

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 350

Introduced by Lautenbaugh, 18.

Read first time January 13, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to civil procedure; to amend section 52-401,
2 Reissue Revised Statutes of Nebraska; to change medical
3 lien provisions and provide personal injury damage suit
4 provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 52-401, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 52-401 Whenever any person employs a physician, nurse,
4 chiropractor, or hospital to perform professional service or services
5 of any nature, in the treatment of or in connection with an injury,
6 and such injured person claims damages from the party causing the
7 injury, such physician, nurse, chiropractor, or hospital, as the case
8 may be, shall have a lien upon any sum awarded the injured person in
9 judgment or obtained by settlement or compromise on the amount due
10 for the usual and customary charges of such physician, nurse,
11 chiropractor, or hospital applicable at the times services are
12 performed, except that no such lien shall be valid against anyone
13 coming under the Nebraska Workers' Compensation Act. ~~For persons~~
14 ~~covered under private medical insurance or another private health~~
15 ~~benefit plan, the amount of the lien shall be reduced by the~~
16 ~~contracted discount or other limitation which would have been applied~~
17 ~~had the claim been submitted for reimbursement to the medical insurer~~
18 ~~or administrator of such other health benefit plan. The measure of~~
19 ~~damages for medical expenses in personal injury claims shall be the~~
20 ~~private party rate, not the discounted amount.~~

21 In order to prosecute such lien, it shall be necessary
22 for such physician, nurse, chiropractor, or hospital to serve a
23 written notice upon the person or corporation from whom damages are
24 claimed that such physician, nurse, chiropractor, or hospital claims
25 a lien for such services and stating the amount due and the nature of

1 such services, except that whenever an action is pending in court for
2 the recovery of such damages, it shall be sufficient to file the
3 notice of such lien in the pending action.

4 A physician, nurse, chiropractor, or hospital claiming a
5 lien under this section shall not be liable for attorney's fees and
6 costs incurred by the injured person in securing the judgment,
7 settlement, or compromise, but the lien of the injured person's
8 attorney shall have precedence over the lien created by this section.

9 Upon a written request and with the injured person's
10 consent, a lienholder shall provide medical records, answers to
11 interrogatories, depositions, or any expert medical testimony related
12 to the recovery of damages within its custody and control at a
13 reasonable charge to the injured person.

14 Sec. 2. (1) In an action brought seeking damages for
15 personal injury, the parties may introduce evidence as to the
16 previous payment or future right of payment of actual economic losses
17 incurred or to be incurred as a result of the personal injury for
18 necessary medical care, rehabilitation services, and custodial care,
19 except to the extent that the previous payment or future right of
20 payment is pursuant to a state or federal program or from assets of
21 the claimant or the claimant's immediate family.

22 (2) If evidence of previous payments or future right of
23 payment is offered, any party may present evidence of the cost of
24 procuring the previous payments or future rights of payment and
25 evidence of any existing rights of indemnification or subrogation

1 relating to the previous payments or future rights of payment.

2 (3) The jury shall not be informed of the existence of
3 collateral sources or any future benefits which may or may not be
4 payable to the plaintiff.

5 (4) In any action in which this section applies, the
6 amount of previous payments or future right of payment of actual
7 economic losses and the cost to the claimant of procuring the
8 previous payments or future rights of payment and any existing rights
9 of indemnification or subrogation relating to the previous payment or
10 future rights of payment shall be considered relevant for purposes of
11 discovery.

12 Sec. 3. Original section 52-401, Reissue Revised Statutes
13 of Nebraska, is repealed.