

# Hospital suits force new pain on patients

*Investigation: N.C. hospitals sue 40,000 patients, including many who might have qualified for charity care*

*By Ames Alexander and David Raynor*

When serious abdominal pains sent Joyce Jones to the hospital, she hoped the bill would be the least of her problems. She had no job and a bare-bones health insurance policy that she knew would cover only a fraction of her bill. So it helped ease her worries, she said, when a social worker at Carolinas Medical Center-Mercy told her the hospital had a fund to help patients like her.

Jones thought the hospital was taking care of the cost. But soon after her two-week stay, she received a bill for \$34,000.

In 2006, the hospital sued her and put a lien on her small west Charlotte home. A widow, Jones would like to leave the house to her disabled daughter some day. But the lien - which will allow the hospital to collect money if Jones dies or sells her home - may make that impossible.

"All that money they've got, they should be helping people," said Jones, now 65.

Like CMC-Mercy, most N.C. hospitals are tax-exempt - a distinction that saves them millions each year. In exchange, these nonprofits are expected to provide financial help to those without the means to pay.

But thousands of times a year, hospitals are suing patients instead, an investigation by the Charlotte Observer and The News & Observer of Raleigh found.

An in-depth look at some of those cases suggests most of the patients were uninsured, and that a signif-

icant number of them should have qualified for free hospital care.

Critics contend those hospitals are financially ruining people they could afford to help. Carolinas HealthCare System, the multibillion-dollar public enterprise that owns CMC-Mercy, has generated average annual profits of more than \$300 million over the past three years.

During the five years ending in 2010, N.C. hospitals filed more than 40,000 lawsuits to collect on bills.

Most of those suits were filed by just two entities: Carolinas HealthCare and Wilkes Regional Medical Center in North Wilkesboro. Each filed more than 12,000 suits over the five-year period, according to state courts data. Wilkes Regional, which is managed by Carolinas HealthCare, appears to be the state's most litigious individual hospital.

Most N.C. hospitals rarely, if ever, sue patients to collect on bills. But virtually all use collection agencies, which can seriously damage a patient's credit.

Often, the lawsuits hit people who are among those paying the highest rates for hospital care: the uninsured. Bills for uninsured patients are usually higher because they don't have insurance companies to negotiate discounts on their behalf.

It's unclear how many of the patients sued in North Carolina lacked health insurance and substantial income or assets. But in interviews with 25 of those patients, the newspapers found 17 of them were unin-

sured; 10 said they were never told about the hospitals' financial assistance programs.

Carolinas HealthCare wins most of the lawsuits it files, allowing it to put liens on the homes of patients.

"We always struggle with, 'Should we be doing that (filing lawsuits)?" said Greg Gombar, chief financial officer for the Charlotte-based system. "But it comes back to a message ...: If you have the ability to pay, you need to pay because other people are."

The system never forces people from their homes, but does collect money after the patients die or sell their houses, officials say.

System officials say they file suit only when people fail to answer repeated requests for payment.

That, they say, is what happened in Jones' case. The hospital said it sent her five statements and left three messages at her home before filing suit.

Jones says she stayed with her brother for a long period after she was hospitalized for pancreatitis, and doesn't remember receiving the letters.

She had plenty to worry about at the time. Her husband had recently died, and money was scarce. But she had one thing - the 1,200-square-foot home that she and her husband had worked for 30 years to buy.

The home has a tax value of \$70,000, but Jones now worries that the hospital's lien may cause the family to lose it.

It wasn't until 2009 that she discovered the true toll of her unpaid bills. Lacking money to repair a leaky roof, she tried to get a reverse mortgage. Lenders turned her down because of the hospital system's lien, she said.

Her daughter offered to use the equity in her home to raise \$10,000 so Jones could negotiate a settlement. Jones said she offered to pay that amount, and to go on an installment plan to repay the rest. The hospital rejected her offer.

Adam Searing, director of the N.C. Justice Center's Health Access Coalition, said "the hospital was unwilling to be reasonable" in Jones' case.

"If you have one person who's being treated like she's been treated, I think you're failing your mission," he said.

Carolinas HealthCare CEO Michael Tarwater said

the system treats more uninsured and underinsured patients than any other N.C. system. "We never turn off somebody's health (care) because they don't pay," he said.

The number of lawsuits filed by Wilkes Regional has declined markedly since 2007, when Carolinas HealthCare began managing the hospital, system officials note. Carolinas HealthCare says it has worked with the hospital to help it become more selective about which cases it takes to court. The hospital once sued patients with debts as low as \$300, but that threshold has been increased to \$750.

Critics contend it's inappropriate for hospitals to sue patients they could afford to help. And they question why so many lawsuits are filed by tax-exempt hospitals that are supposed to pursue charitable missions.

"Pure and simple, suing people is not a charitable act, especially when you're dealing with people of limited financial means," said Mark Rukavina, who heads the Access Project, a Boston-based nonprofit.

### **'I almost passed out'**

It's unclear how many of the sued patients could afford to pay their bills. But the newspapers' investigation found that many of them are among the working poor.

In a sampling of 100 suits that Carolinas HealthCare filed against Mecklenburg County residents, the newspapers found that 43 of them either didn't own property in the county or owned houses assessed at less than \$100,000.

Under its current financial assistance policy, Carolinas HealthCare says it offers free care to uninsured and underinsured patients who earn less than twice the poverty level and have less than \$150,000 in home equity. For an individual, that's equivalent to earning about \$22,000 a year.

Interviews with 14 patients who were sued suggest at least five of them should have qualified for the charity care available at the time they were taken to court.

Carolyn Barber is grateful to the doctors at CMC-University, who she believes may have saved

her life. She's less happy with the hospital's billing office.

Suffering from a respiratory problem that left her gasping for breath, Barber was hospitalized for 15 days in early 2009. She was 63 at the time, with no health insurance, no job and a monthly income of less than \$900.

But about a month after leaving the hospital, she got a bill for more than \$56,000. Collections agents began calling every other day. Barber told them she couldn't work and couldn't afford to pay the bill. Then a lawyer for the hospital sent a sheriff's deputy to serve her with a lawsuit.

"I almost passed out," Barber said. "I was scared I was going to be locked up in jail because of that hospital bill."

The hospital won a judgment for more than \$56,000 in principal, plus interest - and about \$8,500 in attorney's fees.

When Barber tried to refinance her home in 2010, the mortgage company told her she couldn't. The reason: The hospital had obtained a lien on the house. With so little income, she needed the extra money a refinancing would provide.

Barber previously worked at a Charlotte facility that helps people with disabilities. Now she's on Social Security disability herself.

For half her life, she said, she saved up to buy her home - an immaculate three-bedroom house near University City with a tax value of \$144,000.

"It's something I've worked hard for so I can leave something for my three children," Barber said. "The way it is now, I might not be able to."

Carolinas HealthCare said it unsuccessfully tried to qualify Barber for Medicaid. The system said it also evaluated her to determine whether she qualified for financial assistance, but found she had too much in savings and home equity.

Barber said she deserved help, but the hospital didn't get an accurate picture of her finances. Hospital officials apparently concluded she had too much in savings, she said, because they confused her savings with her sister's.

Officials for Carolinas HealthCare say they provide care to anyone who needs it, and work hard to deter-

mine whether patients can afford to pay before filing suit.

"Do we miss some people? We probably do," Tarwater said. "We have 9 million patient encounters each year. And I'm quite sure once in a while we may miss somebody. ... If that's brought to our attention ... we will work with that person."

Nationally, it's not uncommon for hospitals to take aggressive collections actions.

But some states discourage the practice. Illinois prohibits hospitals from pursuing legal action against uninsured patients who don't have sufficient income or assets to pay their bills. California, meanwhile, bans hospitals from putting liens on the primary residences of patients who are eligible for charity care.

North Carolina has no such rules.

Patients are suffering as a result, says Searing, of the Health Access Coalition. Nonprofit hospitals shouldn't be in the business of putting liens on patient's houses, he contends.

"That's not strengthening the community," he said. "That's tearing it down."

To sue or not to sue

Most N.C. hospitals don't regularly sue patients. Novant Health, the nonprofit chain that owns Presbyterian Hospital and 12 other hospitals, has a policy against doing so.

"In health care, where you have people battling for their lives ..., we just decided this is not what a not-for-profit health-care organization should do," says Novant spokesman Jim Tobalski.

Novant's hospitals are among a growing number that run credit profiles on uninsured patients to help determine whether they qualify for financial assistance. The process doesn't affect patients' credit.

Suing patients is "very old school," says Cecilia Moore, chief operating officer for Duke University Medical Center. "It is not a good use of resources any more."

But like most hospitals, Duke and Novant do use commission-driven collections agencies.

Jen Algire, former director of Care Ring, a Charlotte nonprofit that tries to improve access to health care, said she has seen hospitals grow more aggressive on collections.

“People are declaring bankruptcy when they have less than \$10,000 in debt, partly because they’re being harassed so heavily,” Algire said.

Former patients say the bill collectors working on behalf of many N.C. hospitals call repeatedly, sometimes with threats and misleading claims.

In complaints to state agencies, dozens of former patients contend that collections agencies harassed them, sometimes reporting inaccurate information to credit bureaus or continuing to pursue them long after they paid their bills.

In 2008, Elaine Brauning received notice from a collections agency that she owed about \$275 to Lake Norman Regional Medical Center in Mooresville for medical services she had received eight years earlier.

The agency didn’t explain what medical services had been provided in 2000, Brauning said. She had health insurance, she said, and didn’t recall any unpaid bills.

“I opened the bill and I said, ‘You’ve got to be kidding me,’” the Mooresville resident said.

She said she spoke by phone with a bill collector, who hung up when she asked for documentation. The collections agency put the account on her credit report - a fact she and her husband later discovered when they sought a loan to buy a condominium.

After Brauning complained to the N.C. insurance department, the collections agency contacted the hospital, which agreed to take the account off her credit report.

A spokeswoman for Lake Norman says the hospital “takes seriously any patient complaints” and is pleased that Brauning’s complaint was “resolved to her satisfaction.”

U.S. Rep. Heath Shuler, a Waynesville Democrat, has pushed a bill to ease the damage that medical debt can do to a person’s credit rating. Medical bills can remain on a credit report for up to seven years, even if the bill has been paid and the balance is zero.

Shuler wants to change the law so that medical debts of less than \$2,500 are removed from credit reports 45 days after the balance goes to zero.

### **Saying goodbye to good credit**

Experts say many collections agencies have an incentive to pursue debtors aggressively. They often negotiate deals with hospitals that allow them to keep

between 5 and 25 percent of the money they collect.

Charlotte lawyer David Badger speaks of the pitch that a collection agent made to one elderly woman: “You have the right to remain silent.”

Many patients complain that such agencies have destroyed their credit, making it harder to buy a home or car.

The stories have become familiar to Care Ring’s managers. In a 2010 survey by the nonprofit, about a third of the 327 clients polled said their credit had been harmed.

Tony Chris Davis knows all too well about such worries.

When serious respiratory problems sent the Yadkin County resident to Carolinas Medical Center in October 2008, he had no health insurance and just \$1,400 a month in income from Social Security disability. He told hospital officials he was deeply concerned about the cost of care, he said.

But following his discharge from the hospital, CMC sent him a bill. The total: about \$40,000.

Alarmed, Davis called the hospitals and spoke with an official who, he said, told him that he wasn’t eligible for charity care because he owned a home and other assets.

Carolinas HealthCare said Davis had too much in savings to qualify for charity care, and that he declined to “spend down” those savings in order to qualify for Medicaid, which would have paid his bills.

Davis’ two-bedroom house has a tax value of about \$63,000. He had about \$20,000 in savings, he said, but needed the money to supplement his disability payments.

While he was hospitalized, Davis said, an official in the business office told him that CMC had decided to treat his case as charity care. Had he known the system would reverse its decision, he would have left CMC and gone to his local hospital, which had previously given him charity care, he said.

The hospital sued him and won a judgment. “I had perfect credit before this happened to me,” Davis said. “It has ruined me.”

*Observer staff writer Karen Garloch, researcher Maria David and News and Observer staff writer Joseph Neff contributed.*