

HOUSE BILL REPORT

HB 1503

As Reported by House Committee On:
Judiciary

Title: An act relating to medical liens.

Brief Description: Concerning medical liens.

Sponsors: Representatives Jinkins, Ryu, Tharinger, DeBolt, Senn, Robinson, Harris, Cody, Riccelli, Walsh, Sawyer and Moeller.

Brief History:

Committee Activity:

Judiciary: 2/10/15, 2/19/15 [DPS].

Brief Summary of Substitute Bill

- Permits the person originally entitled to a medical lien to enforce the lien, but requires that any other person who seeks to enforce the lien must be a collection agency.
- Provides that, in order to be entitled to a medical lien, a person must disclose his or her use of medical liens as part of his or her billing and collection practices.
- Permits a patient to demand that a medical lien be released upon payment of the lien and then requires a claimant to immediately prepare and execute a release of the lien and deliver the release to the patient.
- Provides that any court finding unjustifiable delay in the deliverance of a release must order deliverance of the release and award the patient costs of any action taken and damages.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Muri, Orwall, Stokesbary and Walkinshaw.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 2 members: Representatives Haler and Klippert.

Staff: Brent Campbell (786-7152).

Background:

Medical Liens.

A lien is a form of security interest over real or personal property to secure the payment of a debt. Liens can be voluntary, such as mortgages, or involuntary, such as tax liens or mechanics' liens. Liens authorized by statute include mechanics' and materialmen's liens, crop liens, liens for attorneys' fees, landlord's liens, and liens for doctor, nurse, hospital, and ambulance services.

Every physician, surgeon, nurse, and practitioner who renders service to a person who has received a traumatic injury is entitled to a lien upon any claim, right of action, and/or money that the injured person may be entitled against any tortfeasor for the value of the services rendered. To be entitled to a medical lien, a claimant must file a record with the county auditor either within 20 days after the date of injury or receipt of care or, if settlement has not been made to the injured person, then at any time before settlement and payment.

Collection Agencies.

Collection agencies are regulated by statute and must be licensed by the Department of Licensing. Collection agencies must maintain records of their accounts and are required to file a surety bond or a cash deposit to ensure that they will faithfully and truly perform their duties. Collection agencies are also prohibited from certain acts, including, but not limited to:

- aiding an unlicensed person in engaging in business as a collection agency;
- collecting or attempting to collect a claim by the use of any means contrary to the postal laws and regulations of the U.S. postal department;
- publishing or threatening to publish any list of debtors; and
- calling or sending a text message or other electronic communication to a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device.

Any person who knowingly operates as, or knowingly aids and abets, a collection agency without a license is punishable by a fine not exceeding \$500, by imprisonment not exceeding one year, or both, and must return moneys collected to the owners of the accounts on which the moneys were paid. Violation of certain provisions, including prohibited acts, is also deemed an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of applying the Consumer Protection Act.

Summary of Substitute Bill:

Any person who seeks a medical lien must: (1) in any attempt to enforce the lien, either enforce the lien on his or her own behalf or use a licensed collection agency; and (2) disclose

his or her use of medical liens as part of his or her billing and collection practices. A person seeking to enforce a medical lien, other than the person originally entitled to the lien, is added to the definition of "collection agency."

A patient is permitted to demand that a medical lien be released upon payment of the lien, and the claimant must immediately prepare and execute a release and deliver the release to the patient upon this demand. If a court finds that the deliverance of the release is unjustifiably delayed, then it must order deliverance of the release and award the costs of the action and any damages.

Substitute Bill Compared to Original Bill:

The substitute bill:

- removes a provision requiring the person originally entitled to the lien be licensed as a collection agency;
- allows the person entitled to a medical lien to enforce his or her own medical liens without being licensed as a collection agency, but requires that any other person who attempts to enforce the lien must be a licensed collection agency;
- removes a provision requiring a release of a lien that has been paid and providing that failure to do so is in violation of the Consumer Protection Act;
- permits a patient to demand release of a medical lien upon payment of the lien and requires a claimant to immediately execute a release of the lien and deliver the release to the patient upon the demand; and
- provides that a court must order deliverance of the release and award costs of the action and damages upon a finding of unjustifiable delay of deliverance.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Glaring issues with Washington's medical lien system have come to light. There has been widespread fraud and corruption on the part of companies who aggressively collect on medical liens for contingency fees.

This bill will put a stop to these practices. It would require entities who seek to collect on these liens be registered as collection agencies. This will give people a tool to stop 24-hour robo calls and other shocking practices. This bill will also give people notice when medical liens are used. This transparency is important for any person seeking medical care so that they can understand what costs might result from that care. It also requires removal of liens that have been paid and would actually allow people to seek removal of the lien. There is currently no money involved in getting a lien released. This means that lien holders do not

have an incentive to release the lien and that attorneys are not likely to take cases seeking release of a lien. This bill would give medical lien holders a reason to release liens that have been paid and give incentive to attorneys to help individuals get release for liens that have been paid. This is absolutely necessary, and is why other liens have similar provisions to shift costs.

This bill is about consumer protection, but dialogue is open as to whether the Consumer Protection Act should apply. Hospitals are also not intended to be collection agencies.

(With concerns) Notice requirements and requirements to release liens that have been paid are supported. However, a person should not be required to be a collection agency in order to be entitled to a medical lien. Also, the provision making a violation fall under the Consumer Protection Act is not necessary and the treble damages provided for by the Consumer Protection Act are not appropriate here.

(Opposed) None.

Persons Testifying: (In support) Representative Jinkins, prime sponsor; and Darrell Cochran, Washington State Association of Justice.

(With concerns) Zosia Stanley, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.