

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 387

Short Title: UNC Health Care Debt Collection.

(Public )

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Sponsors: Representative Barnes.

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Referred to: Judiciary I.

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March 28, 1991

A BILL TO BE ENTITLED

AN ACT RELATING TO THE COLLECTION OF HEALTH CARE DEBTS OWED  
ENTITIES OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding the following new sections:

**"§ 116-37A. Action to recover charges.**

(a) Immediately upon the fixing of the amount of a patient's or former patient's bill with the University of North Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of North Carolina at Chapel Hill, or both, a cause of action accrues for the charges in favor of the University of North Carolina on behalf of either or both entities so owed, as applicable, against the patient, former patient, and the person legally responsible for paying the charges, if other than the patient or former patient.

(b) The lawsuit upon the cause of action, including any small claim action, may be brought in the courts of Wake County, in the courts of Orange County, or in the courts of the county where a defendant resides.

(c) In any action to recover charges in district or superior court, a verified and itemized statement of the account signed by the Director of Fiscal Services of the University of North Carolina Hospitals at Chapel Hill or the Director's designee, or signed by the Dean of the School of Medicine of the University of North Carolina at Chapel Hill or the Dean's designee, or both, showing the period of time during which the patient was receiving care from their respective entities, the total amount due on the

1 respective account, and the proper credits for any payments that may have been made  
2 on the account, may be filed with the complaint and shall constitute a **prima facie** case.

3 **"§ 116-37B. No limitation of action.**

4 No statute of limitation applies to or constitutes a defense to any cause of action  
5 asserted by or in the name of The University of North Carolina for collection of charges  
6 of the University of North Carolina Hospitals at Chapel Hill, or the School of Medicine  
7 of the University of North Carolina at Chapel Hill, or both, and all statutes containing  
8 limitations that might apply to these actions are hereby repealed as to all such causes of  
9 action for charges incurred after ratification of this act.

10 **"§ 116-37C. Power to treat indigent patients.**

11 (a) G.S. 116-37A through G.S. 116-37G shall not be construed to limit the  
12 authority of the University of North Carolina Hospitals at Chapel Hill or the School of  
13 Medicine of the University of North Carolina at Chapel Hill to provide care to all  
14 indigent persons who are otherwise entitled to treatment.

15 (b) If at any time any patient treated and determined to be indigent shall succeed  
16 to or inherit, or in any manner acquire, or otherwise be reputed to be solvent, then The  
17 University of North Carolina has the full authority to collect and sue for the entire  
18 charges of the University of North Carolina Hospitals at Chapel Hill, the School of  
19 Medicine of the University of North Carolina at Chapel Hill, or both, without hindrance  
20 of any statute of limitations.

21 **"§ 116-37D. Suit by Attorney General.**

22 At the request of the University of North Carolina Hospitals at Chapel Hill, or the  
23 School of Medicine of the University of North Carolina at Chapel Hill, or both, all  
24 actions and suits in district or superior court shall be prosecuted by the Attorney  
25 General. Suits in small claim actions need not be prosecuted by the Attorney General,  
26 but may be prosecuted by the University of North Carolina Hospitals at Chapel Hill, the  
27 School of Medicine at the University of North Carolina at Chapel Hill, or both, in the  
28 name of The University of North Carolina. The University of North Carolina Hospitals  
29 at Chapel Hill and the School of Medicine at the University of North Carolina at Chapel  
30 Hill may select the venue of all actions.

31 **"§ 116-37E. Judgment; never barred.**

32 Any judgment obtained by or in the name of The University of North Carolina for  
33 collection of the charges of the University of North Carolina Hospitals at Chapel Hill, or  
34 the School of Medicine of the University of North Carolina at Chapel Hill, or both,  
35 which charges were incurred after ratification of G.S. 116-37A through G.S. 116-37G,  
36 shall never be barred by any statute of limitation but shall, to the extent unpaid, continue  
37 in force. At the request of the Attorney General, or the Executive Director of the  
38 University of North Carolina Hospitals at Chapel Hill or the Director's designee, or the  
39 Dean of the School of Medicine of the University of North Carolina at Chapel Hill or  
40 the Dean's designee, or both, as applicable, the clerk shall issue an execution.

41 **"§ 116-37F. Death of a patient or former patient; lien on estate.**

42 (a) In the event of the death of a patient or former patient of the University of  
43 North Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of  
44 North Carolina at Chapel Hill, or both, if any charges for care remain unpaid, then the

1 unpaid charges constitute a lien on all property, both real and personal, of the decedent  
2 and shall be payable from the decedent's estate as a fourth class claim, after the payment  
3 of taxes to the State or its subdivisions. Payments made by a fiduciary including those  
4 made by a clerk of superior court, in full or partial satisfaction of this lien, constitute a  
5 valid expenditure of funds of the estate.

6 (b) Upon the death of a patient or former patient of the University of North  
7 Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of North  
8 Carolina at Chapel Hill, or both, the University of North Carolina Hospitals at Chapel  
9 Hill, or the School of Medicine of the University of North Carolina at Chapel Hill, or  
10 both, may file their respective verified statement of account containing the following:

- 11 (1) The name of the decedent;
- 12 (2) The date of death of the person (if known);
- 13 (3) The inclusive dates of the provision of care;
- 14 (4) The amount of the unpaid balance.

15 The statement shall be filed in the office of the clerk of superior court in the county  
16 of residence of the decedent and in the county or counties in which real property is  
17 located in which the decedent owns an interest. The statement shall be docketed and  
18 indexed by the clerk.

19 (c) From the time of docketing, the statement constitutes due notice of the lien  
20 created by this section against all real property then owned in whole or in part by the  
21 decedent and lying in that county, to the extent of the total amount of the unpaid balance  
22 for the decedent's care as evidenced by the verified statement of account for charges  
23 from and after ratification of this section.

24 (d) No action to enforce this lien shall be brought more than three years from the  
25 date of death of the patient or former patient, and any judgment obtained in such an  
26 action shall relate back in lien priority to the date of the University of North Carolina  
27 Hospitals at Chapel Hill's, or the School of Medicine of the University of North  
28 Carolina at Chapel Hill's, or both's, prior lien, if any. The failure to bring this action or  
29 the failure of the University of North Carolina Hospitals at Chapel Hill, or the School of  
30 Medicine of the University of North Carolina at Chapel Hill, or both, to file a verified  
31 statement of account shall not be a complete bar against recovery but shall only  
32 extinguish the lien and priority established by it.

33 (e) Upon receipt of the unpaid balance by the University of North Carolina  
34 Hospitals at Chapel Hill, or the School of Medicine of the University of North Carolina  
35 at Chapel Hill, or both, or upon agreement of compromise of the unpaid balance by one  
36 or both entities and payment of the compromised amount, the University of North  
37 Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of North  
38 Carolina at Chapel Hill, or both, as applicable, shall notify the clerks of superior court in  
39 the counties where the lien has been recorded that the unpaid balance has been paid, and  
40 the clerks shall cancel the lien of record.

41 **"§ 116-37G. Lien on property for unpaid balance due institution.**

42 (a) There is created a general lien on both the real and personal property of any  
43 patient or former patient treated by, and any other person legally responsible for paying  
44 the charges of the patient or former patient, on behalf of the University of North

1 Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of North  
2 Carolina at Chapel Hill, or both, to the extent of the respective total amount of the  
3 unpaid balance with either or both entities as shown on a verified statement of account  
4 for charges from and after ratification of G.S. 116-37A through G.S. 116-37G.

5 (b) This general lien for the unpaid balance for care at the University of North  
6 Carolina Hospitals at Chapel Hill, or the School of Medicine at the University of North  
7 Carolina at Chapel Hill, or both, applies to the property, both real and personal, of the  
8 person treated, or any other legally responsible person, whether the property is held by  
9 either or both or by a trustee or guardian.

10 (c) At the time considered suitable in the discretion of the University of North  
11 Carolina Hospitals at Chapel Hill, or the School of Medicine at the University of North  
12 Carolina at Chapel Hill, or both, either or both entities may file their respective verified  
13 statement of account containing the following:

14 (1) The names of the patient or former patient, and any other person  
15 legally responsible;

16 (2) The inclusive dates of the provisions of care and a statement that care  
17 is continuing, if applicable;

18 (3) The amount of the unpaid balance.

19 The statement may be filed in the office of the clerk of superior court in the county of  
20 residence of the person treated, or of any other person legally responsible for paying the  
21 charges, and in each county or counties where real property in which the patient or  
22 former patient or any other legally responsible person owns an interest is found. The  
23 statement shall be docketed and indexed by the clerk.

24 (d) From the time of docketing, the statement constitutes due notice of a lien  
25 against the real property then owned in whole or in part or thereafter acquired in whole  
26 or in part by the patient or former patient or any other legally responsible person and  
27 lying in such county, to the extent of the total amount of the unpaid balance for the care,  
28 as evidenced by the verified statement of account for charges from and after ratification  
29 of this section. Payments made by a fiduciary of a patient or former patient, including  
30 those made by a clerk of superior court, in full or partial satisfaction of such lien,  
31 constitute a valid expenditure of funds, and a receipt for payment of these charges shall  
32 be a valid voucher in the fiduciary's settlement of accounts of the trust.

33 (e) The lien thus established shall take priority over all other liens subsequently  
34 acquired and shall continue from the date of filing until satisfied. No action to enforce  
35 this lien may be brought more than three years from the date of filing of the lien nor  
36 more than three years after the death of the patient or former patient, and any judgment  
37 obtained in such an action shall relate back in lien priority to the date of the University  
38 of North Carolina Hospitals' or the School of Medicine at the University of North  
39 Carolina at Chapel Hill's, or both's, prior lien, if any. The failure to bring the action or  
40 the failure of the University of North Carolina Hospitals at Chapel Hill, or the School of  
41 Medicine of the University of North Carolina at Chapel Hill, or both, to file a verified  
42 statement of account shall not be a complete bar against recovery but shall only  
43 extinguish the lien and priority established by it.

1       (f) Upon receipt of the full unpaid balance by the University of North Carolina  
2 Hospitals at Chapel Hill, or the School of Medicine of the University of North Carolina  
3 at Chapel Hill, or both, or upon agreement of compromise of the unpaid balance by one  
4 or both entities and payment of the compromised amount, the University of North  
5 Carolina Hospitals at Chapel Hill, or the School of Medicine of the University of North  
6 Carolina at Chapel Hill, or both, as applicable, shall notify the clerks of superior court in  
7 the counties where the lien has been recorded that the unpaid balance has been paid, and  
8 the clerks shall cancel the lien of record.

9       (g) Notwithstanding the foregoing provisions, no such lien shall be enforceable  
10 against any funds paid by The University of North Carolina to a person after judgment  
11 or settlement of a claim for damages arising out of the negligent injury of such person at  
12 the University of North Carolina Hospitals at Chapel Hill, or the School of Medicine of  
13 the University of North Carolina at Chapel Hill, or both, during the life of the person  
14 treated. Upon the death of the patient or former patient, any remaining proceeds of a  
15 judgment or settlement under this subsection in the hands of the deceased shall become  
16 a general asset of the estate and subject to any lien of The University and the University  
17 of North Carolina Hospitals at Chapel Hill, or the School of Medicine of the University  
18 of North Carolina at Chapel Hill, or both."

19               Sec. 2. This act is effective upon ratification and applies to charges incurred  
20 on or after that date.