

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 523
HOUSE BILL 1135

AN ACT TO AMEND ARTICLE 26 OF CHAPTER 116 RELATING TO A
SELF-INSURANCE PROGRAM FOR HEALTH CARE LIABILITY CLAIMS.

Whereas, the General Assembly has authorized the creation of a self-insurance program for liability claims against health care practitioners; and

Whereas, such program has not been implemented because of the unavailability of excess liability coverage or funding; and

Whereas, the possibility of extraordinarily high judgments is a contingency that must be anticipated and provided for; and

Whereas, the General Assembly recognizes that the quality of education offered by the medical centers of The University and the quality of the health care rendered to patients by said medical centers and hospital staff members are all matters that affect the health of the people of the State of North Carolina; and

Whereas, the authorization of the creation of a basic coverage self-insurance fund by The University with funds derived by it from sources other than general tax revenues of the State, and the providing of loans from funds other than general tax revenues of the State to said fund by The University, when and if necessary to pay health care malpractice claims, is for a public purpose and within the province of the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. On line 1 of G.S. 116-222 change "Records held by the fund" to read "Records pertaining to the liability insurance program".

Sec. 2. Article 26 of Chapter 116 is hereby amended by adding the following new sections:

"§ 116-220.1. Funding of self-insurance program. — (a) If the board elects to establish a self-insurance trust fund, the initial contribution to the fund shall be determined by an independent actuary but shall be no less than three hundred thousand dollars (\$300,000). Annual contributions to said fund shall be made in an amount to be determined each year by the Trust Fund Council upon the advice of an independent actuary and shall include amounts necessary to pay all costs of administration of the self-insurance program and claims adjustment including litigation in addition to amounts necessary to pay claims. Contributions shall be no less than one hundred fifty percent (150%) of the amounts actually paid each year on medical malpractice claims until such time as the Trust Fund Council, with the advice of an independent actuary and the approval of the Board of Governors, determines that an annual contribution in a lesser amount will not impair the adequacy of the fund to satisfy existing and potential health care malpractice claims for a period of one year.

(b) Claims certified to be paid from the fund shall be paid in the order of award or settlement. In the event that the fund created hereunder shall at any time have insufficient funds to assure that both existing and future claims will be paid, the board is hereby authorized to borrow necessary amounts up to five million dollars (\$5,000,000) per established self-insurance trust fund account to replenish the fund. The board shall maintain funds in each self-insurance trust at no less than one hundred thousand dollars (\$100,000) at all times.

(c) Funds borrowed by the board to replenish the trust fund account may be secured by pledging noncapital assets of the members. Members shall mean those entities, agencies, departments or divisions of The University which directly contribute funds to the self-insurance trust. In no event shall individual health care providers be deemed members for the purposes of this section.

(d) Obligations issued under the provisions of this Article shall not be deemed to constitute a debt, liability or obligation of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision but shall be payable solely from the revenues or assets of the members. Each obligation issued under this Article shall contain on the face thereof a statement to the effect that The University shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

"§ 116-220.2. Termination of fund. — Any fund created hereunder may be terminated by the Board of Governors upon their determination that other satisfactory and adequate arrangements have been made to assure that both existing and future health care malpractice claims or judgments against the participants in the self-insurance program will be paid and satisfied. Upon the termination of any fund pursuant to this section, the full amount remaining in such fund upon termination less any outstanding indebtedness shall promptly be repaid to The University and allocated among the participating entities according to their respective contributions as determined by the Board of Governors.

"§ 116-223. Further action. — The Board of Governors of The University of North Carolina is hereby authorized to take all action necessary to effectuate the purposes and provisions of this Article."

Sec. 3. This act shall become effective June 1, 1977.

In the General Assembly read three times and ratified, this the 10th day of June, 1977.