Approved: 2-16-10
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on February 3, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:
Senator John Vratil,
Fred Lucky, FHFMA
Melissa Ness (written only), Shawnee Mission Medical Center
Russ Hjazelwood, Kansas Association for Justice
Corrie Edwards (written only), Kansas Health Consumer Coalition
Charles Letcher, Johnson County Treasurer

Others attending:
See attached list.

Senator John Vratil, (Attachment 1)
Fred Lucky, FHFMA (Attachment 2)
Melissa Ness (written only), Shawnee Mission Medical Center (Attachment 3)
Russ Hazelwood, Kansas Association for Justice (Attachment 4)
Corrie Edwards (written only), Kansas Health Consumer Coalition (Attachment 5)
Charles Letcher, Johnson County Treasurer (Attachment 6)

The Chair called the meeting to order.

Hearing on

SB 167 - Hospitals; increasing the enforceable limit of a hospital lien.

Melissa Calderwood gave an overview of **SB 167.** Ms. Calderwood stated this bill would increase the enforceable limit of a hospital lien from $5,000 to $20,000. She said the bill would have the potential to increase the amount a hospital could recover in certain instances where a patient is unable to pay for services rendered; however, would have no fiscal effect on state operations.

Senator John Vratil testified in support of **SB 167.** He stated that the language in **SB 167** seeks to increase the amount a hospital can recover in certain instances where a patient fails to pay for services provided by the hospital. He said the hospital is able to recover the amount before the patient recovers any of the settlement. He added that currently, a hospital can recover up to $5,000 for a patient who is involved in a non-workman's compensation accident or an injury resulting from negligence. He said this bill would increase the amount to $20,000. He said the $5,000 ceiling was established in 1972 and prior to the 1972 increase, hospitals could recover $1,500. He said the $20,000 maximum recognizes the changes in health care costs that have occurred over the last 37 years. (Attachment 1)

Fred Lucky, Senior Vice President, FHFMA, testified in support of **SB 167.** He stated that some would question the need to raise the limit of the "fully enforceable" lien amount from $5,000 to $20,000, arguing that the current statute allows the courts to determine an "equitable distribution" of the proceeds. He said unlike other providers who can discontinue providing care, hospitals providing emergency care cannot and therefore are exposed to financial risks over and above other providers. He added that one of the little recognized benefits of the hospital lien statute is that consumers also benefit from the protections. He said all collection activities are ceased once a hospital files a properly executed lien in order to protect the assets of the hospital that were expended to deliver care to the injured patient. He said the patient may have a

substantial medical debt, but they are not being asked to pay it until the tort claim and subsequent health insurance claims are processed. He said the benefits being debated are medical benefits that occur as a result of the provision of medical care delivered in a hospital. He said hospital liens do not impact any collateral claims resulting from lost wages, pain and suffering, attorney's fees or any other non-medical liability that may be sought by an insured person. He said the courts have always upheld the hospital's right to the lien protections afforded by the statute. (Attachment 2)

Melissa L. Ness, JD, Shawnee Mission Medical Center, presented written testimony in support of **SB 167.** (Attachment 3)

Russell Hazlewood, Attorney, Graybill & Hazlewood, Wichita, testified in opposition to **SB 167.** Mr. Hazlewood stated that hospitals already enjoy a special privilege in that they are the only health care providers that enjoy a statutory lien. He said increasing hospitals' lien rights will prejudice other health care providers by decreasing the moneys available to pay them for their services. He said it is imprudent and unfair to favor the hospitals with additional lien rights at the expense of the accident victim, her doctors and other health care providers and, ultimately, all of her other unsecured creditors. He said if the goal is to ensure that medical care providers, all medical care providers, are fairly compensated for treating injury accident victims, we must address the real problems: outdated minimum auto liability insurance coverages and a broken UIM model that is effectively preventing each of us from adequately insuring ourselves against the risk posed by under insured drivers. (Attachment 4)

Corrie Edwards, Executive Director, Kansas Health Consumer Coalition, provided written testimony only in opposition to **SB 167.** (Attachment 5)

Senator Barnett said Mr. Lucky offered a conceptual idea of including negotiated rates in this bill. He asked Mr. Hazlewood if that were the case would that make this bill more feasible to him?

Mr. Hazlewood said if you wanted to craft a bill that had a hospital lien that was limited for example to the amount medicare would pay for the same goods and services, or medicare plus a certain percentage so you would have a base line and you don't take all the money away from the injured person and the other creditors, I think that would be a reasonable approach..

Senator Colyer asked - insurance at this negotiated rate you were talking about, why is that fair?

Mr. Hazlewood said the idea is, you want to have a system that encourages hospitals to help people beyond their requirements and also works toward making sure we have a solvent system but at the same time doesn't force the injured party into bankruptcy because of an immediate cash need. So you want to give the hospital something, but not everything.

Senator Colyer asked, so should those same rules apply to malpractice proceedings and the damages collected there because the damage that is often asserted there is the full sticker price rather than the negotiated or a medicare rate or something like that?

Mr. Hazlewood said the amount that is asserted in a personal injury accident is the amount a hospital could and does generally sue to collect.

Mr. Hazlewood said, I'm just speaking for myself here, but I believe if we were to go to some sort of system where we could make hospital charges reasonable, that would impact liability insurance and health insurance and the solvency of our health care system because I think hospital charges at their sticker prices are phony. We should address making them reasonable by not allowing hospitals to charge $300 for a 70 cent bag of salt water. If they can sue my client for $300, I am going to sue your client for $300 to collect. Until you address the whole problem you can't on one side pretend it is not a real number and on the other side pretend it is.

Senator Colyer said The Kansas Association of Justice and the recent Supreme court ruling asserted that because the cap on damages has not been raised since the latter part of the 1970's, that it is not constitutional because it had not been revisited by the legislature. Would you say that same argument applies here to the

lien process because it has not been updated for 35 years?

Mr. Hazlewood said absolutely not. Because under the cap, you are taking away someone's property rights. The lien is a gift the legislature is giving hospitals to the exclusion of all other creditors. It is something you are giving hospitals not something you are taking away. That's the difference in the constitutional amendment. The hospitals can't be forced to take less than $5,000.

Senator Brownlee asked Mr. Hazlewood if the hospital is allowed to have a greater portion of that lien would that reduce the amount that would eventually pay out to the attorney who is representing the client?

Mr. Hazlewood stated that it does not impact the fee the attorney would collect.

Chair Teichman told Mr. Hazelwood that she had reread his testimony from last year and in that testimony he stated that FHFMA would welcome collaboration with the Kansas Hospital Association on such legislation to insure the Kansas injured, through no fault of their own, receive sufficient insurance settlements. Are you still willing to collaborate and will you sit down with them? Because I heard you say today that there are some areas you could collaborate on. If there is any collaboration, we would like to hear about that and I think there is plenty of room for that to happen.

The Chair closed the hearing on **SB 167.**

Hearing on

SB 424 - Vehicle registrations; insufficient payments by credit card or other instrument.

Melissa Calderwood gave a short overview. She stated that when a person pays a county treasurer for a license plate with a check that has insufficient funds, the county treasurer gives the county sheriff the name and address of the person along with the license plate number and description of the vehicle. She said the sheriff is then responsible for recovering the license plate. She said under **SB 424**, the same process would apply for a rejected or reversed credit card payment and other payment instruments issued by a bank or other financial institution. She said the bill defines payment instruments.

Charles Letcher, Treasurer of John County testified in support of **SB 424.** Mr. Letcher stated support for this bill to change the term "check" to "payment instrument" and to add language for rejected or reversed credit card payments. He said these revisions will add clarity to the existing statute thus standardizing and expanding the types of items certified to the sheriff by the treasurer in their efforts to recover revenue through the enforcement of motor vehicle laws. (Attachment 6

Senator Teichman asked how debit cards would apply to this?

Mr. Letcher said this would need to be investigated. He said he would come back next year with the answer.

The Chair closed the hearing on **SB 424.**

The Chair told Mr. Hazelwood that with regard to **SB 167**, if we don't hear back from you within a reasonable time, we will probably move forward with this bill.

The next meeting is scheduled for February 4, 2010.

The meeting was adjourned at 10:30 a.m.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 2-3-10

NAME	REPRESENTING
Chad Austin	KHA
Shawn Mitchell	Community Bankers
Hurley Dalke	KCAA
Bill Sneed	UKHA
Levi Henry	Sandstone Group
Lori Church	KAPCIC
Kerri Spielman	KHFA
KEVIN GREGG	KMCA
Ashley Ballweg	Pinegar, Smith & Assoc.
Charles Letcher	Johnson County
Richard Sonnenberg	Kansas Assoc
Tracy Russell	KHCC
John Peterson	Cyntal Strategies
Marlee Carpenter	KAHP
John Reeter	KID
Kathy Olsen	KS Bankers Assn
Fred Lackey	KHA

JOHN VRATIL
SENATOR, ELEVENTH DISTRICT
JOHNSON COUNTY
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State of Kansas

Vice President
Kansas Senate

COMMITTEE ASSIGNMENTS
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WAYS AND MEANS
MEMBER: JUDICIARY
ORGANIZATION, CALENDAR AND RULES
INTERSTATE COOPERATION
KANSAS CRIMINAL CODE RECODIFICATION COMMISSION

Testimony Presented to
Senate Committee on Financial Institutions and Insurance
By Senator John Vratil
February 3, 2010
Concerning Senate Bill 167

Good morning! Thank you for the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of Senate Bill (SB) 167. The language in SB 167 seeks to increase the amount a hospital can recover in certain instances where a patient fails to pay for services provided by the hospital. The hospital is able to recover the amount before the patient recovers any of the settlement.

Currently, a hospital can recover up to $5,000 for a patient who is involved in a non-workman's compensation accident or an injury resulting from negligence. Senate Bill 167 would increase the amount to $20,000. The $5,000 ceiling was established in 1972. Prior to the 1972 increase, hospitals could recover $1,500.

I ask you to support SB 167. The $20,000 maximum recognizes the changes in health care costs that have occurred over the last 37 years.

John Vratil

FI&I Committee
2-3-10
Attachment 1

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Tom Bell
President and CEO

TO: Senate Financial Institutions and Insurance Committee

FROM: Fred Lucky, FHFMA
Senior Vice President

DATE: February 2, 2010

RE: **Senate Bill 167**

The Kansas Hospital Association, on behalf of our 125 community hospital members, appreciates the opportunity to comment in support of Senate Bill 167. This legislative body has long recognized the need to protect the distribution of medical payments owed hospitals because of the unique position hospitals hold in the delivery of care. That recognition dates back to 1939 when the first hospital lien statutes were enacted by the Kansas legislature.

In cases of injuries and accidents, hospitals must treat. EMTALA, the Emergency Medical Treatment and Active Labor Act, as well as other federal anti-dumping rules, prevent hospitals from even asking for insurance/financial information before the patient is seen, treated and stabilized. No other medical provider has such a requirement enforceable by law, in fact every other medical provider can deny service to patients based upon unfavorable financial considerations.

Second, in cases where the injured person has group or individual health insurance, those policies and plans mandate that the accident/liability coverage be exhausted before any of their benefits are paid. Under Medicare and Medicaid statutes, hospitals that knowingly bill them prior to billing the tort carrier are guilty of fraudulent billing practices. Another mitigating factor in justifying the protections the lien statute affords hospitals is that the majority of the accident/liability insurance policies that come into play in these types of cases do not allow the benefits of the coverage to be assigned to the provider of care.

Some would question the need to raise the limit of the "fully enforceable" lien amount from $5,000 to $20,000, arguing that the current statute allows the courts to determine an "equitable distribution" of the proceeds. Unlike other providers who can discontinue providing care, hospitals providing emergency care cannot and therefore are exposed to financial risks over and above other providers. This is often compounded for hospitals.

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Attachment 2-1

In many of these tort claims it takes several years to adjudicate the tort claim. Health insurance carriers usually will not pay until after the tort claim is settled, leaving the hospital holding the bag waiting for payment.

Additionally, one of the little recognized benefits of the hospital lien statute is that consumers also benefit from the protections. All collection activities are ceased once a hospital files a properly executed lien in order to protect the assets of the hospital that were expended to deliver care to the injured patient. The patient may have a substantial medical debt, but they are not being asked to pay it until the tort claim and subsequent health insurance claims are processed.

Lastly, let us at least recognize that the benefits that we are debating here today are medical benefits - benefits that occur as a result of the provision of medical care delivered in a hospital. Hospital liens do not impact any collateral claims resulting from lost wages, pain and suffering, attorney's fees or any other non-medical liability that may be sought by an injured person. The courts, in numerous challenges to this issue, have always upheld the hospital's right to the lien protections afforded by the statute.

Thank you for your consideration of our comments.

SHAWNEE MISSION
MEDICAL CENTER

Senate Financial Institutions and Insurance Committee
Support for SB 167
February 3rd, 2010

Shawnee Mission Medical Center in Shawnee Mission Kansas was Johnson County's first hospital and has been caring for the health and well being of the Kansas City community since 1962. By then end of 2009, SMMC had over 21,000 hospital admissions, provided more than 200,000 outpatient visits, seen 57,000 Emergency admissions and have had 3,700 births at our hospital. The Foundation for our Medical Center has encouraged philanthropy and focuses on improving the health of our community's residents – young and old, insured and uninsured, current and future patients. Through our community hospital and charitable work we have fostered and produced innovative approaches to community wellness and support. By way of example, our Lee Ann Britain Infant Development Center is a program for children with developmental disabilities such as cerebral palsy, Down syndrome, autism spectrum disorder and other chromosomal abnormalities. The center provides services to any child in need of the program, regardless of his or her family's ability to pay. Charity care exceeded $13.7 million in 2009 an increase of 6% over 2008. The community has come to rely on SMMC and the Foundation as trusted partners with the state as they face challenges of increasing health care costs and demand on and for our services.

Today we ask for your support for the passage of SB 167 increasing the fully enforceable lien amount from $5,000 to $20,000. As a member of the Kansas Hospital Association we appreciate and support their testimony and affirm the background they have provided. We agree that the fully enforceable amount of $5,000 is most often insufficient to cover the full costs of care. As indicated earlier, Charity care is on the rise and with the outlook for the state in FY 2011, it is most likely we will continue to see an increase in our commitment to provide that level of care. As is generally understood, health care insurers often defer payments to the insured until the claim is settled. In addition, because of the length of time between settlement and payout, the healthcare provider is not able to close the claim or predict the amount that will eventually be recovered until the court determines the equitable distribution.

We ask that the committee to make this statute more contemporary and reflective of the economic climate by seriously considering an increase in the lien amounts giving health care providers like Shawnee Mission Medical Center the ability to recover legitimate claims.

Respectfully submitted on behalf of Shawnee Mission Medical Center,

Melissa L. Ness, JD, MSW

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2-3-10
Attachment 3

KANSAS ASSOCIATION FOR JUSTICE

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www.ksaj.org

Your rights. Our mission.

To: The Honorable Ruth Teichman, Chairperson
Members of the Senate Financial Institutions & Insurance Committee

From: N. Russell Hazlewood

Date: February 3, 2010

RE: SB 167 Hospital Liens--OPPOSE

Thank you for the opportunity to testify today. My name is Russ Hazlewood. I am a lawyer with the firm of Graybill & Hazlewood, L.L.C., in Wichita, Kansas. I graduated from the University of Kansas Law School in 1997. Since 2000, much of my practice has focused on advocating for and protecting the rights of Kansas consumers, including consumers of hospital services. In that regard, I am very familiar with billing and collection practices of Kansas hospitals. I am also familiar with the Kansas hospital lien statutes, their history, and their practical effect on accident victims and their families.

I testified in opposition to this bill last year, on my own behalf. Today, I stand before you on my own behalf, and on behalf of the Kansas Association for Justice (KsAJ).

The Kansas statutory hospital lien set forth in K.S.A. § 65-406, *et seq.* was first enacted in 1939. L. 1939, ch. 235 § 1. The statutes generally create a lien in favor of any hospital furnishing "emergency medical or other service to any patient injured by reason of an accident not covered by the workers compensation act." K.S.A. § 65-406(a). (A lien is not a debt but a legal claim against an asset which is used to secure the debt, *e.g.*, a mortgage on one's home to secure a promissory note). The hospital lien attaches to" that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by such patient's heirs, personal representatives or next of kin in the case of such patient's death, whether by judgment or by settlement or compromise." *Id.*

Prior to 1997, the amount of the statutory lien was limited to $5,000. This ceiling did not limit the patient's indebtedness to the hospital - it merely limited the amount of that indebtedness secured by the patient's tort recovery. The purpose of the lien ceiling was to protect the patient from a situation where he or she would receive little or nothing from the limited funds available in a tort recovery.

In 1997, K.S.A. § 65-406 was again amended to remove the statutory lien ceiling, allowing a hospital to assert a lien in any amount up to its "reasonable and necessary charges." L. 1997, ch. 21 § 1; K.S.A. § 65-406(b). Apparently mindful that an unlimited hospital lien could result in a harsh,

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unjust outcome for the injured victim in some cases, the legislature inserted a novel statutory mechanism intended to balance the competing interests of the hospital and the injured patient. K.S.A. § 65-406(c). Rather than capping the amount of the hospital's lien as before, the 1997 statute allows a Court to protect the patient from a harsh, unjust outcome by limiting the *enforceability* of an otherwise valid lien in certain instances:

> In the event the claimed lien is for the sum of $5000 or less it shall be fully enforceable as contemplated by subsection (a) of this section.
>
> In the event the claimed lien is for a sum in excess of $5,000 the first $5,000 of the claimed lien shall be fully enforceable as contemplated by subsection (a) of this section, and that part of the claimed lien in excess of $5,000 *shall only be enforceable to the extent that its enforcement constitutes an equitable distribution of any settlement or judgment under the circumstances.*
>
> In the event the patient or such patient's heirs or personal representatives and the hospital or hospitals cannot stipulate to an equitable distribution of a proposed or actual settlement or a judgment, the matter shall be submitted to the court in which the claim is pending, or if no action is pending then to any court having jurisdiction and venue of the injury or death claim, for determination of an equitable distribution of the proposed or actual settlement or judgment under the circumstances.

K.S.A. § 65-406(c) (hard returns and emphasis added).

To paraphrase the subsection, if a hospital perfects a lien for its reasonable and necessary charges in an amount in excess of $5,000, a patient who does not dispute the amount of the debt but contends that it would be unfair under the circumstances to enforce the lien in its entirety may invoke the protections of K.S.A. § 65-406(c), and a court will then determine whether fairness requires that enforceability of the lien be limited to some amount which is less than the hospital's charges. (Again, that determination limits the extent to which the patient's debt is secured by the lien - it does not establish or diminish the amount of the patient's indebtedness to the hospital).

Despite the fact that they were granted an <u>unlimited</u> lien in 1997, the hospitals now ask this body to substantially limit the courts' discretion to assure that the limited funds of a liability settlement are distributed equitably between an accident victim and a hospital. SB 167 affects only that portion of the statute directed toward protection of the consumer. Under the current law, enforcement of hospital liens is limited only by principles of fairness determined in light of the specific facts and circumstances of each individual recovery. Consequently, this bill will only impact those accident victims whose need for the liability recovery is so great, or whose circumstances so pitiful, or whose recovery so inadequate, that a Court would find it <u>inequitable</u> to distribute less than $20,000 of the limited funds to a hospital.

Based on the experiences of the clients I represent, the vast majority of the money which may be subject to a Kansas hospital lien comes from automobile liability insurance proceeds. The minimum liability insurance required of a Kansas driver has remained stagnant for 26 years. The mandatory minimum liability insurance for bodily injury - carried by many, many drivers in this State – is only $25,000 per person, $50,000 per accident. Ask yourself: What was the legislature trying to accomplish when it mandated insurance at this level? How much health care would $25,000 have purchased for an accident victim in 1984? How much will it purchase today? Certainly not one day in an intensive care unit. Yet, a catastrophic automobile accident could easily result in one or more days with significant hospitalization care required.

$25,000 is all that is available to many Kansas accident victims. Under SB 167, four-fifths (4/5) of the liability insurance money available to many accident victims would be paid first to hospitals, before it is paid to the victim or any other health care provider – regardless of whether a court would conclude such a result to be equitable under the circumstances.

If hospitals and other health care providers truly want to ensure payment for their services, they should support an increase in the minimum automobile liability limits commensurate with inflation since those limits were established decades ago.

In addition, Kansas needs to address the gaping holes in our underinsured motorist (UIM) coverage. UIM coverage is an accident insurance benefit that is supposed to protect a policyholder's family against bodily injury or death in a collision when the wrongdoer carries inadequate liability coverage for the harm caused. However, under the current Kansas framework, that coverage can be illusory. When a Kansas vehicle owner reviews the summary of his or her auto insurance policy and sees that the policy includes UIM coverage with limits of, for example, $25,000/$50,000, the assumption is that the policy actually provides UIM coverage in the amount of the declared limits. Unfortunately, this assumption is wrong.

Whenever the victim's UIM limit is equal to or less than the wrongdoer's liability limit, there is simply no effective UIM coverage even if the collision caused a catastrophic injury or death. Effective UIM coverage is calculated, after a collision, by subtracting the limit of the wrongdoer's liability coverage from the victim's limit of UIM coverage. Unfortunately, this calculation commonly leaves an often unsuspecting victim with no effective UIM coverage. For example, if the wrongdoer and victim both own basic auto insurance policies containing the minimum coverage mandated by Kansas law, which is often the case, the victim has no effective UIM coverage after the required computation is completed.

Until the minimum mandated auto limits are increased, and the holes in UIM coverage are closed, it is imperative that the protections for Kansas patients in the hospital lien law remain unchanged.

The effect of a hospital lien, under current law and under the proposed bill is best demonstrated by a plausible hypothetical example:

Suppose a self-employed hairstylist without health insurance is hit by a minor driver who carries the minimum $25,000 liability insurance required in this State. The hairstylist is transported to the emergency room of a Kansas hospital, and admitted as an inpatient. She spends a day in ICU, a day in a regular hospital room and is discharged with orthopedic injuries. Her hospital bill is $45,000. She also has bills from her orthopaedic surgeon, an anesthesiologist, and a radiologist; and she will require additional doctor visits, drugs, and physical therapy. She will be unable to work for 12 weeks.

The hospital files a claim for the hairstylists' no fault automobile insurance benefits (her "PIP benefits") and collects $4,500. It then files a $35,500 lien against the hairstylist's recovery from the minor's insurer. The minor's insurer is willing to pay $25,000 to settle the matter, but it will not pay the money to the hairstylist because of the hospital's lien. The hairstylist hires a lawyer and files an action in the district court, asking that she be given access to some of the $25,000 for equitable reasons.

Under the current law, the first $5,000 of the hospital's lien is automatically enforceable. The hairstylist could convince a judge she should be able to keep, say, $15,000 of the limited funds available to her to pay her rent, her living expenses, pharmacy, physical therapy and doctor bills, etc. while she is healing from the accident and cannot work. The hospital would get a total of $10,000 from the tortfeasor's insurer, in addition to the $4,500 dollars it collected in PIP benefits. The hairstylist would be obligated to pay the balance of the hospital's bill, but not from the liability insurance proceeds. She could make payment arrangements with the hospital, heal, and then go back to work. (Note that the hospital collected 150% of what it would have collected from an insurer from its lien; and more than 400% of that amount over time from the patient).

Under SB 167, the hospital would take at least $20,000 from the minor's insurer. The hairstylist would receive $5,000 or less. That money would quickly dissipate with the onslaught of doctor bills, physical therapy and pharmacy bills incident to the injuries, in addition to the hairstylist's ordinary living expenses. The hospital would likely sue the hairstylist to collect the balance of its bill. Because she could not work, the hairstylist would be unable to pay her mortgage payment, and a foreclosure would ensue. The hairstylist would ultimately be forced to take bankruptcy. Her doctors (who do not enjoy a lien) and other unsecured creditors would go unpaid.

Finally, the recent financial crisis has demonstrated that when individuals are forced into bankruptcy, a domino effect ensues. What begins with a few home foreclosures can result in Citibank shares selling below $2.00. Hospitals already enjoy a special privilege in that they are the only health care providers that enjoy a statutory lien. In my example, the surgeon, the radiologist, the anesthesiologist, the physical therapists, etc., are but unsecured creditors. However, their services are also essential to the accident victim's care. Increasing hospitals' lien rights will prejudice other health care providers by decreasing the moneys available to pay them for their services. It is imprudent and unfair to favor the hospitals with additional lien rights at the expense of the accident victim, her doctors and other health care providers and, ultimately, all of her other unsecured creditors.

I urge you to vote against the passage of SB167. If we want to ensure that medical care providers - all medical care providers – are fairly compensated for treating injury accident victims we must address the real problems: outdated minimum auto liability insurance coverages and a broken UIM model that is effectively preventing each of us from adequately insuring ourselves against the risk posed by underinsured drivers.

Respectfully submitted,

GRAYBILL & HAZLEWOOD L.L.C.

N. Russell Hazlewood

KANSAS HEALTH CONSUMER COALITION
STRENGTHENING THE VOICE OF KANSANS ON CRITICAL HEALTH CARE ISSUES.
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Testimony before the Senate Financial Institutions and Insurance Committee
Corrie Edwards, Executive Director, Kansas Health Consumer Coalition
February 3, 2010

Chairperson and Members of the Committee, I am Corrie Edwards, the Executive Director of the Kansas Health Consumer Coalition. Our mission is to advocate for affordable, accessible and quality health care in Kansas. I appreciate the opportunity to appear before you this morning to testify in opposition to SB 167.

We oppose SB 167 because we believe that raising the automatic hospital lien would create a perfect storm, placing consumers in even greater risk for incurring medical debt. These consumers are already struggling to afford their expenses. Raising the hospital lien could result in situations where the consumer would be forced to surrender the entire amount of their insurance settlement to satisfy their outstanding hospital bills, regardless of whether they have other debts. Consumers would have little, if any, remaining to cover other costs that are necessary for their recovery. The consumers would be forced into medical debt to pay the additional expenses.

Unreasonable hospital charges for medical services and the lack of price transparency for consumers further worsen the problems of medical debt that we are already seeing. SB 167 fails to address these concerns.

Research shows that medical debt results in financial hardship for families and is a root cause of bankruptcy. Seventy-nine million Americans report having medical debt or problems paying medical bills. Twenty-eight million patients empty their savings to pay health expenses, while 21 million resort to using credit cards for medical debt. Twenty-one million are foregoing basic necessities to pay medical bills and many tap into remaining assets such as the family home to pay bills. Between 46 and 54 percent of bankruptcies result from an inability to pay medical bills.

Our neighbors, friends, and family members are seeing their credit ruined and are being denied mortgages and employment because of their medical debt. On behalf of the consumers in our state who are mired in debt, losing their homes, and foregoing care because of their unpaid bills, I urge you to oppose SB 167. Passing this bill would only exacerbate current trends and make health care more unattainable for the ones who need it most.

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Attachment 5

JOHNSON COUNTY TREASURER

Olathe, Kansas

TESTIMONY

Committee on Financial Institutions and Insurance

Senate Bill No. 424

February 3, 2010

Senator Ruth Tiechman, Chairman and members of the Committee on Financial Institutions and Insurance, my name is Charles M. Letcher, Treasurer of Johnson County and I thank you for the opportunity to testify on behalf of Johnson County in favor of Senate Bill No. 424. We support this measure to change the term "check" to "payment instrument" and to add language for rejected or reversed credit card payments. These revisions will add clarity to the existing statute thus standardizing and expanding the types of items certified to the sheriff by the treasurer in their efforts to recover revenue through the enforcement of motor vehicle laws.

Currently, the term "check" is not defined in K.S.A. 8-145b to include other payment types such as electronic checks or wire transfers. By changing the term "check" to "payment instrument" within the statute, we can specifically address these and other types of payment activities based on the meaning ascribed to "payment instrument" in K.S.A. 9-508. This definition states: *"payment instrument" means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services.* The change in language will allow the treasurer to certify to the sheriff the name and address of the person responsible along with the registration number and description of the vehicle. This will provide the sheriff with the legal authority to pursue collection of insufficient or no-fund payments regardless of whether the transaction was done as an electronic or written instrument since these payment types will be clearly defined in the statute. For these reasons, Johnson County supports SB 424.

In conclusion, the Johnson County Treasurer's Department respectfully requests that this legislation be advanced from this committee for further action. Thank you for your attention and I will be happy to stand for questions.

FI&I Committee
2-3-10
Attachment 6