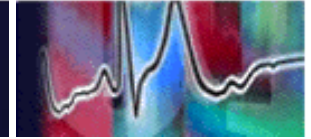




ROBINSON & COLE LLP

Health Law **Pulse**



### **Charity Care Class Action Update**

On June 17, 2004, a group of prominent plaintiffs' attorneys filed 13 class action lawsuits against various nonprofit hospital systems alleging that they failed to provide charity care to the uninsured. Two months after the filing of the first case, there are now more than 40 similar cases pending in 23 states.

Each of these cases is based on similar allegations. The plaintiffs allege that the defendants have intentionally failed to provide charity care to the uninsured as required for their tax-exempt status. Instead, the plaintiffs argue that these nonprofit hospitals have charged uninsured patients the full "sticker-price" for health care services, while other patient groups (i.e. those with medical insurance or government-sponsored health benefits) receive the same services at discounted rates. The plaintiffs also allege that the defendant hospitals employ predatory collection practices against those patients who are least able to pay for the cost of treatment.

The causes of action asserted against the hospitals in most of the lawsuits include breach of contract, bad faith, and unjust enrichment. In most of the cases, plaintiffs have also asserted conspiracy claims and violations of state unfair trade practice acts.

Some of the plaintiffs have named other parties as defendants in addition to the nonprofit hospitals. For example, at least one group of plaintiffs is suing the American Hospital Association (AHA) under the theory that the AHA has conspired with the hospital defendants to protect the challenged practices through organized lobbying and public relations campaigns. Some of the lawsuits also include multiple "John Doe" defendants, suggesting that the plaintiffs may be targeting officers and directors in addition to the hospitals themselves.

Although these cases are still in the early stages of litigation, a recent settlement between the plaintiffs and the North Mississippi Health Services System (NMHS) provides some insight as to what type of remedial relief the plaintiffs' attorneys seek to obtain. The general terms of the proposed settlement require NMHS to provide discounted or free care to uninsured patients, to limit its collection practices, and to refund a portion of medical bills paid by uninsured patients over the past three years. The settlement also includes mandatory reporting obligations, financial transparency requirements, and a conflict of interest policy.

It is estimated that the combined value of the refunded fees and forgiven debt as a result of the settlement could cost NMHS more than \$150 million. This figure does not include the cost of compliance with the settlement's remedial terms.

Counsel for the plaintiffs has identified the NMHS settlement as a model for nonprofit hospital systems to fulfill their mission to provide charitable healthcare to uninsured

patients. It is likely that the NMHS settlement will be seen by plaintiffs' counsel as a benchmark for negotiating resolutions in similar cases.

#### QUESTIONS

For more information on the charity care and tax-exemption issues, please contact the following members of our [Health Law Group](#):

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