SENATE BILL NO. 2732

AN ACT TO CODIFY SECTION 41-9-121, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A HOSPITAL LIEN FOR UNPAID MEDICAL BILLS ON BEHALF OF A WRONGFULLY INJURED PERSON UNTIL PENDING LEGAL OVER LIABILITY IS COMPLETE; TO PROVIDE FOR THIRD-PARTY PAYMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following provision shall be codified as Section 41-9-121, Mississippi Code of 1972:

41-9-121. Payments to a hospital by or on behalf of a wrongfully injured person.

(1) Injured person defined. For purposes of this section, "injured person" shall mean any natural person who has been injured or killed or has become sick or diseased under circumstances creating a cause of action in favor of the injured person against any person, firm or corporation third party.

(2) Hospital lien. Each hospital licensed by the Mississippi State Department of Health that renders service in the treatment, care and/or maintenance of an injured person shall, upon admission of such patient, have a lien upon all claims and causes of action of the injured person for the amount of any portion of the hospital bill that, at the time of discharge of such injured person, (a) is unpaid, and (b) the patient or his third-party payor is legally obligated to pay. The hospital lienor shall be entitled to recover the unpaid amount of its bill for the treatment, care and/or maintenance of the injured person that the injured person is legally obligated to pay from the proceeds that may result from the exercise of any rights of recovery by or on behalf of the injured person. The injured
person shall execute and deliver instruments and papers and do
whatever is necessary to secure the hospital lienor's rights to
such recovery and shall do nothing to prejudice the rights of the
hospital lienor. No judgment, award, settlement or compromise
secured by or on behalf of an injured person shall be satisfied
without the injured person or his or her authorized representative
first (a) satisfying the hospital lien from such monies received
or to be received from such judgment, award, settlement or
compromise, and (b) securing a release from the hospital lienor
evidencing the payment or extinction of the lien.

No judgment, award, settlement or compromise received by or
on behalf of the injured person shall be binding upon or affect
the rights of the hospital lienor against the third party unless
the hospital's lien is satisfied or extinguished. Any proceeds of
any judgment, award, settlement or compromise received by or on
behalf of an injured person in the absence of a release or
instrument of satisfaction of lien executed by the hospital lienor
shall constitute conclusive evidence of the liability of the third
party to the hospital for the amount of the lien, and the hospital
lienor, in litigating its claim against the third party, shall be
required only to prove the amount and correctness of its claim
relating to its charges for the treatment, care and/or maintenance
of the injured person that remain unpaid and that the injured
person is legally obligated to pay.

The hospital lien created under this section exists by virtue
of the relation of the parties and the services rendered, and
without any writing, or if in writing, without recording; and the
rights and liens conferred may be asserted and enforced by the
assigns and personal representatives of the lienor.

Notwithstanding anything in this section to the contrary, in
no event shall the total amount a hospital recovers as a result of
its lien under this section exceed one-third (1/3) of the amount
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.

As long as the charges for the treatment, care and/or
maintenance of the injured person that the injured person or his
third-party payor is legally obligated to pay are unpaid, nothing
herein shall be construed to diminish or otherwise restrict the
rights of the hospital to pursue payment of those charges in its
regular course of business.

(3) Payments by third-party payors. In the event an injured
person has health care coverage with a third-party payor, and as a
result of such coverage, such third-party payor is legally
obligated to pay the hospital for all or a portion of the
treatment, care and maintenance delivered by the hospital to the
injured person, then in such event the third-party payor shall
make such payment to the hospital within the same time period it
would otherwise make payment without taking into account the
possibility of a monetary recovery by the injured person from the
wrongdoer. In no event can a third-party payor withhold from the
hospital or the injured party monies that it is legally obligated
to pay because of the anticipation of a verdict, judgment, award,
settlement or compromise that may be secured by or on behalf of
the injured person on his or her claim or cause of action.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2003.