

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 976
HOUSE BILL 1292

AN ACT TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF
NORTH CAROLINA TO SECURE LIABILITY INSURANCE OR TO ACT AS A SELF-
INSURER FOR HEALTH-CARE PROVIDERS.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 116 is amended by adding a new Article 26 to read as follows:

"ARTICLE 26.

"LIABILITY INSURANCE OR SELF-INSURANCE.

"§ 116-214. **Authorization to secure insurance or provide self- insurance.** — The Board of Governors of The University of North Carolina (hereinafter referred to as 'the Board') is authorized through the purchase of contracts of insurance or the creation of self-insurance trusts, or through combination of such insurance and self-insurance, to provide individual health-care practitioners with coverage against claims of personal tort liability based on conduct within the course and scope of health-care functions undertaken by such individuals as employees, agents, or officers of (1) The University of North Carolina, (2) any constituent institution of The University of North Carolina, (3) North Carolina Memorial Hospital, or (4) any health-care institution, agency or entity which has an affiliation agreement with The University of North Carolina, with a constituent institution of The University of North Carolina, or with North Carolina Memorial Hospital. The types of health-care practitioners to which the provisions of this Article may apply include, but are not limited to, medical doctors, dentists, nurses, residents, interns, medical technologists, nurses' aides, and orderlies. Subject to all requirements and limitations of this Article, the coverage to be provided, through insurance or self-insurance or combination thereof, may include provision for the payment of expenses of litigation, the payment of civil judgments in courts of competent jurisdiction, and the payment of settlement amounts, in actions, suits or claims to which this Article applies.

"§ 116-215. **Establishment of self- insurance trust funds; rules and regulations.** — (a) In the event the Board elects to act as self-insurer of a program of liability insurance, it may establish one or more insurance trust accounts to be used only for the purposes authorized by this Article: Provided, however, said program of liability insurance shall not be subject to regulation by the Commissioner of Insurance. The Board is authorized to receive and accept any gift, donation, appropriation or transfer of funds made for the purposes of this section and to deposit such funds in the insurance trust accounts. All expenses incurred in collecting, receiving, and maintaining such funds and in otherwise administering the self-insured program of liability insurance shall be paid from such insurance trust accounts.

(b) Subject to all requirements and limitations of this Article, the Board is authorized to adopt rules and regulations for the establishment and administration of the self-insured program of liability insurance, including, but not limited to, rules and regulations concerning the eligibility for and terms and conditions of participation in the program, the assessment of charges against participants, the management of the insurance trust accounts, and the negotiation, settlement, litigation, and payment of claims.

(c) The Board is authorized to create a Liability Insurance Trust Fund Council composed of not more than 12 members; one member each shall be appointed by the State Attorney General, the State Auditor, the State Insurance Commissioner, and the State Treasurer; the remaining members shall be appointed by the Board. Subject to all requirements and limitations of this Article and to any rules and regulations adopted by the Board under the terms of subsection (b) of this section, the Board may delegate to the Liability Insurance Trust Fund Council responsibility and authority for the administration of the self-insured liability insurance program and of the insurance trust accounts established pursuant to such program.

(d) Defense of all suits or actions against an individual health-care practitioner who is covered by a self-insured program of liability insurance established by the Board under the provisions of this Article may be provided by the Attorney General in accordance with the provisions of Section 143-300.3 of Article 31A of Chapter 143; provided, that in the event it should be determined pursuant to G.S. 143-300.4 that defense of such a claim should not be provided by the State, or if it should be determined pursuant to G.S. 143-300.5 and G.S. 147-17 that counsel other than the Attorney General should be employed, or if the individual health-care practitioner is not an employee of the State as defined in G.S. 143-300.2, then private legal counsel may be employed by the Liability Insurance Trust Fund Council and paid for from funds in the insurance trust accounts.

(e) For purposes of the requirements of G.S. 143-300.6, the coverage provided State employees by any self-insured program of liability insurance established by the Board pursuant to the provisions of this Article shall be deemed to be commercial liability insurance coverage within the meaning of G.S. 143-300.6(c).

(f) By rules or regulations adopted by the Board in accordance with Section 116-215(b) of this Article, the Board may provide that funds maintained in insurance trust accounts under such a self-insured program of liability insurance may be used to pay any expenses, including damages ordered to be paid, which may be incurred by The University of North Carolina, a constituent institution of The University of North Carolina, or North Carolina Memorial Hospital with respect to any tort claim, based on alleged negligent acts in the provision of health-care services, which may be prosecuted under the provisions of Article 31 of Chapter 143 of the General Statutes.

"§ 116-216. **Sovereign immunity.** — Nothing in this Article shall be deemed to waive the sovereign immunity of the State.

"§ 116-217. **Confidentiality of records.** — Records held by the Fund, including all information, correspondence, investigations, or interviews, concerning or pertaining to claims or potential claims against participants in the self-insurance program or to the program or applications for participation in the program shall not be considered public records under General Statutes Chapter 132 and shall not be subject to discovery under the Rules of Civil Procedure, General Statutes Chapter 1A."

Sec. 2. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 10th day of May, 1976.