



“Helping businesses like yours”

CLIENT UPDATE

February 2004

What you Might Not Know About the Health Care Services Lien Act

Last year the Health Care Services Lien Act was amended, under the new law the *total* amount of all liens may not exceed 40% of the verdict, judgment, award, settlement, or compromise secured by or on behalf of the injured person on his or her claim or right of action. Additionally, that 40% is split between two categories, **Health Care Professionals**, i.e. licensed physicians, licensed dentists, licensed optometrists, licensed clinical psychologist etc. & **Health Care Providers**, i.e. licensed hospitals, licensed home health agencies, licensed ambulatory surgical treatment centers, or licensed emergency medical services personnel. Each category is allowed 20% under the Act. Essentially, this means every health care professional and health care provider that renders any service in the treatment, care, or maintenance of an injured person may not collect the full amount due to them under their lien.

But if they do not receive full compensation for their lien, the Act allows the physician or provider to pursue other avenues of recovery after the satisfaction of their lien under the Act.

Precautions

Are your liens up to par? Under the Act each lien shall include the following:

1. a written notice containing the name and address of the injured person
2. the date of the injury
3. the name and address of the health care professional or health care provider, and
4. the name of the party alleged to be liable to make compensation to the injured person for the injuries received.

The lien notice shall be served on both the injured person and the party against whom the claim or right of action exists. Liens should be sent via registered or certified mail or in person. If you have any questions or concerns regarding your lien or if you would like us to review your lien, please contact our office.

If you wish to discuss these suggestions further, or how your policies and practices measure up to these suggestions, please contact us. This alert is for your general consideration and should not be substituted for specific legal advice regarding your unique policies and practices.

Closure of Medical Facilities 735 ILCS 5/8-2003

On January 1st of this year a new law takes affect which requires that, if a medical facility closes due to insolvency or for any other reason, the facility must provide 30 days prior notice of where the patient records are stored or transferred. Such notice must include an explanation of how copies of the practitioner's records may be accessed by patients. The notice may be given by publication in a newspaper of general circulation in the area in which the health care practitioner's practice is located.

Amended

Physician Assistant Practice Act of 1987 225 ILCS 95/7

A physician assistant may now be employed by a practice group or other entity employing multiple physicians at one or more locations. In that case, one of the physicians practicing at a location shall be designated the supervising physician. The other physicians with that practice group or another entity who practice in the same general type of practice or specialty as the supervising physician may supervise the physician assistant with respect to their patients without being deemed alternate supervising physicians for the purpose of this Act.

A supervising physician may not supervise more than 2 physician assistants, although a physician assistant may hold more than one professional position under the Act. Each supervising physician must file a notice of supervision of such physician assistant according to the rules of the Department of Professional Regulations. However, the alternate supervising physician may supervise more than 2 physician assistants when the supervising physician is unable to provide such supervision consistent with the definition of alternate physician in Section 4.

Physician assistants may be supervised only by physicians who are engaged in clinical practice, or in clinical practice in public health or other community health facilities. Please contact our office for more information on when and where the required documentation required under this Act must be filed.

Minimum Wage on the Rise

On January 1, 2004, Illinois minimum wage was raised from \$5.15 to \$5.50 per hour. The federal minimum wage has been at \$5.15 per hour since 1997. We are expected to see another increase in 1995, which will set minimum wage at \$6.50 per hour.

COBRA Notice Requirements are Changing

Proposed new regulations will set new timing and content requirements for notice of continuation which must be followed by employers who will provide group health insurance coverage. The Proposed regulations were to have taken effect for new plan years starting on or after January 1, 2004, but these regulations have been delayed for at least 6 months. Employers should contact their insurance carriers and be ready.

Family Friendly Workplace Initiative 20 ILCS 605/605-865

Last year a new Act was created to foster family friendly workplaces. Under the new law the Department of Commerce and Community Affairs, with the advice of members of the business community, may establish a family-friendly workplace initiative.

Those employers chosen by the Department may be recognized with annual "family-friendly workplace" awards and a Statewide information and advertising campaign publicizing the employers' awards, their contributions to family-friendly child care, and the methods they used to improve the dependent care experiences of their employees' families.

The Department may develop a program to annually collect information regarding the State's private eligible employers with 50 or fewer employees and private eligible employers with 51 or more employees in the State providing the most family-friendly benefits to their employees.

The criteria for determining eligible employers includes, but is not limited to, the following:

- (1) consideration of the dependent care scholarship or discounts given by the employer;
- (2) flexible work hours and schedules;
- (3) time off for caring for sick or injured dependents;
- (4) the provision of onsite or nearby dependent care;
- (5) dependent care referral services; and
- (6) in-kind contributions to community dependent care programs.

Union Rights: Strikebreakers, Card-Check Recognition

The Employment of Strikebreakers Act & Temporary Services Act were amended, effective January 1, 2004. Under the new law service agencies will be barred from sending workers to job sites where a strike, lockout or other labor problem exists. In the past temporary and day laborers only had to be informed if they were entering a facility under strike or lockout. Additionally, public employees are now allowed to form unions based on card-check recognition.

This newsletter should not be regarded as legal advise. Please contact our office to discuss how you can ensure compliance with the laws discussed.

This Newsletter can also be viewed online at www.Rhodeandjackson.com.