

HOUSE BILL No. 2666

By Committee on Health and Human Services

1-24

9 AN ACT concerning hospitals and related facilities; relating to hospital
10 liens; amending K.S.A. 65-406, 65-407 and 65-408 and repealing the
11 existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-406 is hereby amended to read as follows: 65-
15 406. (a) Every hospital *or ambulatory surgical center*, which furnishes
16 emergency, medical or other service to any patient injured by reason of
17 an accident not covered by the workers compensation act, if such injured
18 party asserts or maintains a claim against another for damages on account
19 of such injuries, shall have a lien upon that part going or belonging to
20 such patient of any recovery or sum had or collected or to be collected
21 by such patient, or by such patient's heirs, personal representatives or
22 next of kin in the case of such patient's death, whether by judgment or
23 by settlement or compromise.

24 (b) Such lien shall be to the amount of the reasonable and necessary
25 charges of such hospital for the treatment, care and maintenance of such
26 patient in such hospital *or ambulatory surgical center* up to the date of
27 payment of such damages. Such lien shall not in any way prejudice or
28 interfere with any lien or contract which may be made by such patient or
29 such patient's heirs or personal representatives with any attorney or at-
30 torneys for handling the claim on behalf of such patient or such patient's
31 heirs or personal representatives. Such lien shall not be applied or con-
32 sidered valid against anyone coming under the workers compensation act
33 in this state.

34 (c) In the event the claimed lien is for the sum of ~~\$5,000~~ \$10,000 or
35 less it shall be fully enforceable as contemplated by subsection (a) of this
36 section. In the event the claimed lien is for a sum in excess of ~~\$5,000~~
37 \$10,000 the first ~~\$5,000~~ \$10,000 of the claimed lien shall be fully enforce-
38 able as contemplated by subsection (a) of this section, and that part of
39 the claimed lien in excess of ~~\$5,000~~ \$10,000 shall only be enforceable to
40 the extent that its enforcement constitutes an equitable distribution of
41 any settlement or judgment under the circumstances. In the event the
42 patient or such patient's heirs or personal representatives and the hospital
43 or ~~hospitals~~ *ambulatory surgical center* cannot stipulate to an equitable

1 distribution of a proposed or actual settlement or a judgment, the matter
2 shall be submitted to the court in which the claim is pending, or if no
3 action is pending then to any court having jurisdiction and venue of the
4 injury or death claim, for determination of an equitable distribution of
5 the proposed or actual settlement or judgment under the circumstances.

6 (d) *As used in K.S.A. 65-406 through 65-408, and amendments*
7 *thereto, "hospital" and "ambulatory surgical center" have the meanings*
8 *defined in K.S.A. 65-425, and amendments thereto.*

9 Sec. 2. K.S.A. 65-407 is hereby amended to read as follows: 65-407.

10 No such lien shall be effective unless a written notice containing an item-
11 ized statement of all claims, the name and address of the injured person,
12 the date of the accident, the name and location of the hospital *or am-*
13 *bulatory surgical center*, and the name of the person or persons, firm or
14 firms, corporation or corporations alleged to be liable to the injured party
15 for the injuries received, shall be filed in the office of the clerk of the
16 district court of the county in which such hospital *or ambulatory surgical*
17 *center* is located, prior to the payment of any moneys to such injured
18 person, ~~his~~ *such injured person's* attorneys or legal representatives, as
19 compensation for such injuries; nor unless the hospital *or ambulatory*
20 *surgical center* shall also send, by registered or certified mail, postage
21 prepaid, a copy of such notice with a statement of the date of filing thereof
22 to the person or persons, firm or firms, corporation or corporations al-
23 leged to be liable to the injured party for the injuries sustained prior to
24 the payment of any moneys to such injured person, ~~his~~ *such injured per-*
25 *son's* attorneys or legal representative, as compensation for such injuries.
26 Such hospital *or ambulatory surgical center* shall mail a copy of such
27 notice to any insurance carrier which has insured such person, firm or
28 corporation against such liability, if the name and address shall be known.
29 Such hospital *or ambulatory surgical center* shall also send, by registered
30 or certified mail a copy of such notice to such patient upon whom emer-
31 gency medical or other service has been performed, if the name and
32 address of such patient shall be known to the hospital *or ambulatory*
33 *surgical center* or can with reasonable diligence be ascertained.

34 Sec. 3. K.S.A. 65-408 is hereby amended to read as follows: 65-408.

35 Any person or persons, firm or firms, corporation or corporations, in-
36 cluding an insurance carrier, making any payment to such patient or to
37 ~~his~~ *such patient's* attorneys or heirs or legal representatives as compen-
38 sation for the injury sustained, after the filing and mailing of such notice
39 without paying to such hospital *or ambulatory surgical center* the amount
40 of its lien or so much thereof as can be satisfied out of the moneys due
41 under any final judgment or compromise or settlement agreement, after
42 paying the amount of any prior liens, shall, for a period of one year from
43 the date of payment to such patient or ~~his~~ *such patient's* heirs, attorneys

1 or legal representatives, as aforesaid, be and remain liable to such hos-
2 pital *or ambulatory surgical center* for the amount which such hospital
3 *or ambulatory surgical center* was entitled to receive as aforesaid. *Within*
4 *such period*, any such association, corporation or other institution main-
5 taining such hospital *or ambulatory surgical center* may, ~~within such pe-~~
6 ~~riod~~, enforce its lien by a suit at law against such person or persons, firm
7 or firms, corporation or corporations making any such payment.
8 Sec. 4. K.S.A. 65-406, 65-407 and 65-408 are hereby repealed.
9 Sec. 5. This act shall take effect and be in force from and after its
10 publication in the statute book.