEALTH INSURANCE, ALL FUTURE CARE MAY BE BILLED TO THE  
14 HEALTH INSURANCE CARRIER AT THE INJURED PERSON'S DISCRETION.

15 (II) AT OR BEFORE THE TIME A HEALTHCARE PROVIDER LIEN IS  
16 CREATED, A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL ADVISE THE  
17 INJURED PERSON OF THE OPTION TO BILL FUTURE CHARGES TO A HEALTH  
18 INSURANCE PROVIDER OBTAINED DURING THE COURSE OF TREATMENT IN  
19 ACCORDANCE WITH SUBSECTION (1)(c)(I) OF THIS SECTION.

20 (2) UPON REQUEST BY THE INJURED PARTY OR THE INJURED  
21 PARTY'S ATTORNEY, A LIENHOLDER SHALL PROVIDE TO THE INJURED PARTY  
22 OR HIS OR HER ATTORNEY AN ITEMIZED STATEMENT OF ALL THE BILLED  
23 CHARGES FOR TREATMENT THAT THE LIENHOLDER IS CLAIMING ARE  
24 SUBJECT TO THE HEALTHCARE PROVIDER LIEN. THE STATEMENT MUST  
25 INCLUDE A SUMMARY OF ALL TREATMENTS PROVIDED INCLUDING THE  
26 AMOUNTS BILLED FOR EACH TREATMENT AND THE TOTAL AMOUNT OF THE  
27 HEALTHCARE PROVIDER LIEN DUE AND OWING.

1           (3) THE AMOUNT OF A HEALTHCARE PROVIDER LIEN MUST NOT  
2 EXCEED THE CHARGES FOR SERVICES PROVIDED TO THE INJURED PERSON  
3 BY THE HEALTHCARE PROVIDER TO THE PATIENT AT THE TIME OF SERVICE  
4 AT A RATE EQUAL TO THE HEALTHCARE PROVIDER'S USUAL AND  
5 CUSTOMARY FEE FOR THE SERVICES PROVIDED.

6           (4) (a) A HEALTHCARE PROVIDER OR ITS ASSIGNEE SHALL NOT ADD  
7 FINANCE CHARGES AS DEFINED IN SECTION 5-1-301 (20) TO A  
8 HEALTHCARE PROVIDER'S BILLED CHARGES OR OTHERWISE INCREASE THE  
9 AMOUNT OF A HEALTHCARE PROVIDER'S USUAL AND CUSTOMARY BILLED  
10 CHARGE WHEN CREATING OR CLAIMING A HEALTHCARE PROVIDER LIEN.  
11 THE INJURED PERSON IS ONLY OBLIGATED TO PAY THE HEALTHCARE  
12 PROVIDER OR ITS ASSIGNEE THE AMOUNT OF THE HEALTHCARE PROVIDER  
13 LIEN.

14           (b) SUBSECTION (4)(a) DOES NOT APPLY TO A COLLECTION  
15 AGENCY AS DEFINED IN SECTION 5-16-103 (3) OR A DEBT COLLECTOR AS  
16 DEFINED IN SECTION 5-16-103 (9) WHO HAS BEEN ASSIGNED A  
17 HEALTHCARE PROVIDER LIEN FOR THE PURPOSES OF COLLECTING A DEBT.

18           (c) EXCEPT IN THE EVENT OF FRAUD BY THE INJURED PARTY, THE  
19 LIENHOLDER MAY ONLY ASSIGN TO A COLLECTION AGENCY OR DEBT  
20 COLLECTOR AN AMOUNT EQUAL TO THE TOTAL AMOUNT ACTUALLY PAID  
21 BY THE LIENHOLDER TO HEALTHCARE PROVIDERS.

22                   
23           (5) A HEALTHCARE PROVIDER OR ITS ASSIGNEE WHO CREATES,  
24 HOLDS, OR CLAIMS A HEALTHCARE PROVIDER LIEN UNDER THIS ARTICLE  
25 27.5 IS NOT A PAYER OF BENEFITS AS DEFINED IN SECTION 10-1-135 (2)(c).

26           **38-27.5-104. Assignment - not admissible as evidence.** (1) A  
27 HEALTHCARE PROVIDER CLAIMING A HEALTHCARE PROVIDER LIEN UNDER

1 THIS ARTICLE 27.5 MAY ASSIGN, IN WRITING, A HEALTHCARE PROVIDER  
2 LIEN TO ANY OTHER PERSON OR ENTITY. AN ASSIGNEE OF A HEALTHCARE  
3 PROVIDER LIEN HAS ALL THE RIGHTS AND REMEDIES OF THE ASSIGNOR AND  
4 IS SUBJECT TO THE RESTRICTIONS AND OBLIGATIONS OF THE ASSIGNOR  
5 UNDER THIS ARTICLE 27.5.

6 (2) EXCEPT IN AN ACTION UNDER THE "UNIFORM CONSUMER  
7 CREDIT CODE", ARTICLE 1 OF TITLE 5, THE AMOUNT PAID BY AN ASSIGNEE  
8 OF A HEALTHCARE PROVIDER LIEN FOR THE ASSIGNMENT, THE FACT OF THE  
9 ASSIGNMENT, AND THE TERMS OF THE ASSIGNMENT ARE NOT SUBJECT TO  
10 DISCOVERY OR ADMISSIBLE AS EVIDENCE IN ANY THIRD-PARTY OR  
11 FIRST-PARTY ACTION FOR ANY PURPOSE, INCLUDING AS EVIDENCE OF THE  
12 REASONABLE VALUE OF A HEALTHCARE PROVIDER'S SERVICES.

13 (3) A HEALTHCARE PROVIDER LIEN WHICH IS SUBSEQUENTLY  
14 ASSIGNED SHALL NOT BE REDUCED PURSUANT TO ANY POST-VERDICT  
15 SET-OFF OR REDUCTION AS DESCRIBED IN SECTION 13-21-111.6.

16 **38-27.5-105. Applicability.** (1) THIS ARTICLE 27.5 APPLIES TO  
17 HEALTHCARE PROVIDER LIENS CREATED ON OR AFTER THE EFFECTIVE DATE  
18 OF THIS ARTICLE 27.5.

19 (2) THIS ARTICLE 27.5 APPLIES TO A HEALTHCARE PROVIDER LIEN  
20 CREATED BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 27.5 IF THE  
21 HEALTHCARE PROVIDER LIEN COMPLIES WITH SECTION 38-27.5-103 (3)  
22 AND (4)(a); EXCEPT THAT SECTION 38-27.5-103 (1)(a), (1)(b), (1)(c)(II),  
23 AND (2) DO NOT APPLY TO SUCH A LIEN.

24 **38-27.5-106. No impact on hospital liens.** THIS ARTICLE 27.5  
25 DOES NOT CHANGE, MODIFY, OR AMEND THE PROVISIONS OF SECTION  
26 38-27-101.

27 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly (August  
3 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
4 referendum petition is filed pursuant to section 1 (3) of article V of the  
5 state constitution against this act or an item, section, or part of this act  
6 within such period, then the act, item, section, or part will not take effect  
7 unless approved by the people at the general election to be held in  
8 November 2020 and, in such case, will take effect on the date of the  
9 official declaration of the vote thereon by the governor.