

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 387  
Committee Substitute Favorable 5/20/91

Short Title: UNC Health Care Debt Collection.

(Public)

Sponsors:

Referred to:

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, a cause of action accrues for the charges in favor of The University of North Carolina on behalf of the University of North Carolina Hospitals at Chapel Hill, 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, showing the period of time during which the patient or former patient was receiving care, the total amount due on the account, and the proper credits for any payments that may have been made on the account, may be filed with the complaint and shall constitute a prima facie case.

1 **"§ 116-37B. No limitation of action.**

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5 limitations that might apply to these actions are hereby repealed as to all such causes of  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

7 **"§ 116-37C. Power to treat indigent patients.**

8 (a) G.S. 116-37A through G.S. 116-37G shall not be construed to limit the  
9 authority of the University of North Carolina Hospitals at Chapel Hill to provide care to  
10 all indigent persons who are otherwise entitled to treatment.

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

16 **"§ 116-37D. Suit by Attorney General.**

17 At the request of the University of North Carolina Hospitals at Chapel Hill, all  
18 actions and suits in district or superior court shall be prosecuted by the Attorney  
19 General. Suits in small claim actions need not be prosecuted by the Attorney General,  
20 but may be prosecuted by the University of North Carolina Hospitals at Chapel Hill, in  
21 the name of The University of North Carolina. The University of North Carolina  
22 Hospitals at Chapel Hill may select the venue of all actions.

23 **"§ 116-37E. Judgment; never barred.**

24 Any judgment obtained by or in the name of The University of North Carolina for  
25 collection of the charges of the University of North Carolina Hospitals at Chapel Hill,  
26 which charges were incurred after ratification of G.S. 116-37A through G.S. 116-37G,  
27 shall never be barred by any statute of limitation but shall, to the extent unpaid, continue  
28 in force. At the request of the Attorney General, or the Executive Director of the  
29 University of North Carolina Hospitals at Chapel Hill, or the Director's designee, the  
30 clerk shall issue an execution.

31 The University of North Carolina Hospitals at Chapel Hill may not, after a judgment  
32 in a suit, levy upon or sell under execution, during the lifetime of a judgment debtor,  
33 real property so long as it constitutes the primary residence of any judgment debtor;  
34 except that upon a transfer of any legal or equitable ownership interest in the judgment  
35 debtor's primary residence, whether or not consideration was given for the transfer, or  
36 upon a fraudulent transfer at any time of any legal or equitable ownership interest in the  
37 primary residence, then the University of North Carolina Hospitals at Chapel Hill shall  
38 be entitled to levy upon and sell under execution the real property constituting or  
39 formerly constituting the primary residence. No restriction is imposed concerning the  
40 levy and sale of any other property of a judgment debtor. The University of North  
41 Carolina Hospitals at Chapel Hill shall be entitled to enforce its judgment lien and to  
42 pursue a claim against the estate after the death of the judgment debtor, subject to the  
43 above requirements concerning a primary residence.

44 **"§ 116-37F. Death of a patient or former patient; lien on estate.**

1       (a) In the event of the death of a patient or former patient of the University of  
2 North Carolina Hospitals at Chapel Hill, if any charges for care remain unpaid, then the  
3 unpaid charges constitute a lien on all property, both real and personal, of the decedent  
4 and shall be payable from the decedent's estate as a fourth class claim, after the payment  
5 of taxes to the State or its subdivisions. Payments made by a fiduciary including those  
6 made by a clerk of superior court, in full or partial satisfaction of this lien, constitute a  
7 valid expenditure of funds of the estate.

8       (b) Upon the death of a patient or former patient of the University of North  
9 Carolina Hospitals at Chapel Hill, the University of North Carolina Hospitals at Chapel  
10 Hill may file its 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 prior lien, if any. The failure to bring this action or the failure  
28 of the University of North Carolina Hospitals at Chapel Hill to file a verified statement  
29 of account shall not be a complete bar against recovery but shall only extinguish the lien  
30 and priority established by it.

31       (e) Upon receipt of the unpaid balance by the University of North Carolina  
32 Hospitals at Chapel Hill, or upon agreement of compromise of the unpaid balance and  
33 payment of the compromised amount, the University of North Carolina Hospitals at  
34 Chapel Hill shall notify the clerks of superior court in the counties where the lien has  
35 been recorded that the unpaid balance has been paid and the clerks shall cancel the lien  
36 of record.

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

38       (a) There is created a general lien on both the real and personal property of any  
39 patient or former patient and any other person legally responsible for paying the charges  
40 of the patient or former patient, on behalf of the University of North Carolina Hospitals  
41 at Chapel Hill to the extent of the respective total amount of the unpaid balance as  
42 shown on a verified statement of account for charges from and after ratification of G.S.  
43 116-37A through G.S. 116-37G.

1       (b) This general lien for the unpaid balance for care at the University of North  
2 Carolina Hospitals at Chapel Hill applies to the property, both real and personal, of the  
3 person treated, or any other legally responsible person, whether the property is held by  
4 either or both or by a trustee or guardian.

5       (c) At the time considered suitable in the discretion of the University of North  
6 Carolina Hospitals at Chapel Hill, it may file its verified statement of account  
7 containing the following:

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

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

12          (3) The amount of the unpaid balance.

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

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

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

36       (f) Upon receipt of the full unpaid balance by the University of North Carolina  
37 Hospitals at Chapel Hill, or upon agreement of compromise of the unpaid balance and  
38 payment of the compromised amount, the University of North Carolina Hospitals at  
39 Chapel Hill shall notify the clerks of superior court in the counties where the lien has  
40 been recorded that the unpaid balance has been paid, and the clerks shall cancel the lien  
41 of record.

42       (g) Notwithstanding the foregoing provisions, no such lien shall be enforceable  
43 against any funds paid by The University of North Carolina to a person after judgment  
44 or settlement of a claim for damages arising out of the negligent injury of such person at

1 the University of North Carolina Hospitals at Chapel Hill during the life of the person  
2 treated. Upon the death of the patient or former patient, any remaining proceeds of a  
3 judgment or settlement under this subsection in the hands of the deceased shall become  
4 a general asset of the estate and subject to any lien of The University and the University  
5 of North Carolina Hospitals at Chapel Hill."

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