

As a supplement to my analysis previously submitted, I would like to offer the following comments relating to S. 79:

S.79 dramatically would alter the amount recoverable by a hospital from a third party liability source. To illustrate this, the following hypothetical situation should be considered:

1. Assume a \$50,000 hospital bill incurred at Mercy Hospital by patient Smith who was injured in an auto accident for which Brown was legally responsible. Brown's insurer, Acme Insurance, agrees to pay \$150,000 as a settlement of Smith's claim and pays this amount to his attorney, Able Law. Mercy Hospital has filed a hospital lien per 18 V.S.A. Section 2251 (as presently written). The \$150,000 settlement will be disbursed as follows:

\$50,000 to Able Law as legal fees (secured by an attorney's lien which has priority over Mercy Hospital's hospital lien);  
\$49,500 to Mercy Hospital ( a \$500 discount is mandated by the existing hospital lien statute);  
\$50,500 to Smith.

2. Under S.79 as presently written. the same \$150,000 settlement would be disbursed as follows:

\$50,000 to Able Law as legal fees;  
\$16,667 to Mercy Hospital [ i.e. the hospital lien may not exceed 25% of the net settlement which in this hypothetical case is \$100,000 plus Mercy Hospital must pay \$8,333 (i.e. one third of the \$25,000 secured by its hospital lien) as its pro rata share of Able Law's legal fees].  
\$83,333 to Smith.

3. If patient Smith has health insurance or is covered by Medicare or Medicaid, then Mercy Hospital's \$50,000 bill could not be satisfied from the \$150,000 tort settlement since S.79 does not allow the assertion of a hospital lien in those instances. This means that the \$50,000 bill would be reduced substantially by each of these first party health insurers such that in the most extreme instance (probably involving Medicaid) only \$10,000 net will be received by Mercy Hospital on its \$50,000 bill.

4. If Mercy Hospital has to reduce its recovery under any of the scenarios highlighted above then the losses experienced by it must be retrieved from other revenue sources including self-insured patients, governmental bodies, and tax payers. This draconian cost shifting is most inequitable and certainly is not in the public interest.

I urge the Senate Judiciary Committee to reject S.79 and preserve V.S.A. Title 18 Section 2251 in its present form and substance.

Respectfully submitted.

James L. Levy

