

65-406. Liens upon personal injury damages recovered by patients; exception; enforcement of claimed lien in excess of \$5,000. (a) Every hospital, which furnishes emergency, medical or other service to any patient injured by reason of an accident not covered by the workers compensation act, if such injured party asserts or maintains a claim against another for damages on account of such injuries, shall have a lien upon 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.

(b) Such lien shall be to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages. Such lien shall not in any way prejudice or interfere with any lien or contract which may be made by such patient or such patient's heirs or personal representatives with any attorney or attorneys for handling the claim on behalf of such patient or such patient's heirs or personal representatives. Such lien shall not be applied or considered valid against anyone coming under the workers compensation act in this state.

(c) 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.

History: L. 1939, ch. 235, § 1; L. 1951, ch. 357, § 1; L. 1957, ch. 336, § 1; L. 1972, ch. 227, § 1; L. 1997, ch. 21, § 1; July 1.