Duke Law

Hospitals Suing Patients

HOW HOSPITALS USE N.C. COURTS TO COLLECT MEDICAL DEBT

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Executive Summary

From January 2017 through June 2022, North Carolina hospitals brought 5,922 lawsuits to collect medical debt against 7,517 patients and family members. These actions were brought in small claims court, state district, and state superior courts, and generated 3,449 judgments for hospitals totaling $57.3 million, or an average of $16,623 per judgment.

7,517
patients and their families were sued by hospitals.

Hospitals took advantage of North Carolina's allowance of 8% annual interest on judgments, including by refiling actions to sustain judgments issued ten years earlier. These interest charges and other additional fees totaled an estimated $20.3 million, or 35.4% of the judgments awarded. Some patients faced more than a decade's worth of interest charges, and 463 families owed more than $10,000 in interest alone. There is also evidence that patients had little say in these judicial proceedings, as 59.8% of all judgments in state district courts were default judgments.

A small subset of North Carolina's hospitals were responsible for a vast majority of lawsuits. Five hospital systems filed 96.5% of the collection actions over the studied time period. Additionally, nonprofit hospitals initiated 90.6% of the lawsuits against patients. Hospitals that filed more than 40 lawsuits — which we denote as "litigious hospitals" — exhibited an average charge-to-cost ratio (a metric of price markups) of 480.5%, compared to a national average of 417% in 2018, and an average net profit margin of 12% from 2017 to 2022. These hospitals also offered less charity care than the estimated value of a nonprofit hospital's tax exemption.

Courthouse records and patient interviews conducted by the North Carolina Office of State Treasurer add texture to these empirical findings. Some of the medical debt targeted by these lawsuits were reportedly consequences of failures in charity care, from "surprise bills," and from care encounters in which patients unknowingly or unavoidably received care from out-of-network providers.

Patients also described how the financial stress from hospital lawsuits negatively impacted their physical health and deterred them from seeking future medical care. Under North Carolina law, a judgment automatically triggers a lien against real property, and many expressed fear of losing their main source of equity. Some were also unaware that their hospital judgment resulted in a lien on their home.

Introduction: Medical Debt, Default Judgments, and Interest

Medical debt has become a national scourge, one that possibly has outpaced medical error and uninsurance rates as a top priority in US healthcare policy. Kaiser Family Foundation surveys reported that Americans' collective medical debt totaled at least $195 billion in 2019,[1] and 24% of adults were either past due or unable to pay their health care bills.[2]

Many causes are to blame. Rising healthcare prices — driven in no small part by growing monopoly power across the health sector — put financial strain on the insured and uninsured alike. The proliferation of insurance products featuring higher cost-sharing has forced many patients to assume a growing portion of their medical bills. And opaque prices, convoluted billing systems, and a broad aversion to transparency deny many patients the opportunity to shop for affordable care.

In addition to these market-wide trends, the specific business practices of hospitals have also exacerbated the harm from medical debt. For example, hospitals have been aggressive in inflating prices, skirting charity care obligations, pursuing legal actions to collect balances from indigent patients, and partnering with private-equity backed companies that encourage patients to enroll in "medical credit cards" that charge up to 18% interest on medical debt.[3] Particularly pointed outrage has been directed at the nation's nonprofit hospitals, which have been as likely to engage in predatory tactics as have for-profits. The practices have become so troubling, and so contrary to social expectations and the political motivations to granting tax-exempt status, that they have attracted the outrage of Human Rights Watch, which called nonprofit hospitals "wolves in sheep's clothing."[4]

"The hospitals are very vicious. I'm 70 years old, and I'm still working, knowing that we will never have any equity in this house. We're just thankful that they didn't put us out on the road because they could've. We're not rich people. We went though everything to get help on those bills, and they said no."

JUDGMENT: $192,385. CASE: 21-CVD-200

These problems have a noted prevalence in North Carolina. One in five families in the state has been subject to collections proceedings because of medical debt — only three states have a higher rate — and many of the worst practices,[5] including the use of medical credit cards charging usurious interest, have taken root in the state.[6] With this context in mind, we gathered public court data to examine the prevalence and the characteristics of hospital lawsuits against North Carolina patients for medical debt.

We found that from January 2017 through June 2022, North Carolina hospitals sued 7,517 residents over unpaid medical bills and won a total of $57.3 million in judgments against patients. The average judgment was $16,623, with almost one in four judgments worth more than $20,000, and nonprofit hospitals were responsible for 90.6% of the lawsuits filed by any hospital that sued patients. We additionally found that only five hospital systems were responsible for 96.5% of all lawsuits. Litigious hospitals, which we define as hospitals in systems that initiated more than 40 lawsuits, exhibited an average charge-to-cost ratio of 480.5%, above the 2018 national average of 417%, and offered average charity care spending below the estimated value of a nonprofit hospital's tax exemption.[7]

Many of these findings are consistent with similar examinations of hospital collection practices in other states. But because our investigation examines the records of civil actions taken against former patients, we are able to identify some practices that have not been disclosed in prior studies. First, we learned that 59.8% of all judgments in district court were default judgments, which usually means a judgment was entered in favor of the hospital even though the defendant did not respond to a court summons or appear in court. And second, court records show that hospitals have utilized permissions under North Carolina law to charge patients 8% annualized interest on their medical debt. Consequently, 30.9% of the total debt owed by North Carolina patients, or $17.7 million, is attributable to the assessment of interest. More than two thousand families owed more than $1,000 in interest charges alone, and some patients face more than a decade's worth of accumulated interest.

These collection efforts in North Carolina courts have significant implications for both the state's hospitals and the state's legal system.

"It makes you scared to even go to the doctor because you don't know what they're going to charge you. It's going to be another bill, another lien. Once they start messing with you, they don't stop."

JUDGMENT: $22,278. CASE: 20-CVD-2733

Prior Scholarship — Hospitals Suing Patients

"We found out that they had sued us and that there were two liens on our house. They didn't contact us or nothing."

20-CVD-2733

Though most evidence suggests that the majority of hospitals refrain from suing patients, it has become a widespread practice across the United States for hospitals to file legal actions in state courts to collect unpaid medical debt from patients. Academic and journalistic reports have documented tens of thousands of hospital lawsuits in Virginia,[8] Wisconsin,[9] Connecticut,[10] Oklahoma,[11] New Mexico,[12] Tennessee,[13] West Virginia,[14] New York,[15] and Maryland.[16] These studies also reflect a range of litigation patterns, from 8,869 lawsuits per 125 hospitals in Wisconsin in 2018 to 29,286 lawsuits per 135 hospitals in Virginia in 2017. These within-state studies have also revealed that a small number of hospitals are typically responsible for a disproportionate share of suits against patients.

Not only have hospitals become frequent collection agents, but many have pursued extraordinary legal mechanisms to obtain payments from former patients. Hospitals have garnished patients' wages, placed liens on patients' homes, and pursued legal proceedings that resulted in patients spending time in jail.[17] Moreover, hospitals have harnessed a legal system that offers them structural advantages over individual patients. Hospitals employ debt collection law firms to pursue unpaid medical bills and obtain default judgments against patients who often go unrepresented.[18] Professional representation has also enabled hospitals to collect on convoluted bills that patients do not understand and vague or arbitrary bills that ought not be collected under standard law. One recent study raised concerns over the large number of default judgments across debt collection cases brought by large plaintiffs, saying that "assembly-line plaintiffs" have transformed state courts into "near-automatic claims processors" to transfer wealth to large corporations without significant scrutiny of the underlying claim.[19]

Studies also show that nonprofit hospitals have been more likely to sue their patients than for-profit hospitals.[20] One report additionally found that nonprofit hospitals — especially those with high price markups — were more likely to garnish patients' wages in Virginia. These and similar findings have brought predictable scrutiny to social expectations of nonprofit hospitals, which enjoy tax exempt status (estimated at $28 billion in 2020)[21] if they satisfy the IRS's community benefit standard.[22] Though most nonprofit hospitals satisfy the IRS requirement by providing uncompensated or discounted charity care, the community benefit standard is notoriously vague,[23] and some calculations reveal that nonprofit hospitals spend less on charity care in aggregate than for-profit hospitals.[24] A study by Johns Hopkins researchers estimated that 86% of nonprofit hospitals provided charity care that amounted to less than the value of their tax exemptions.[25] [26] Additionally, a New York study found that the hospitals that sued the most patients also provided financial assistance that was less than Medicare's Disproportionate Share Hospital funding.[27]

Although hospitals clearly are entitled to payment for services rendered, there is a growing sense that they are breaching a social contract and acting counter to their central mission when they sue to collect medical debt from former patients. Both nonprofits and for-profits benefit heavily from government subsidies and policies, and their failure to convincingly live up to the public support they receive has triggered growing criticism of hospital collection practices.

This is especially true because suing to collect medical debt itself causes harm to population health. Because medical debt places a financial burden on individuals who, by definition, are already managing health difficulties, it reduces vulnerable individuals' ability to manage daily stressors.[28] In a study on medical debt's impact on social determinants of health, Himmelstein and coauthors found that individuals with medical debt were 2.2 times more likely to become food insecure and 3 times more likely to suffer eviction or foreclosure.[29] Kaiser Family Foundation surveys report that a majority of families that have medical debt have reduced spending on basic household necessities, delayed important life decisions, including education or buying a house, and seen reductions in household savings.[30]

Medical debt can also cause long term financial insecurity. One in five adults with health care debt do not believe they will ever be able to pay it off,[31] and an estimated 66.5% of bankruptcies are tied to medical debt.[32] In turn, families that experience bankruptcies, or have poor credit ratings because of carrying large debt loads, suffer from additional harms to their financial and physical health.[33] People with medical debt are more likely to delay or avoid needed medical care, putting them at risk for worse health outcomes or even death.[34] A record 38% of Americans reported postponing medical care due to cost in 2022.[35]

Medical debt lawsuits disproportionately impact people of color, rural communities, and patients already facing financial hardship.[36] Multiple media reports have documented hospitals suing impoverished patients who should not have received bills.[37] Nationwide, nonprofit hospitals billed $2.7 billion to disadvantaged patients who likely qualified for free or discounted care in one year.[38] North Carolina nonprofit hospitals reported billing at least $149.5 million to impoverished patients eligible for charity care under their own policies in 2019. Some North Carolina nonprofit hospitals estimated that as much as 60% — and even 80% — of their bad debt should have been charity care, according to an analysis of hospital tax filings.[39]

"The worst is what this does to a person emotionally from anxiety and stress. It aggravates any illness that a person has...I worry I won't be able to make my payments and keep my home."

JUDGMENT: $74,319. CASE 18-CVD-10004

Our Methodology

We obtained a 5.5 year raw statistical data extract of state courthouse records from 1/01/2017 to 6/30/2022, provided by the North Carolina Administrative Office of the Courts for the Civil Case Processing System. These publicly available data contain information about every complaint filed in the North Carolina civil court system, including the identity of plaintiffs and defendants, pleading issues, the filing county, filing dates, judgment amount, court and attorney fees, and the annual interest rate awarded in the judgment.

We first searched the data extract for all debt collection claims in which hospitals were listed as plaintiffs and five or fewer individuals were listed as defendants.[40] Our search used all North Carolina hospital names in the American Hospital Directory, North Carolina hospitals that filed a Medicare Cost Report, hospitals with alternate legal names, and common search terms including "hospital." To focus on actions pertaining to collections on medical debt, we then limited our sample to cases containing pleading issues that included "money owed" or "collection on an account."[41] This query yielded a database of 5,922 debt collection cases against 7,517 defendants in which the plaintiff was a hospital. This database contained incomplete information about default judgments, which grant financial awards to the hospital-plaintiffs without any response from the patient-defendants. The raw data extract did not include default judgment information for the 2,920 cases in small claims court (Civil Magistrate), where hospitals can sue to collect amounts smaller than $10,000. Thus, we limited our investigation of default judgments to Civil District Court and identified 1,223 default judgments among the 2,949 cases in this court.

To verify the accuracy of our sample — i.e. to confirm that our collection of the 5,922 cases were, in fact, suits brought by hospitals against patients for unpaid medical bills — we randomly selected 109 cases filed in seven different county courthouses to inspect by hand. We also selected 57 additional cases with large judgments to obtain additional detail about the circumstances of these lawsuits. We visited the Cabarrus, Mecklenburg, Gaston, Lincoln, Catawba, and Union county courthouses and collected paper records for these filed suits. These paper records contain significantly more information than the information in the raw data extract, including the complaint with supporting materials (such as hospital billing policies and medical records), defendant answers, accompanying briefs, and legal rulings. Thus, they revealed the substance of the lawsuits and confirmed that our gathered cases involved collection actions for medical bills. We additionally compared 140 randomly selected cases from our database to the electronic abstracts displayed by the Civil Case Processing System at the Wake County Courthouse, which contain up-to-date, detailed records of any judgment principal amounts, attorney fees, court fees, and total interest amounts. These electronic abstracts confirmed the accuracy of our interest calculations and the other information contained in our extracted data. Total accumulated interest was calculated by multiplying the principal and applicable fees by the interest rate and by the number of days elapsed until July 1, 2022, the date the statistical sample was generated.

To ascertain patient-defendants' demographics, we accessed census block information for each defendant. We geocoded 88% of defendants' addresses with Google's Geocoding API service, searching for duplicative addresses and including PO boxes in the sample. We then calculated probabilistic race or ethnicity scores using a methodology similar to the Bayesian Improved Surname Geocoding (BISG) methodology developed by the Consumer Financial Protection Bureau that relies on surname and census block information.[42]

We obtained hospital variables, including ownership type (nonprofit, for profit, or government owned), net profit margin, net charity care spending, and hospital markup (the inverse of the hospital's reported cost-to-charge ratio) from the Hospital Cost Tool developed by the National Academy for State Health Policy, Rice University's Baker Institute of Public Policy, and Mathematica.

This study cites quotes from a series of interviews with defendants independently conducted by the North Carolina Office of State Treasurer. See: North Carolina Office of State Treasurer, "Interviews With Defendants Sued by N.C. Hospitals," North Carolina Department of State Treasurer, Aug. 16, 2023.

Limitations

Our study, like all others, has limitations. First, the raw data extract did not include default judgment information for any of the 2,920 cases in small claims court (Civil Magistrate), where hospitals can sue to collect principal amounts smaller than $10,000. We therefore limited our investigation of default judgments to the 2,949 cases in Civil District Court. Past literature shows that small claims courts demonstrate high rates of default judgments and disparities across racial groups.[43]

Second, we inferred individuals' races and ethnicities by using a methodology similar to Bayesian Improved Surname Geocoding, which relies on names and census data about the neighborhoods the individuals live in. Although this method has proven highly accurate, it is not a substitute for direct observation. Furthermore, we cannot confirm from the court data alone that the hospital lawsuits in our database were filed to collect on medical debt. Instead, we know that the lawsuits were filed to collect on unpaid accounts, and we confirmed in a sample of more than 160 lawsuits, examined by hand at county courthouses, that these actions were for medical debt. Our calculations also do not account for canceled judgments, as the court data do not indicate whether judgments were canceled. Our interest estimates are calculated through June 2022, so patients with judgments canceled before then likely faced lower interest amounts and patients with judgments that remained uncanceled past that date likely faced higher interest charges.

Furthermore, the raw data extract often identified plaintiffs by hospital system rather than the individual facility responsible for the suits. We therefore defined litigious hospitals as hospitals in a system that brought more than 40 lawsuits against patients in total from 2017 to 2022.

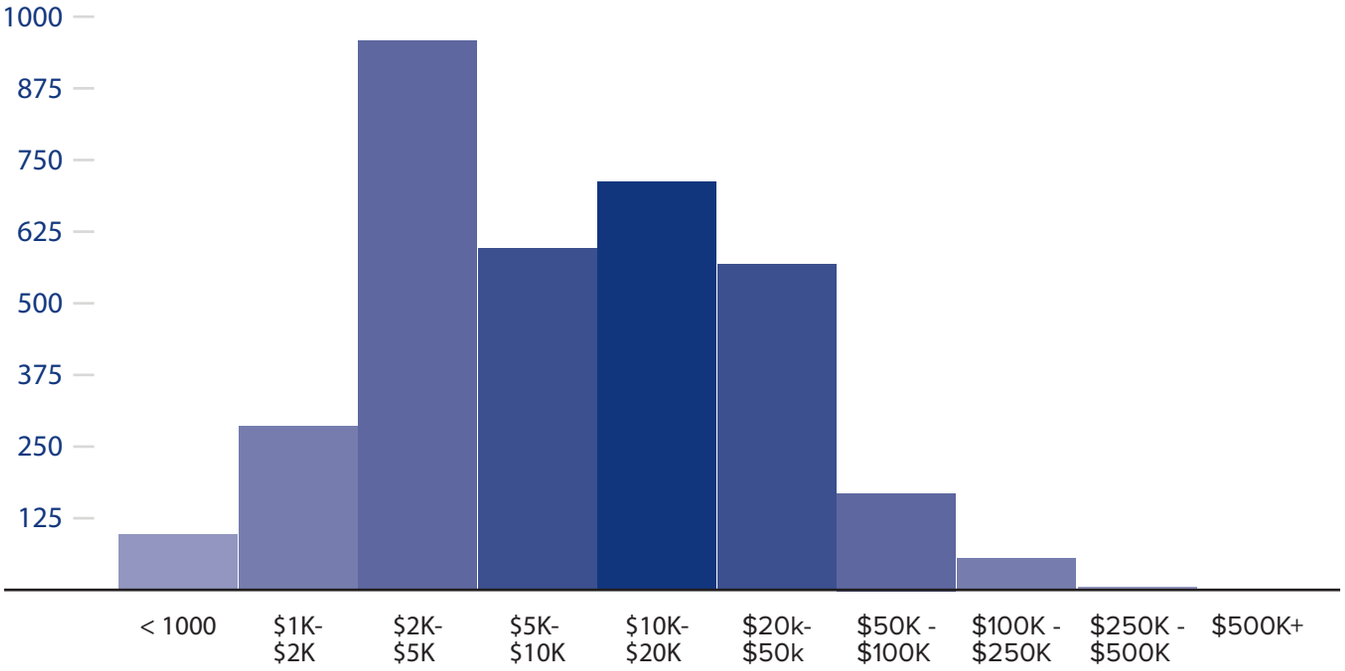
This study did not capture lawsuits filed by third-party debt collectors, private medical practices, ambulance companies, or other health care providers. Additionally, this study did not evaluate other aggressive debt collection practices, such as harassing patients, charging interest though "medical credit cards," denying necessary care over unpaid bills, or damaging patients' credit scores through outside debt collection agencies. One of the state's largest hospital systems, UNC Health, also collected medical debt by seizing patients' income tax returns through the North Carolina Department of Revenue, according to a 2013 news investigation.[44]

Furthermore, the statistical data extract cannot provide a historical overview of the lawsuits filed against patients for debt collection, as we could only analyze a five-year time frame. Atrium Health alone admitted suing 995 patients in a document published in February 2015.[45] The limited time frame of our data extract also prevented us from identifying any lawsuits which were refiled against patients to extend the lifespan of a judgment from 10 years to 20 years. Local news reports suggest that refiling judgments could be a common practice, but we do not know how many patients face lawsuits for medical debt over a decade old.[46] Finally, our data do not speak to the long-term impact of hospital lawsuits on patients' financial, physical, and mental health. This is an important area for future research.

Exhibit A

North Carolina Hospitals Win Tens of Thousands of Dollars in Judgments Against Patients With Medical Debt

The number of patients by total judgment amounts, including interest, attorney fees, and court fees, 2017-2022.



Source: Authors' analysis of North Carolina Administrative Office of Courts data.

Results: North Carolina Hospitals Sue Patients to Collect Medical Debt

In total, from January 2017 to June 2022, hospitals brought 5,922 lawsuits against a total of 7,517 defendants, with an average judgment amount of $16,623 (See Table 1). Even though our data includes all filings in small claims court, most of the legal actions seek substantial dollar amounts: 88.9% were for over $2,000, and nearly one in four were for over $20,000 (See Exhibit A).

The five years of lawsuits exhibit three notable features. First, consistent with prior studies, a small sample of hospitals were responsible for a disproportionate share of suits, including those that led to default judgments. Second, also consistent with prior studies, the hospitals that most regularly sue patients are nonprofit hospitals with high profit margins and high charge-to-cost ratios. And third, in what offers a new insight into debt collection activities by hospitals, we find that 35.4% of the total debt owed by patients is attributable to interest, attorneys fees, and fees — in addition to amounts claimed for medical services — and that 59.8% of judgments in district court were default judgments for the hospital.

Table 1

North Carolina Hospitals Sue Patients, Charge Interest, and Win Default Judgments

Summary stastistics for hospital lawsuits, January 2017 to June 2022

Larger ← → Smaller

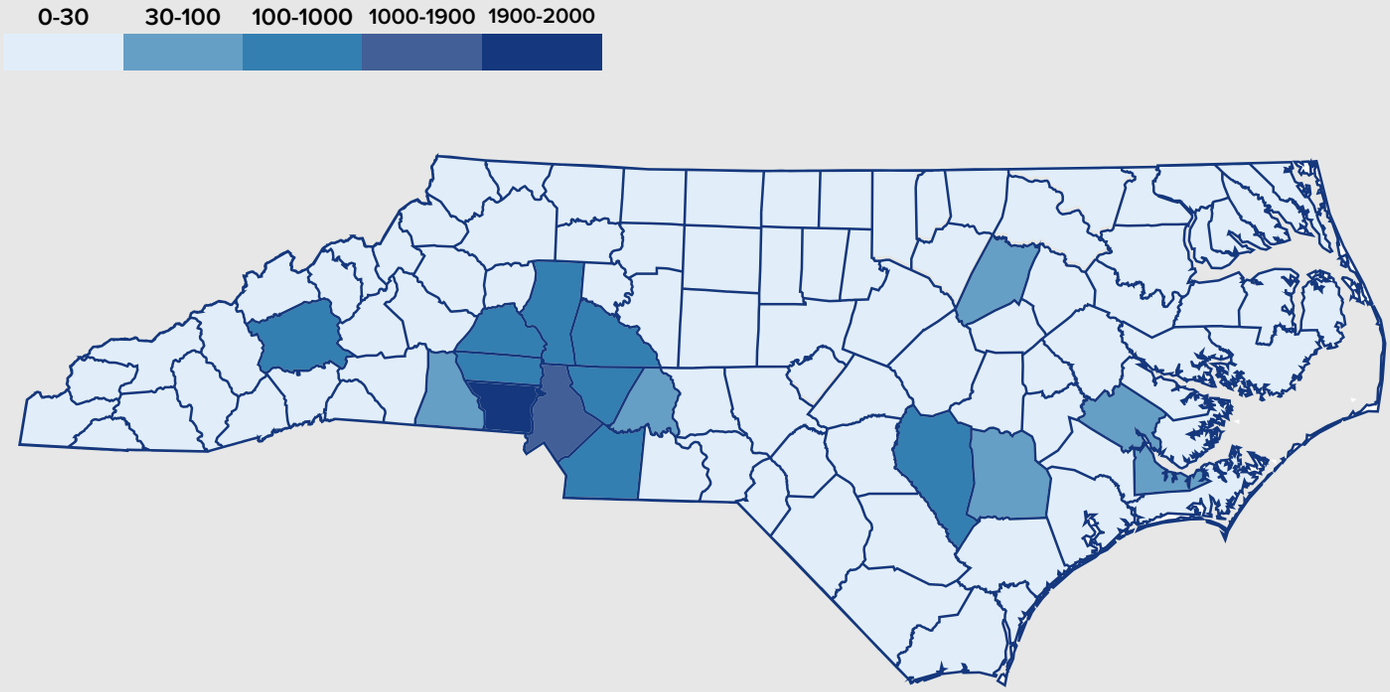
	2017	2018	2019	2020	2021	2022	TOTAL
Lawsuits	1,665	1,627	917	658	821	234	5,922
Defendants	2,016	2,028	1,145	944	1,085	299	7,517
Judgments	934	949	555	414	506	91	3,449
Lawsuits in District Court	644	689	427	478	581	130	2,949
Default Judgments In District Court	258	297	177	204	297	29	1,262
Total Principal	$6.86M	$10.36M	$5.02M	$6.53M	$7.41M	$843,673	$37.01M
Total Interest	$4.10M	$4.39M	$2.29M	$3.32M	$3.15M	$448,157	$17.71M
Total Other	$517,251	$617,235	$458,681	$447,439	$501,116	$73,409	$2.62M
Total Judgment	$11.48M	$15.37M	$7.77M	$10.30M	$11.06M	$1.37M	$57.33M
Average Principal	$7,345	$10,915	$9,046	$15,762	$14,637	$9,271	$10,732
Average Interest	$4,447	$4,677	$4,139	$8,165	$6,224	$4,980	$5,180
Average Judgment	$12,288	$16,193	$14,003	$24,869	$21,851	$15,003	$16,623

The raw data extract only contained information about the first six months of 2022, causing these numbers to seem smaller than other years. “Average Interest,” “Average Principal,” and “Average Total” denote averages of interest and fees in cases where such amounts were awarded. Source: Authors’ analysis of North Carolina Administrative Office of Courts data.

Exhibit B

The Majority of Lawsuits Were Concentrated In Five of North Carolina's 100 Counties

Lawsuits by county, 2017 to 2022



Gaston, Mecklenburg, Sampson, Cabarrus, and Iredell counties hosted a total of 4,459 lawsuits. Source: Authors' analysis of North Carolina Administrative Office of Courts data.

Litigious Hospitals: Low Charity Care, High Profits, Large Markups

The distribution of lawsuits are highly skewed across hospitals. A total of 26 different hospital systems filed at least one collection lawsuit during our time sample, but only five systems were responsible for 96.5% of the lawsuits despite constituting 18.5% of the state's hospital beds in 2021 (3,616 of 19,579) (See Exhibit C). Hospitals that filed more than 40 lawsuits each (which we denote as "litigious hospitals") were responsible for 98.9% of all suits but were home only to 24.3% of the state's hospital beds.[47]

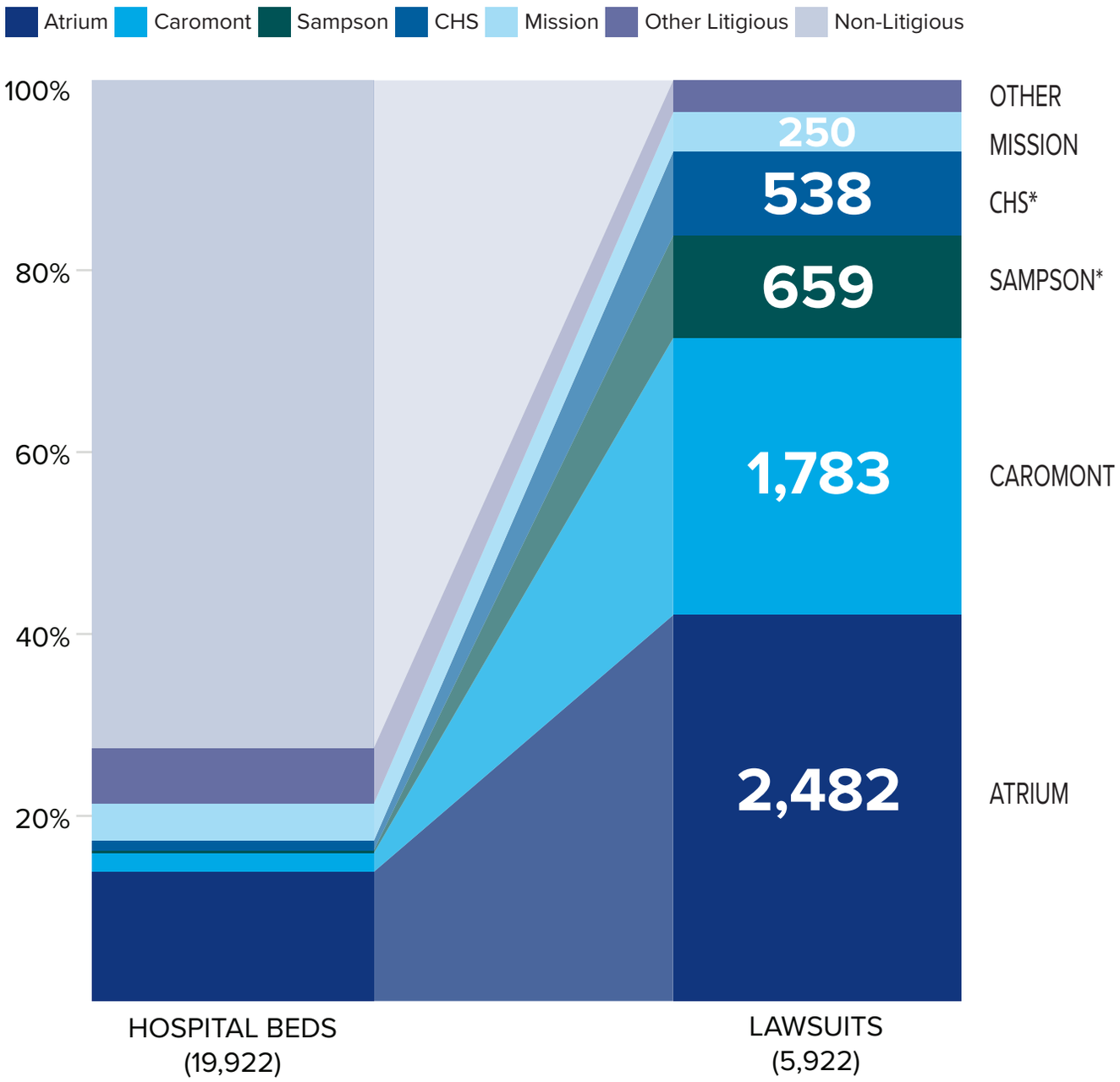
Prior studies of hospital collection practices for medical debt have indicated that, perhaps contrary to public perceptions, nonprofit and tax-exempt hospitals are more likely to sue former patients than for-profits. Our data offers similar results. Four of the top five most litigious hospital systems were nonprofits, with Community Health Systems, an operator of 77 hospitals in 15 states, being the exception. Overall, nonprofit hospitals constituted 80.8% (21 of 26) of the hospitals that brought at least one lawsuit and were responsible for 90.6% of the total lawsuits filed against patients (5,363 of 5,922).

Exhibit C

Five hospitals responsible for 96.5% of lawsuits against patients for medical debt in North Carolina

North Carolina's total hospital beds v. total hospital lawsuits, 2017 to 2022

We defined "litigious hospitals" as hospitals in a system that filed more than 40 lawsuits in total from 2017 to 2021.

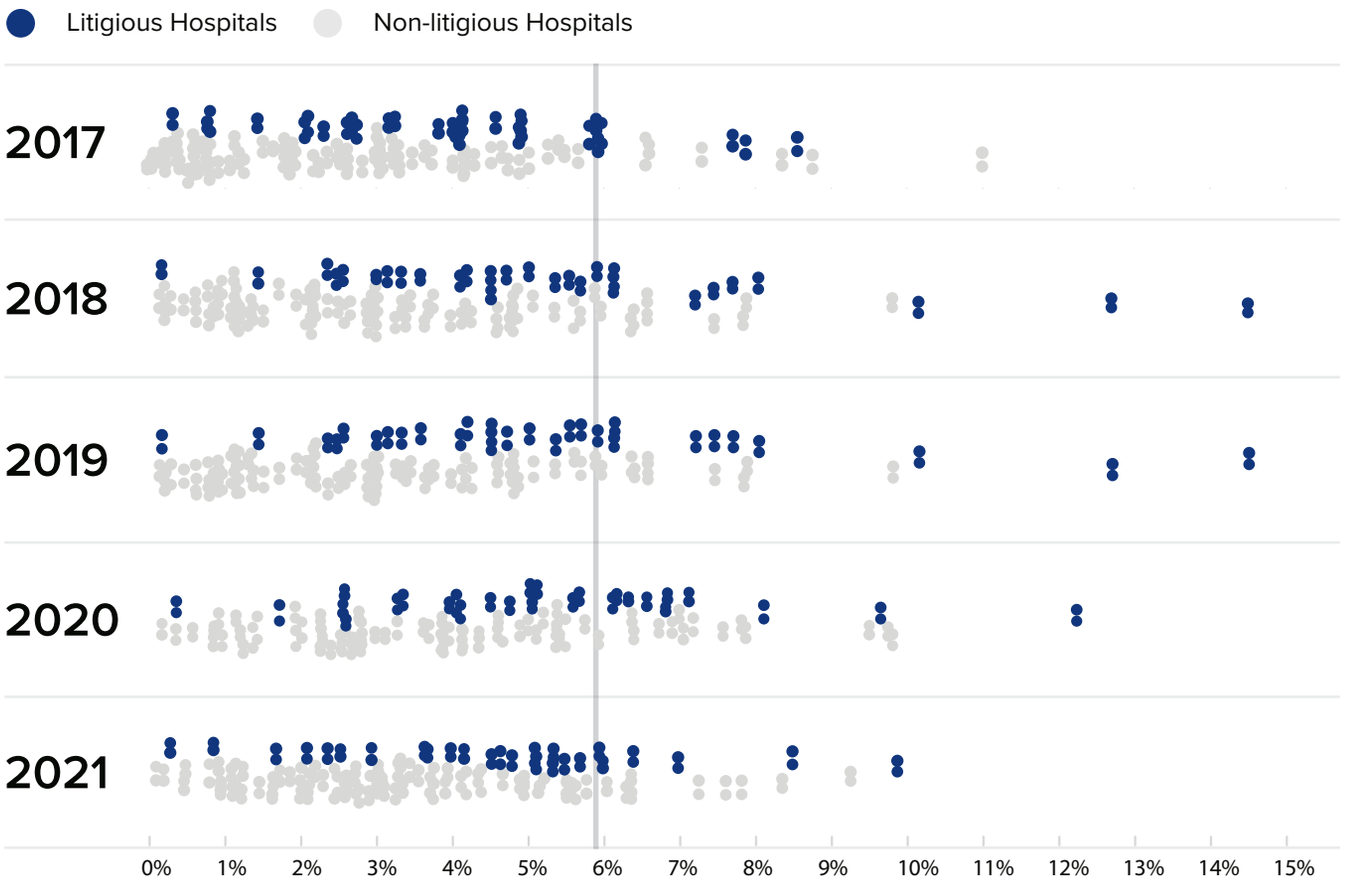


*Community Health Systems and Sampson Regional Medical Center, respectively. Johnston Memorial Hospital Authority and Nash Hospitals, both of which are owned by UNC Health, are included as litigious facilities since they were identified as such in the court data. This chart does not include the out-of-state hospital systems that sued patients in North Carolina. Source: Authors' analysis of North Carolina Administrative Office of Courts data, the NASHP Hospital Cost Tool Medicare Cost Reports.

Exhibit D

Litigious Hospitals' Charity Care Spending as a Percent of Expenses

Hospitals' charity care by year, compared to the estimated value of a nonprofit hospital's tax exemption of 5.9% of total expenses



Each dot represents a North Carolina hospital's charity care spending in the given year. Blue dots represent hospitals owned by a system that sued more than 40 patients over medical debt.

Source: NASHP Hospital Cost Tool Medicare Cost Reports, Zare, et al. (2021).[50]

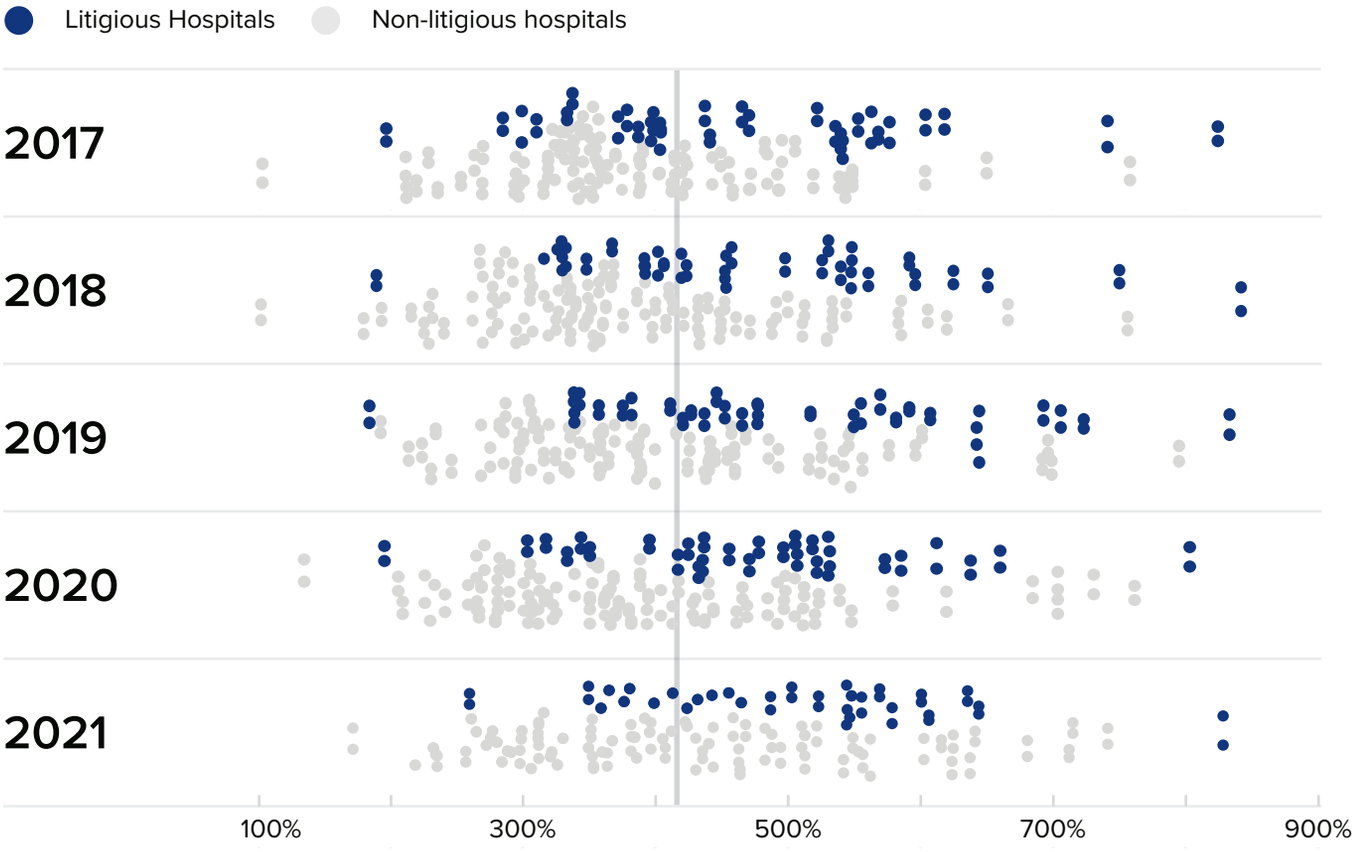
Litigious hospitals also fared poorly on metrics typically used to assess a hospital's community impact.[48] For example, most litigious nonprofit hospitals spent less on charity care than the value of their tax exemption. Whereas a recent study estimated that a nonprofit hospital's tax exemption equals 5.9% of expenses,[49] more than 60% of litigious hospitals spent less than that each year during our sample, and in 2021, 84% of the litigious hospitals spent less.

Litigious hospitals also enjoyed high average net profit margins each year from 2017 to 2021.[51] According to Medicare Cost Reports, more than 50% of these hospitals exhibited double-digit net profit margins for every year except 2018, and they recorded an average net profit margin of 15.9% in 2019, when the national average was 6.52% and the state's other hospitals averaged 5.7%.[52]

Exhibit E

Litigious Hospitals Exhibit Higher Price Ratios Than the National Average

Hospital charge to cost ratios by year, compared to the national average of 417% in 2018



Each dot represents a North Carolina hospital's charge-to-cost ratio in the given year. Blue dots represent hospitals owned by a system that sued more than 40 patients over medical debt.

Source: NASHP Hospital Cost Tool Medicare Cost Reports, National Nurses United (2021).[55]

Litigious hospitals also exhibited average price markups higher than the national average, as measured by Medicare's charge-to-cost ratios.[53] Charge-to-cost ratios measure how a hospital's charges, reflected in its chargemaster, compare to the Medicare-allowable cost of providing those services. Nationally, hospitals' average charge-to-cost ratio was 417% in 2018,[54] when North Carolina's litigious hospitals had an average charge-to-cost ratio of 476.2% and non-litigious hospitals had an average ratio of 381%. More than four in ten litigious hospitals had a charge-to-cost ratio greater than 500% each year from 2017 to 2021.

Exhibit F

A Note on Atrium Health, the Hospital System Responsible for 42% of Lawsuits Against Patients

"I don't understand why the hospitals mark up bills so high. You're only there because you're sick — not to buy the hospital."

20-CVD-9182

A full 41.9% of the cases in our dataset were filed by Atrium Health, a tax-exempt nonprofit that, after its recent merger with Advocate Aurora Health, is the fifth largest hospital system in the nation. Atrium Health filed 2,482 lawsuits against North Carolinians during our time sample with an average judgment of $22,954. Of Atrium's 1,236 judgments in district court, 857 — or 68.4% — were default judgments in their favor.

Atrium Health was originally founded as a municipal hospital corporation known as the Charlotte-Mecklenburg Hospital Authority. Atrium Health has since expanded to become the dominant hospital system in Charlotte, and, after a series of mergers with Navicent Health, Wake Forest Baptist Health, and Advocate Aurora Health, the system now owns 67 hospitals, serves 6 million patients, and generates annual revenues of more than $27 billion.[56]

Because of its origin as a municipal hospital corporation, however, Atrium Health has a unique legal status. Like nearly all nonprofit hospitals, Atrium is exempt from federal, state, and municipal taxes for its hospital operations.[57] But as a municipally-chartered hospital, Atrium Health additionally does not have to pay property taxes on land it owns but does not use for medical or charitable purposes. For example, one of Atrium's tax-exempt properties hosts a PDQ Tenders chicken restaurant.[58] Atrium also enjoys the authority to acquire real property by eminent domain (the North Carolina General Assembly is currently considering legislation that would allow Atrium to expand its eminent domain power outside of Mecklenburg County).[59]

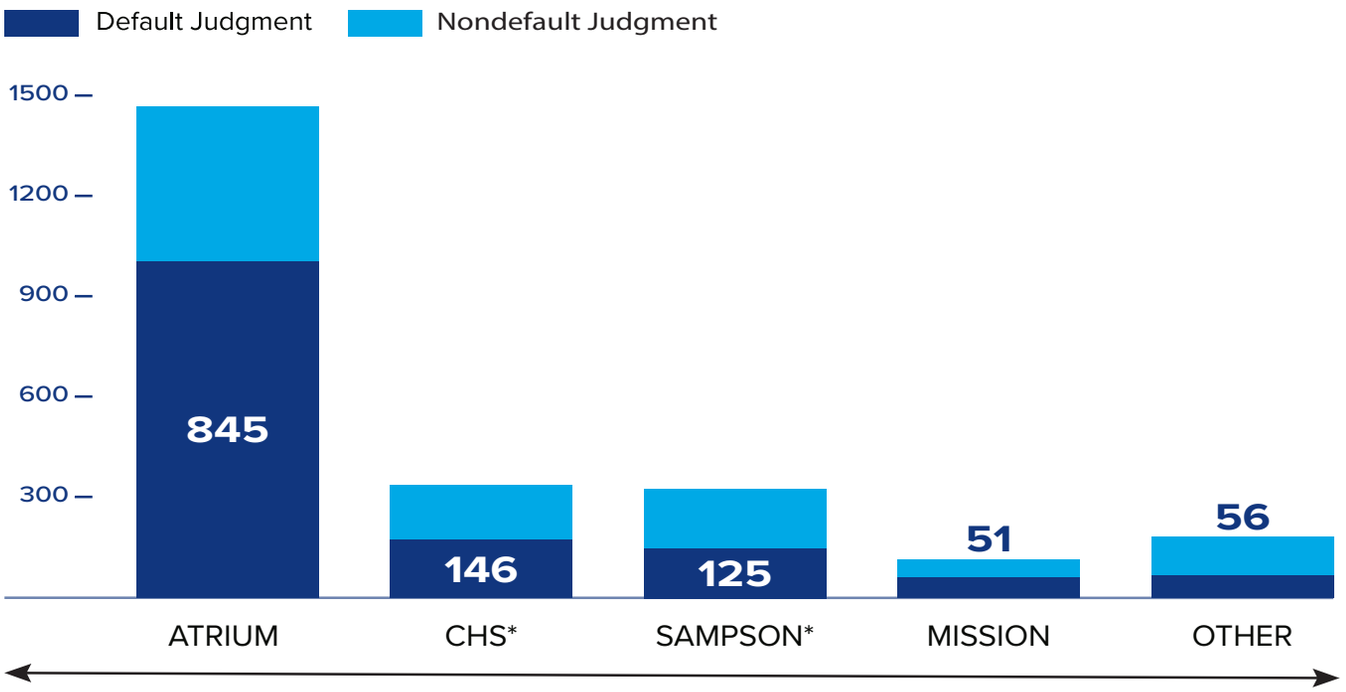
Atrium Health also has been found to enjoy immunity from both federal and state antitrust damages. In 2020, the North Carolina Supreme Court ruled that Atrium, by virtue of its origin as a "quasi-municipal corporation," is not "a person, firm, or corporation for purposes of [North Carolina's Unfair and Deceptive Trade Practices Act]" and is thus not liable under the state's fair competition laws.[60] And in 2021, the U.S. Fourth Circuit ruled that because Atrium was established as a "municipal hospital," it enjoys protection under the Local Government Antitrust Act of 1984.[61] Both cases arose out of a U.S. Department of Justice investigation that concluded that Atrium Health had engaged in "unlawful contract restrictions that prohibit commercial health insurers in the Charlotte area from offering patients financial benefits to use less-expensive healthcare services."[62] Even though Atrium agreed to a 2018 settlement in which it agreed to discontinue these anti-competitive practices, the consumers it harmed were not compensated because of its immunity from state and federal antitrust damages.[63]

Atrium Health additionally has received national scrutiny for aggressive debt collection practices. It was found to encourage more than 63,000 patients to enroll in "medical credit card" payment plans that can charge up to 18% interest on medical debt through the private-equity backed company AccessOne.[64] As many as half of Atrium's patients enrolled with AccessOne had one of its highest interest plans, which charged 13% interest on medical debt, according to Kaiser Health News.[65]

Exhibit G

Default Judgments Accounted for 59.8% of the 2,045 Judgments in District Court

Judgments filed in North Carolina district courts, default v. nondefault, 2017 to 2022



*Community Health Systems and Sampson Regional Medical Center, respectively. Though Caromont Health was featured in Exhibit C as having initiated the second-most lawsuits in the state, the vast majority of those suits were in small claims court, with few brought in district court. Their suits in district court are included in the Other category.
Source: Authors' analysis of North Carolina Administrative Office of Courts data.

Characteristics of Patients Sued by Hospitals

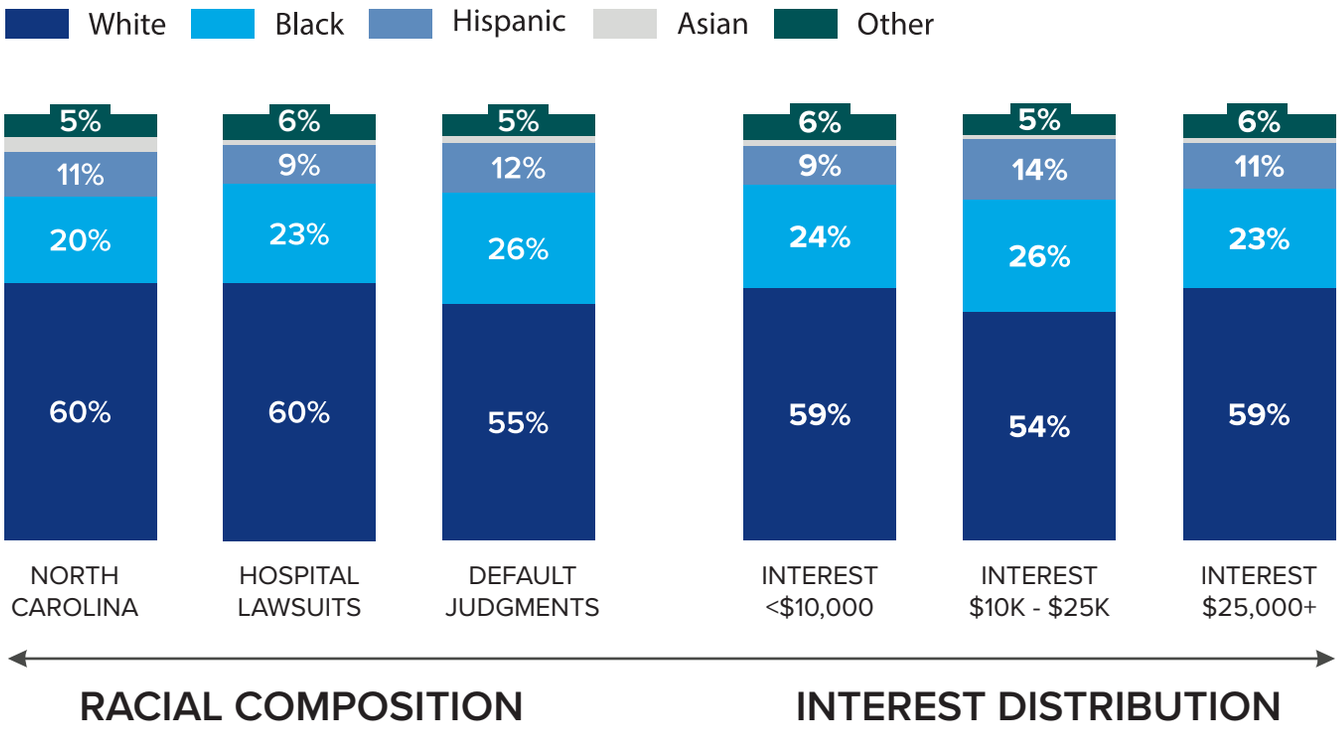
Chiefly because only five hospitals are responsible for 96.5% of all lawsuits, nearly 80% of all patient-defendants are concentrated in only seven of North Carolina's 100 counties. Since three of the five most litigious hospital systems are located in the Charlotte metropolitan area, Gaston and Mecklenburg counties account for 47.4% (3,561 of 7,517) of defendants, with Cabarrus, Iredell, Sampson, Lincoln, Union, Buncombe, and Rowan counties each hosting more than 200 lawsuits. (See Exhibit B.)

Many of the lawsuits resulted in default judgments, which typically are judgments issued even though the defendant failed to respond to a court summons or appear in court. Of the 2,045 judgments in North Carolina District Court — i.e. judgments seeking amounts larger than amounts for small claims courts — more than half, or 59.8%, were default judgments. Though many factors can lead to default judgments, interviews with patients revealed that several were unaware of the legal proceedings against them. For example, one 80-year-old couple only learned of a lien of approximately $90,000 against their house after being contacted by researchers from the North Carolina Office of State Treasurer. Another factor is illness. One cancer patient reported to interviewers of being too sick to appear in court.[66]

Exhibit H

North Carolinians Sued for Hospital Debt, by Race and Ethnicity

The racial distribution of defendants by lawsuits, interest accrued, and default judgments in district court, 2017 to 2022



Source: Authors' analysis of census block information, racial demographics from Bayesian Improved Surname Geocoding, and North Carolina Administrative Office of Courts data.

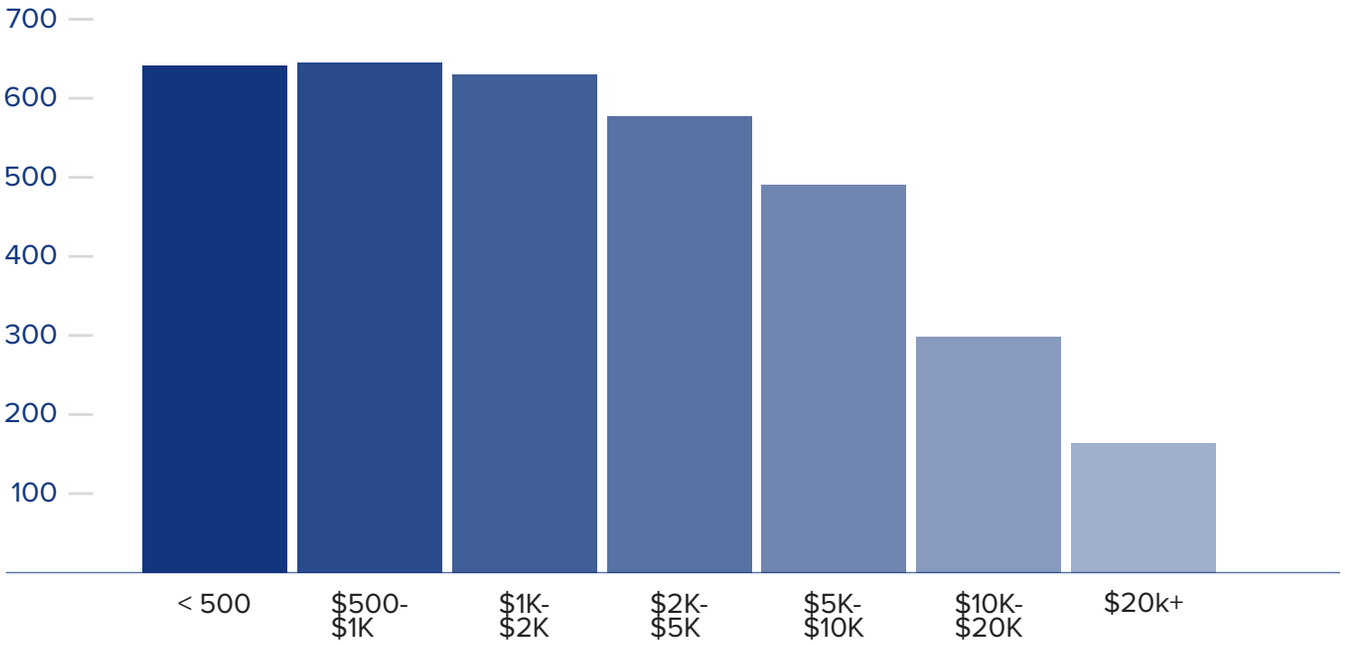
Using the Bayesian Improved Surname Geocoding and census block information described above, we estimated the race of the patients who were sued by hospitals. The racial demographics of the defendants largely mirrored the racial makeup of North Carolina: White defendants represented 60.5% of lawsuits; Black defendants, 23.2% of lawsuits; Hispanics, 9.3% of lawsuits; Asian, 1.1% of lawsuits; and other, 5.9% of lawsuits.

The demographics of those receiving default judgments and being liable for interest, however, are slightly different from those of the state overall. Black defendants received 26% of default judgments, and Black and Hispanic defendants were both disproportionately represented among the patients who incurred larger amounts of interest. (See Exhibit H).

Exhibit I

North Carolina Hospitals Charge Patients Thousands of Dollars in Interest on Medical Debt Judgments

Number of judgments by interest amounts accrued, 2017-2022.



Source: Authors' analysis of North Carolina Administrative Office of Courts data.

Debt Amounts: Principle, Interest, Attorneys Fees

Our court data revealed that patients sued for medical debt often owe far more than the average original medical bill for their medical care. While hospitals sued to collect an average principal of $10,732, the average total judgment against patients was $16,623 — almost 54.9% more than the original average medical bill.

North Carolina law permits hospitals to collect court fees, attorney fees, and 8% annual interest from patients. Of these additional collection amounts, the continued assessment of interest was the primary driver of increased judgment amounts. Some patients in our sample accrued interest charges for over a decade. Our data likely underestimates total interest because under North Carolina law, hospitals must file to extend judgments that have been unpaid after ten years. Because our dataset spans a limited time frame, we identify only some refiled judgments during our data checks at county courthouses. Many more judgments awarded before our time frame are likely accruing interest as well.

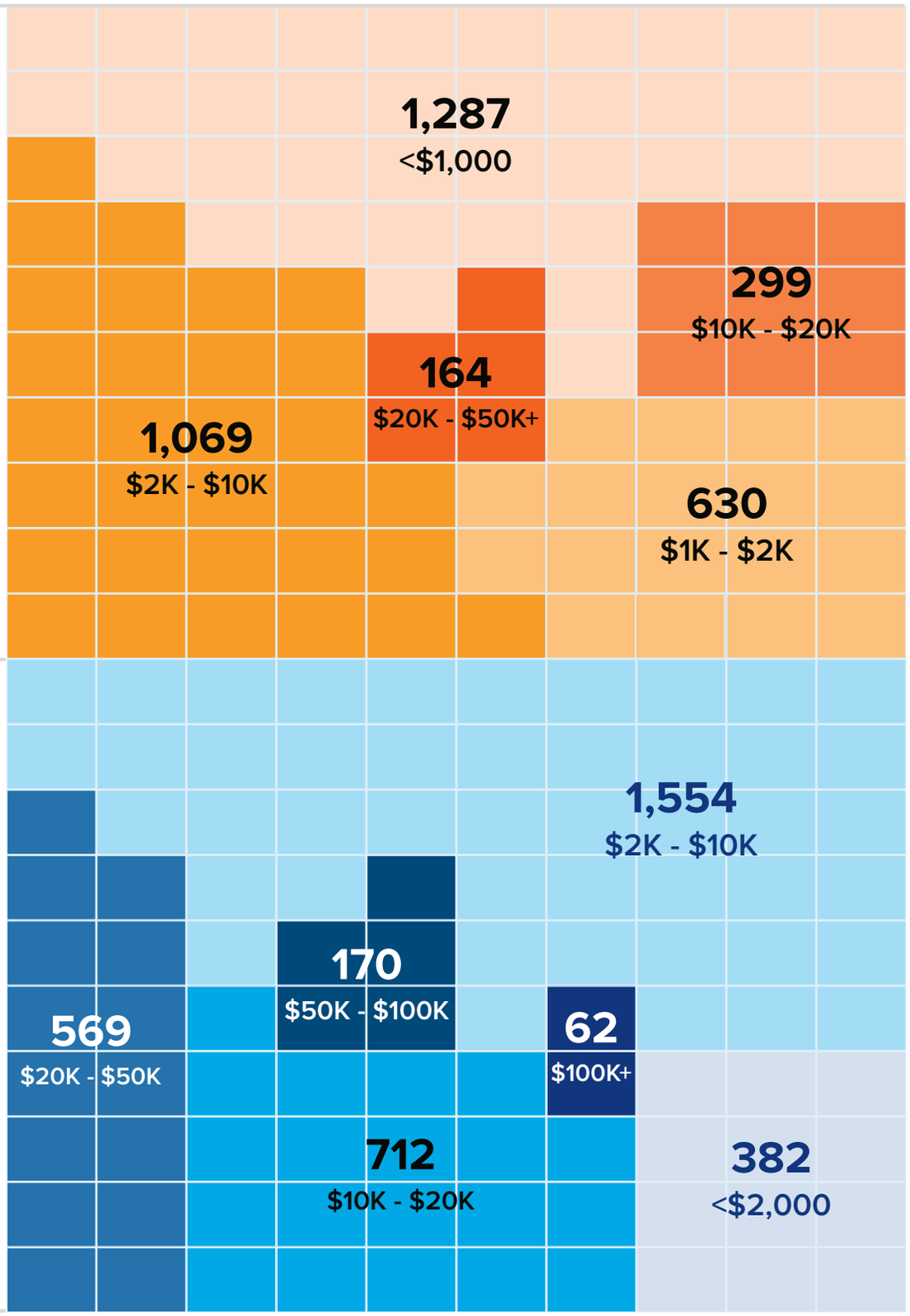
Interest fees exceeded $1,000 across 62.7% of hospital judgments against patients (2,162 of 3,449), and interest fees were greater than $10,000 for more than one in ten judgments (463 out of 3,449). The average interest amount was $5,180.

Interest accounted for 30.9% of the total debt owed by patients, or $17.7 million of the total $57.3 million in judgments. Hospitals also were awarded attorney fees in 29.8% (1,028 of 3,449) of judgments. The average attorney fee awarded was $1,972 and reached as high as $18,391. Similarly, hospitals charged an average of $173.09 in court fees to patients across 98.5% of judgments (3,398 of 3,449).

Exhibit J

Hospitals Charge Patients Thousands in Interest, Total Judgments

How many of the 3,449 judgments levy thousands of dollars in interest or in total?



Source: Authors' analysis of North Carolina Administrative Office of Courts data.

Discussion and Policy Implications

"We had no idea that they could come after me and the property. Almost $92,000 is what they took from the sale of my house."

18-CVD-4238

As we note above, North Carolina is an unfortunate leader in medical debt. Over 20% of the state's families have been subject to collections proceedings because of medical debt, fourth highest nationwide, and the state is home to many of the industry's worst practices.[67] Our study reports that the state is also home to significant legal actions in which hospitals sue patients in state court to collect medical debt payments.

Medical debt can fuel an intergenerational cycle of poverty, in part because lawsuits aimed at collecting debt can cause collateral harm. Family members can be liable for a patient's medical bills, and in North Carolina a judgment can automatically create a lien against real property. These lawsuits can thus target a family's primary source of equity for surviving spouses and children.[68] Such policies also perpetuate wealth inequality since home equity represents more household wealth for lower and middle income families than for higher income,[69] and they may additionally exacerbate racial inequality since the median Black family has only one tenth of the accumulated wealth as the median white family.[70]

Our study also observes that lawsuits targeting medical debt can add substantial interest obligations to a principal debt. Under North Carolina law, hospitals can charge 8% annual interest on judgments,[71] causing some patients to owe more in interest charges than the value of the original medical debt. Our sample of lawsuits from 2017 to 2022 reveals that more than one in ten judgments include more than $10,000 in interest, and some families owe as much as $100,000 in interest alone. When combined with attorney and court fees, interest fees account for 35.4% of the total judgments owed to hospitals.

Interviews with patient-defendants independently reveal some other collateral harms caused by these lawsuits. After facing hospital legal action, patients reported that they feared seeking future medical care because of the cost. Cancer survivors said that the financial stress hurt their physical health and their ability to battle cancer. Some patients and family members delayed retirement, and others discovered liens attached to their homes only after researchers contacted them to inquire about a lawsuit.[72]

Second, our research speaks to important health policy questions with which North Carolina lawmakers are currently wrestling. First, and perhaps foremost, is the crippling cost of healthcare. For several decades, healthcare price inflation has consistently exceeded the consumer price index and far exceeded increases in household wages.[73] Perhaps the most effective policy response to medical debt is to make healthcare more affordable. One leading cause of price inflation has been the steady consolidation of hospitals and providers throughout the state,[74] driven largely by an enthusiasm for empire-building and expensive hospital-based care that continually fails to improve population health.[75]

Exhibit K

Patient Testimonials

“I got no notice, no nothing. I haven’t gotten any notification. I haven’t been served with anything that I’m aware.”

$37,697.85 Judgment. Case 18-CVD-1709

“They’ll take everything you have. I’m not rich, I can’t pay a quarter of a million dollars. It’s been heartbreaking because I take care of the house, pay insurance, taxes, and they’re going to take my house. My family does not have an inheritance.”

$192,384.84 Judgment. Case 21-CVD-200

“We didn’t have any insurance. We weren’t making too much. I wasn’t working, and my husband couldn’t work. … We almost lost the house, the car, we couldn’t afford the mortgage because of his leg.”

$48,097.95 Judgment. Case 21-CVD-4860

“I was paying the bill. When my husband and I tried to refinance the house to do some work on it, we found out that they had sued us and that there were two liens on our house — they didn’t contact us or nothing.”

$22,278.46 Judgment. Case 20-CVD-2733

“You pay for insurance, but they don’t let you use it. … I ended up having to pay for it. They took us to court and put a lien against our house. … I just turned 70 last week. I don’t know if it’s going to be paid off before something happens to me.”

$118,702.32 Judgment. Case 20-CVD-9182

“I’m retired and my husband is retired. We’ve got limited money and can only spread it around so far. … Unless I sell my house, I will never be able to pay that off. If I could, I’d pay it off happily. They saved my life — I just don’t have the money right now.”

$37,697.85 Judgment. Case 18-CVD-1709

“I had a catastrophic illness. I’m older, and my family is all gone. … The amount is overwhelming because I have all my other medical bills related to that catastrophic illness. I don’t have the $30,000 to pay it off. it off. I’m willing, but I can’t. My credit is good. I pay my bills.”

$74,319.30 Judgment. Case 18-CVD-10004

“My wife had a five-year battle with colon cancer. It started when Mission was a nonprofit. When HCA took over the hospital, about two years in, they nullified the payment arrangements we had and the charity care arrangements. We called and called — nothing. … The next thing we know, we’re getting paperwork for a judgment for $83,000 for five years of bills.”

$96,997.35 Judgment. Case 18-CVD-4238

“It would hurt me a lot to pay it off. Going into this, the only time I went to the hospital was because of a sprained ankle — but then I had a blood clot, a heart attack, a stroke, cancer, a staph infection, a hole in my heart. I was taking care of my mom and a house fire.”

$92,766.03 Judgment. Case 20-CVD-4952

These patient testimonials were quoted from a phone interviews of patients sued by hospitals, which was independently conducted by the North Carolina Office of State Treasurer. Atrium Health sued all these patients, with the exception of Case Number 18-CVD-4238, who was sued by Mission HCA Health.

Exhibit L

Patients Face Lawsuits Over Surprise Bills

"The bill was a surprise. The hospital charged too much...We almost lost the house, the car, we couldn't afford the mortgage."

21-CVD-4860

When patients seek hospital care, they face an opaque and often bewildering billing system. Unlike most sectors of the economy, health care prices remain overwhelmingly hidden from patients. They usually are even hidden from the providers that care for patients, who then are unable to offer patients information when patients ask about prices before receiving care. The current and former president signed executive orders to establish patients' rights to know hospital prices, and Congress passed the No Surprises Act in 2020 to prevent providers from charging patients with undisclosed and inflated prices. Nonetheless, patients remain unable to shop for affordable care and continue to be assessed excessive and hidden prices.

One consequence of price opacity is that patients simply do not know how much they will owe before they assent to receiving healthcare. Another consequence is that providers charge wildly different prices for the same services, even for commoditized services. For example, colonoscopy might cost a commercially insured patient $504 to $55,397 across the Triangle's largest hospitals.[76] Prices even vary across patients with different insurance coverage for identical services at common locations.[77]

We could not determine how many of the 5,922 hospital lawsuits originated from surprise bills, but our analysis of 166 paper records did unearth cases in which patients were being sued over a surprise out-of-network bill. Furthermore, the survey conducted by the North Carolina Office of State Treasurer also identified defendants who said they were surprised by a $90,000 lawsuit after being assured by hospital representatives that they would receive charity care.[78] These findings are significant because they suggest that patients never are informed of, nor consent to, the prices that they later are charged. Our findings indicate that many collection actions result in default judgments, which then can trigger interest charges and home liens. This illustrates that patients can lack notice throughout their encounter with the health system and its collection efforts: They are uninformed about the prices for which they will be charged, and they are held liable from court cases in which they did not participate.

The practice of hiding and then charging inflated prices are readily considered by many to be an instance of unfair trade. North Carolinians are protected from such nefarious conduct in most industries under the state's Unfair and Deceptive Trade Practices Act, see N.C.G.S. § 75-1.1(a). The statute, however, does not cover "professional services rendered by a member of a learned profession," N.C.G.S. § 75-1.1(b), and courts have ruled that this "learned profession exemption" includes collection actions by hospitals. Thus, current law exempts North Carolina's hospitals from these consumer protection laws when they engage in unfair and deceptive trade practices, even when such practices only involve billing and pricing policies.[79]

Heightened antitrust enforcement might stem some costly consolidation, but some of the state's hospitals have sought and procured legal protections from antitrust liability (see Exhibit F). Another cause of price inflation has been the aggressive use of chargemasters, the compilation of hidden prices that affect the uninsured, out-of-network patients, and individuals with charge-based insurance plans. For this reason, it is highly relevant that most lawsuits filed against North Carolina patients came from hospitals that exhibited above average charge-to-cost-ratios, a metric that reflects the prices that hospitals charge for assorted services.

Third, and relatedly, our study suggests that many patients are falling victim to an opaque and convoluted system of healthcare prices. Because charge-to-cost ratios reflect a hospital's chargemaster — or "sticker prices" — for provided services, they reflect prices that public and private insurers usually do not pay. Chargemaster prices are often assessed to patients in scenarios known as "surprise bills," situations when patients are least able to shop for prices or benefit from market negotiations. One reason collection actions are disproportionately brought by hospitals with high charge-to-cost ratios could be that they reflect instances of surprise bills and chargemaster abuses. Though such abuses are considered by many to be instances of unfair trade, some of North Carolina litigious hospitals have secured exemptions from the state's Unfair Trade Practices Act and thus have been unrestrained by the state's general consumer protection laws.[80]

Fourth, our research addresses difficult questions surrounding the wisdom of granting tax exemptions to nonprofit hospitals, as we find that nonprofit hospitals are responsible for the majority of lawsuits against patients. Under federal and state law, nonprofit hospitals enjoy tax-exempt status — estimated to equal an average of 5.9% of hospital expenses — if they satisfy a "community benefit standard."[81] Most nonprofits aim to satisfy this requirement by providing free or discounted charity care to impoverished patients. According to Medicare Cost Reports, however, the majority of litigious hospitals provided charity care that was less than the estimated value of these tax exemptions.

"My wife had a five-year battle with colon cancer...[HCA] nullified the payment arrangements we had and the charity care arrangements. We called and called — nothing. ... The next thing we know, we're getting paperwork for a judgment for $83,000."

JUDGMENT: $96,997. 18-CVD-4238

This raises the question of whether a hospital's litigiousness should factor into whether it satisfies the community benefit standard. Nonprofit hospitals have received increasing scrutiny for their failure to honor their charitable mission, and if suing patients for medical debt introduces collateral costs, then perhaps such lawsuits should be part of assessing its overall impact on a community.

"My God, 8% a year — the housing market isn't even that."

20-CVD-4952

Fifth, our research offers broader and potent critiques of North Carolina's debt-related laws. One reason medical debt lawsuits have collateral costs, at least in North Carolina, is the state's allowance of creditors to assess 8% interest on top of principal judgments (this is in addition to the utilization by many hospital systems of medical credit companies that charged patients up to 18% interest on medical debt).[82] One of our study's most alarming findings is that approximately 30.9% of total judgments is due to accrued interest. Moreover, judgments automatically act as liens against patients' homes in North Carolina, and the state currently offers only a modest homestead exemption of $35,000, which currently equals approximately 15% of the median home value in the state.[83] Several states automatically adjust the homestead exemption for inflation, but North Carolina does not.[84] We have found instances in which a family's medical experience begins with a surprise bill and ends with a lien on a defendant's home.

Similarly, our research highlights the far-reaching consequences of a difficult-to-navigate court system. We found that 59.8% of judgments in district court were default judgments for hospitals. While we do not know exactly why patients did not respond to hospital legal filings, this default number is consistent with other research on debt-related lawsuits.[85] Some patients fail to receive notice, others struggle with language barriers, transportation limitations, or the inability to miss work and come to court, and others exhibit despondency since they lack the money to pay the bill or do not understand the severity of missing a court appearance. All of these scenarios raise issues of due process and accessibility of courts.

Additional difficulties accrue because most individuals sued for debts rarely have legal representation. One study revealed that less than 10% of defendants sued in debt collection lawsuits between 2010 and 2019 had a lawyer, and other studies show that defendants with lawyers are more likely to win their case or come to a mutually beneficial settlement.[86] Notably, over half of the cases in our sample were filed in either superior or district court, as opposed to a magistrate or small claims court, which is intended to be a forum in which parties can navigate without a lawyer. The North Carolina judiciary website explicitly warns that individuals will encounter difficulty representing themselves in district or superior courts and that they "will be held to the same rules of evidence and procedure as a licensed attorney."[87] Most people sued in debt cases, however, have no choice because they cannot afford an attorney.

Conclusion

Medical debt is the predictable consequence of expensive healthcare, gaps in health insurance, and (of course) sudden or chronic illness. It exacerbates the burdens of both financial stress and illness, and it reveals a deficiency in our safety net. Sadly, it has also become a fixture in our healthcare marketplace. Legal actions aimed at collecting medical debt must be viewed within the nation's broader social policy, one that recognizes the underlying causes of medical debt and the harm that is caused when court proceedings are invoked.

Our examination of legal actions taken by hospitals against their patients is not a comprehensive assessment of hospital collection efforts, and it certainly is not a complete review of the factors that would comprise effective policy to mitigate medical debt. It does, however, reveal that some of North Carolina's hospitals have used the state's legal system to collect debt from patients, that these actions have triggered significant amounts of additional interest obligations, resulted in liens on homes, and in some cases follow the assessment of surprise bills. Our findings raise first-order questions about the efficacy of our legal system in resolving financial debts with notice and fairness, and they require direct discussions about the roles we expect hospitals, especially nonprofit hospitals, to play in our economy, health policy, and society.

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