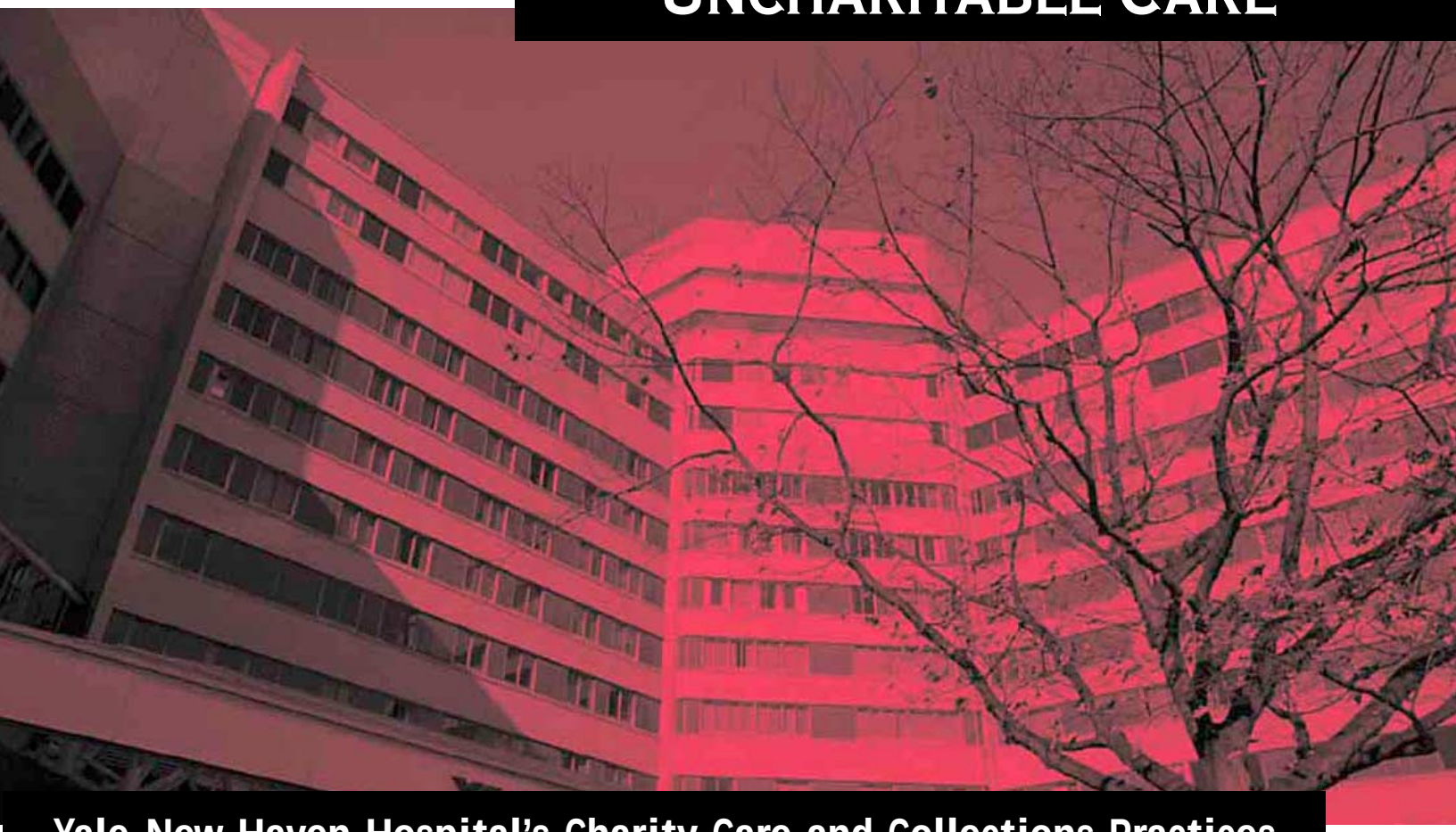
Uncharitable Care



Yale-New Haven Hospital's Charity Care and Collections Practices

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Paul Bass of the *New Haven Advocate* deserves recognition for first drawing attention to these issues through his groundbreaking work on Yale-New Haven Hospital's collections practices ("Predator on the Hill," May 31, 2001).

Finally, we wish to acknowledge the perseverance of the patients and families indebted to Yale-New Haven Hospital—above all those who courageously agreed to have their stories included in the report.

UNCHARITABLE CARE

Yale-New Haven Hospital's Charity Care and Collections Practices

Executive Summary

Across the nation, public attention to medical debt as a facet of America's healthcare crisis is growing. This report, "Uncharitable Care," speaks to the catastrophic consequences that ensue when the healthcare "safety net" collapses. Too often uninsured and underinsured patients can't access available charity care resources for their hospital bills, and instead face aggressive debt collections practices that increase hardship and exacerbate poverty.

Through a case study of Yale-New Haven Hospital, the largest, most prestigious hospital in the state and the largest "safety-net" provider of healthcare to the poor and uninsured in the city of New Haven, "Uncharitable Care" offers a preliminary examination of hospital charity care and debt collections practices in Connecticut.

Drawing from interviews, court records, government data and hospital documents, the study finds that Yale-New Haven, a non-profit, charitable teaching hospital, classifies most of its uncompensated service to the uninsured and underinsured as "bad debt." Even in instances where patients are unable to pay and would have qualified for the Hospital's free care programs, Yale-New Haven's "bad debt" accounts become subject to extremely aggressive collections tactics, including lawsuits, wage garnishments, bank executions, liens and foreclosures.

The report features the personal stories of debtors who have come face-to-face with Yale-New Haven's collections process. "I couldn't believe they were going to foreclose. For only $4,000," said a patient who borrowed money from relatives to save her home. "They didn't even offer free care to me when I needed it." Another patient, who struggles with a wage garnishment for a surgery bill, said, "Right now I'm scrounging every penny just to make it. Yale doesn't want to hear it. They just want their money."

While the resources Yale-New Haven has available for free care have increased dramatically in recent years, the amount of free care offered at the Hospital has diminished:

- From 1996-2001, Yale-New Haven's donor-restricted "free bed funds," the income from which must be used for free care, more than doubled in size, to $37 million.
- Payments to Yale-New Haven from Connecticut's Uncompensated Care Pool and related state programs nearly tripled over the past four years (after related taxes), to $24 million in 2001.
- A non-profit, tax exempt institution, Yale-New Haven also realizes significant revenues in excess of expenses, reporting $20 million in 2001 (a healthy 3.6% margin).
- From 1996-2001, Yale-New Haven's free care offerings dropped 46%, even as unpaid accounts classified as "bad debt" increased by 50%.
- After accounting for subsidies, Yale-New Haven's $1.5 million in free care expense for 2001 dwindles to a mere $12,000.

"Uncharitable Care" recommends several key institutional and policy changes that would improve care of the uninsured and underinsured at Yale-New Haven and throughout the state, including:

- Yale-New Haven should provide an amnesty for all currently outstanding debts and overhaul its process for identifying and enrolling free care-eligible patients;

- Yale-New Haven should refrain from the use of legal actions and aggressive tactics such as wage garnishments, bank executions, liens and foreclosures against patients;
- Connecticut should reform the disbursement of subsidies, such as payments from the Uncompensated Care Pool, to encourage hospitals to identify patients eligible for free care and discourage aggressive collections on indigent patients;
- Connecticut should pass consumer protection laws shielding hospital debtors from current creditor entitlements, such as interest and court costs, and from aggressive collections tactics such as garnishments, liens and foreclosures;
- Laws governing donor-contributed "free bed funds" should be strengthened to promote the wise and responsible use of these resources.

INTRODUCTION

For families who lack decent health insurance, inadequate access to healthcare is just one problem in a multi-tiered disaster. The uninsured and underinsured often receive needed healthcare through "safety-net" providers, such as public clinics and non-profit hospitals. As studies are beginning to show, however, even safety-net providers can leave patients burdened with enormous medical debts, causing financial difficulties, bankruptcy and deferral of needed healthcare.[1]

As Connecticut's largest, most prestigious hospital, the largest charitable healthcare provider in the city of New Haven, and a financially stable institution with millions in charity care subsidies and donor-contributed resources, Yale-New Haven Hospital should be a leader in service to the uninsured and underinsured. But tight-fisted administration and poor dedication of resources can lead even large, financially stable safety-net hospitals to lack a charitable approach to their most disadvantaged patients. Yale-New Haven Hospital not only short-changes patients in need but also engages in debt collections practices that can drive these patients into further financial hardship.

This is a shocking revelation, considering Yale-New Haven's obligation, as a tax-exempt, non-profit hospital, to provide community benefits, and considering the extensive government subsidies and reimbursements it receives for uncompensated care. Yale-New Haven continues to lobby the state, successfully, for millions in this taxpayer-funded "relief," diverting precious resources from safety-net providers who are genuinely struggling to provide free care to the uninsured.

Part I of this report features 11 individuals' experiences with Yale-New Haven medical debt and collections practices. Part II analyzes the Hospital's charity care and collections activity in six segments:

- "**Defining 'uncompensated care'**" scrutinizes what the Hospital claims as "uncompensated care" and carefully defines the difference between "free care" and "bad debt";
- "**Yale-New Haven's collections on 'bad debt'**" describes and provides data on the Hospital's debt collections process, including the use of lawsuits, wage garnishments, bank executions, liens and foreclosures, and the impact of this process on patients unable to pay;
- "**Free care and bad debt trends and comparisons**" examines the disturbing trends in Yale-New Haven's charitable performance, comparing the Hospital to peers and statewide benchmarks;
- "**Safety-net hospitals' resources for charity care**" describes trends in the various subsidies and payments the Hospital receives for its free care programs, focusing on the increase in Medicaid "Disproportionate Share Hospital" payments, and on the Hospital's questionably low spending from its $37 million free bed fund endowment;
- "**Holes in Yale-New Haven's 'safety net'**" discusses possible reasons the Hospital has been providing such a small amount of free care;
- "**Towards a charitable hospital**" concludes the report with recommendations for institutional and state policy-level changes to improve access to free hospital care in Connecticut and to protect indebted patients from aggressive collections practices.

I, the Judgment Debtor hereby move for a modification of the wage execution issued against me as follows:

NEW AMOUNT REQUESTED	DESCRIBE NATURE OF CLAIM FOR MODIFICATION
35.00 /PER WEEK	The nature of claim modification is being requested due to not being able to survive on the amounts withdrawn. I'm a diabetic who cannot put food on the table, get the proper medication or medical care needed, or has enough gas to get to and from work without financial aid from friends & family.

I, the Judgment Debtor hereby move for a modification of the wage execution issued against me as follows:

NEW AMOUNT REQUESTED	DESCRIBE NATURE OF CLAIM FOR MODIFICATION
$ 75 /PER ~~WEEK~~ Pay Period	I am in Hardship Status and the Garnishment has placed a greater hardship on my life. I am unable to maintain a place to live, food to eat or transportation with this amount being deducted.

MOTION TO OPEN JUDGMENT

The undersigned respectfully requests that the judgment in the above-named case be opened for the following reason(s)

At the time of my delivery at Yale New Haven Hospital, I had no medical insurance & income & filled out paper work at the hospital before my discharge by Hosp. Personell. They advised that they would take care & assisted with payment. I was out of the country and recently came back & found my house was auctioned

THEREFORE IT IS REQUESTED THAT THE JUDGMENT BE OPENED.

I, the Judgment Debtor hereby move for a modification of the wage execution issued against me as follows:

NEW AMOUNT REQUESTED	DESCRIBE NATURE OF CLAIM FOR MODIFICATION
$ 25.00 /PER WEEK	I can not Afford to have 25% of my income taken. I am the only one in my home paying bills, and I live week to week on my paycheck. I Just received this notice.

I, the Judgment Debtor hereby move for a modification of the wage execution issued against me as follows:

NEW AMOUNT REQUESTED	DESCRIBE NATURE OF CLAIM FOR MODIFICATION
$90.00 [redacted] WEEK Bi-	I am not In the pisition to pay 192.44 Bi-week. my wife Does not working and I am the only person working In a house hold of 5 people I also pay Child Support of $100.00 Bi-weekly with a rent of $950 per month plus food and Bills I cannot afford to pay that Amount Please accept my new amount

I, the judgment debtor named above, hereby claim and certify under the penalty of false statement that the money in the above account(s) is exempt by law from execution as follows:

ACCOUNT NUMBER	DESCRIBE CLAIMED EXEMPTION ESTABLISHED BY LAW
[redacted]	My Social Security is deposited directly into this account. The amount in this account and in # [redacted] represents my entire savings. I have been paying this debt in regular installments each month and I wish to continue making those installment payments.
AMOUNT CLAIMED TO BE EXEMPT	
[redacted]	

*The above are excerpts from court records of Yale-New Haven Hospital collections and foreclosure lawsuits.

PART I: INDIVIDUAL ACCOUNTS

José Peña

José Peña, a factory worker who lives in New Haven, was just out of college and looking for a job in 1996 when he was struck with appendicitis. Although uninsured, he had no choice but to go to Yale-New Haven Hospital for an emergency appendectomy. Complications forced him to stay a total of two weeks, during which he was approached by Hospital staff about his uninsured status. "They said, 'There are resources,'" Mr. Peña remembers. "We talked about how I was uninsured and racking up this huge bill, but they still told me 'not to worry.'"

About 4 to 6 months after his surgery, Mr. Peña received a bill for $10,000. Alarmed, he immediately called the Hospital. "They told me, 'Don't worry,' to go to the city for help." Mr. Peña applied for city welfare right away, and was denied. Not understanding why, since he was unemployed and had no income at the time of the appendectomy, Mr. Peña applied again, but was rejected again.

"The paralegal on my case told me that she didn't care what my financial situation was, that I just needed to pay up."

For all the assurances he had received, Mr. Peña said he was never told about Yale-New Haven's free care programs. In 1997, the Hospital sued him for the debt. The collections attorneys struck an agreement with him for monthly payments of $50 on the $11,000 judgment amount (the original charge plus 10% retroactive interest [$759] and court costs [$229]). The agreed-upon payments were less than the 10% interest that began to accrue at over $90 a month.

Mr. Peña struggled with other expenses like college loans and rent, and one month missed a payment. Immediately, Yale-New Haven located his bank account and seized his entire savings of $600. The Hospital also obtained a court order binding Mr. Peña to higher monthly payments of $100. After that, "The lawyers were calling me all the time, two times a week at work. I was already delinquent on a student loan, I had rent to pay. The paralegal on my case told me that she didn't care what my financial situation was, that I just needed to pay up." Yale-New Haven started garnishing 25% of Mr. Peña's paycheck in 1999. He managed to get the deductions lowered to $25 a week after pleading to the judge that he would be unable to keep afloat.

Interest has already added thousands of dollars to the amount Mr. Peña owes, and continues to pile up. Recently married, with a four-month-old baby to support, "Now I'm in no financial position to be paying anyone back." Mr. Peña also fears this debt will prevent him from ever owning a house, due to its effect on his credit record and the threat of foreclosure. Even though he doesn't know how he'll ever get out from under the debt, he still goes to Yale-New Haven for his family's needs. "I was born at Yale," he explains.

June Patterson (pseudonym)

When her uninsured son was admitted to Yale-New Haven Hospital for an emergency motorcycle injury back in 1990, June Patterson remembers being told to sign forms so that the Hospital could administer medicine to him. She did not understand that these forms also included a financial liability statement holding her responsible for any unpaid portion of her son's bills, even though he was over 18 at the time. "When someone is going through an emergency, you don't read all the fine print," she said. "You just want them to get treated."

Ms. Patterson's son applied for but was rejected from state and city assistance pro-

grams. Yale-New Haven started sending Ms. Patterson bills, but she didn't know she was liable for the debt until the Hospital took her to court and won a judgment against her for $57,358. As the years went by and Ms. Patterson was unable to afford enough even to allay the 10% interest, the outstanding amount grew and grew.

"First they started garnishing, then they went after my house." When Yale-New Haven began taking 25% of her paycheck in 1993, Ms. Patterson convinced the court to reduce the deductions to $40 a month: "I told [the court] I couldn't pay what they were requesting." Yale-New Haven also placed a lien on her house, and in 2001, after the 10% annual interest had increased the balance owed to $104,487, the Hospital filed a lawsuit to foreclose. "They were getting their weekly payments through the garnishment, but they wanted more." Faced with the prospect of losing her home, Ms. Patterson filed for bankruptcy.

Although she has been stably employed by SNET for 32 years, the burden of debt and Yale-New Haven's collections practices kept Ms. Patterson in financial hardship for over a decade. "Since I had the lien, I couldn't get the proper credit, the proper rating. I had to file bankruptcy to clear it," she said. The lien's off now, "but I can't get that bankruptcy off."

Ms. Patterson said she has never heard of Yale-New Haven's free care programs. "I'm just trying to move on now. I could never pay $50,000, and now I have that big sum off my name."

Sh-Rhonda Jones

Sh-Rhonda Jones works at Yale-New Haven Hospital as a housekeeper. She went to the Hospital for emergency services in 1999, and came out with a $525 bill. "They charged my old insurance," so she got stuck with the bill, even though she was paying monthly for the Hospital's health plan. When she contacted the billing department, they were aware that she was a Yale-New Haven employee. "I figured that if she told me that I work for Yale, she could make sure that I had insurance through Yale."

The next year, Yale-New Haven sued Ms. Jones in small claims court for $600 (the bill plus court costs and interest). "They sent a letter saying that I had to go to court, they were going to garnish my check." At court, Yale-New Haven's attorney "said there was nothing I could do. It was too late." Unable to handle her other bills with 25% of her paycheck missing, Ms. Jones negotiated a reduced garnishment of $50 a month. "I feel really bad, I mean, that's hard working money that you're taking from me and my child." Ms. Jones supports a ten year old son. "For me to work here, and the place that I work for to sue me, is a bigger issue."

"For me to work here, and the place that I work for to sue me, is a bigger issue."

The wage deduction has led to other problems. She was denied a car loan "because they said I had a garnishment through the Hospital... It messed me over a lot. And it deals with you emotionally, too."

Ms. Jones was taken aback at the Hospital's collections tactics. "Evidently, Yale doesn't care. You don't know how that person can make it, how they can live. You should try to work with them as much as you possibly can. If that doesn't work out, then you can start to take steps, but you have to look at every situation before you jump the gun."

Ms. Jones has never heard of free care or the Hospital's free bed funds, and thinks more can be done to get the word out to patients and employees. "It should be posted, it should be in the mailboxes of the employees, they should have more representatives to let people know, because how would you ever know? I didn't know!"

Mary Sosa (pseudonym)

Mary Sosa struggled her way through Yale College on financial aid. Shortly after graduating in 1999, she received a fellowship to conduct research in Latin America for a year. Upon her return, she fell ill with malaria and experienced complications that required emergency hospitalization and a series of expensive tests at Yale-New Haven. She came out owing roughly $3,000 in charges.

Ms. Sosa was uninsured, unemployed and, due to her illness, unable to work when admitted to the Hospital. "I knew I wasn't going to be able to afford anything they charged me," she said. For each diagnostic test she received, she interrogated the staff on how much it cost and whether it was absolutely necessary. She also made sure to tell admitting staff that she was uninsured and had no income. She even asked if the Hospital had any sort of free care.

"I asked Yale-New Haven's triage and billing staff if the Hospital had charity care. They said no."

"I asked Yale-New Haven's triage and billing staff if the Hospital had charity care. They said no. The doctors and nurses all said they didn't know anything."

After her hospitalization, Ms. Sosa began to receive bills, but told the billing staff that she couldn't pay and continued to inquire about what social services were available. Eventually, she was instructed to apply for Medicaid. Her income was low enough to be eligible, but by the time she was enrolled, she had passed the 3-month deadline to receive retroactive coverage. "Imagine my dismay when the Medicaid staff told me that I could have actually gotten coverage for my past medical expenses, only I was too late." Even though her income clearly fell below the threshold to qualify for free care, Yale-New Haven continued to pursue her for the $3,000, sending a collections agency after her.

Ms. Sosa has received a stream of letters and phone calls from the Hospital's collectors over the past two years. "It's so stressful," she said. "They don't know my current address, and I'm afraid they'll find out." Ms. Sosa is trying to apply for law school, but is worried about the effect her debt might have on her credit record and her ability to apply for loans.

Joseph Jackson

Joseph Jackson was a banquet worker at New Haven's Park Plaza Hotel (now the Omni), until he was disabled by a car accident 35 years ago. Since then, he has been unable to work and living off his Social Security, currently about $530 a month.

When he went in for a coronary procedure in September of 1999, Mr. Jackson had been to Yale-New Haven Hospital many times and received coverage from his Medicaid insurance plan "without a problem." This time, though, Medicaid didn't pay for $3,641 worth of a total charge of $4,838. Mr. Jackson said that he wasn't told in advance that services wouldn't be covered, and never learned why he was stuck with the charge. Even after Mr. Jackson informed billing staff that he had no way of paying the remaining amount, Yale-New Haven turned the account over to its collections attorneys.

Mr. Jackson said that the first of the attorneys who called him seemed to want to work with him, and asked for his Medicaid policy number. But later on he was contacted by a new attorney, who "just went wild. I explained I don't work, I cannot pay this bill," he said. But they continued, calling him repeatedly, leaving messages and sending letters every week. "With all the aggravation they put me through, it didn't make sense at all. I've got diabetes, a heart condition, pain twenty-four hours a day. Nobody wanted to hear."

Yale-New Haven sued Mr. Jackson in May of 2001 and won a default judgment against him for $4,500 (the original charge, plus 10% retroactive interest [$648] and court costs [$225]). Mr. Jackson was ordered to make $35 weekly payments. He learned about the judgment months later, when he was brought into court for a debtor examination hearing. "I cannot pay this money, no kind of way," he told the court. "I have $530 a month to live off of. How am I gonna pay $35 a week? Here I am just barely eating and paying my rent. How are you going to get something from me? They were asking if I had any stocks and bonds, and I don't even have a bank account. I told them, 'I'm a poor man.' Where am *I* gonna get the money?"

"They made my life a living nightmare for three years. It was like I was in hell."

Even though his annual income of $6,400 was well below the free care income threshold of $13,300, Mr. Jackson said he was never told about free care. "The only thing they mentioned was, they wanted their money."

Mr. Jackson was so distressed by these events that his doctor ordered him to start taking medication for depression. "I don't even take pain medication—I'm no pill popper. But my doctor told me, you need something. What's so sad, is that I've had numerous operations at Yale. I've been a patient for *years.* I cannot believe they would put me through so much stress."

A few months ago, Mr. Jackson finally went to New Haven Legal Aid. After being confronted with the argument that pursuing payment from Mr. Jackson was in violation of Medicaid regulations, Yale-New Haven immediately had the case opened and withdrawn.

"If someone told me this story, I would've told them they were lying. I had no idea someone would go after someone in such a vicious way. They made my life a living nightmare for three years. It was like I was in hell."

Sondra Henderson

Yale-New Haven Hospital sued Sondra Henderson in the late 1990s over $4,000 in debt she owed from when she was uninsured and admitted for a heart condition. She was going through a divorce that had destroyed her family business, was still unemployed, and her father had just died. When she told the Hospital's collectors all she was going through, Ms. Henderson said, "they didn't care. They just didn't care." She said she was never told about free care.

Without her knowledge, Yale-New Haven placed a lien on her home, and then sued to foreclose in 2000, winning a default judgment due to her failure to appear in court. Ms. Henderson recalls that the subpoena for the lawsuit had been left by the marshal outside the front door of her house, a door she never uses. By the time she found it, the Hospital had already appraised her home and placed three advertisements in the *New Haven Register*. "I couldn't believe they were going to foreclose. For only $4,000. I felt like I was getting discriminated against

because I have a house. All I'm saying is that we deserve to be treated fairly."

By that time, $1,800 in interest had accrued on the $4,700 judgment amount. Ms. Henderson also became liable for all foreclosure expenses: $1,660 in costs and $2,153 in fees for the Hospital's collections law firm, Tobin & Melien.

"It's not the employees' fault. We should look at the administrators. They're the ones who make the decisions."

Ms. Henderson could only keep her home by paying a lump sum to settle all debts (including the foreclosure expenses), or by declaring bankruptcy. Down to the wire, Ms. Henderson appealed to relatives for help, and came up with the $10,313 lump-sum payment just weeks before the scheduled sale date. But Tobin & Melien claimed they were missing $875 for five hours worth of legal work, and nailed a foreclosure sign to the tree in front of her house the day after receiving her check. When she called them, "Tobin & Melien told me, 'we're still going to foreclose.'" Ms. Henderson paid her own attorney $1,000 in order to get Tobin & Melien to drop their claim for $875. The judge ruled that the $10,313 was sufficient to settle the case. "It was awful. Just awful."

Ms. Henderson still takes her son to Yale-New Haven. "They have the best children's hospital in the country." When there recently for her son's surgery, she saw signs up about free care. "When I saw those, I had to laugh because they didn't even offer free care to me when I needed it. It's not the employees' fault. We should look at the administrators. They're the ones who make the decisions."

Felicia Jaynes

When Felicia Jaynes worked as a Patient Care Associate at Yale-New Haven Hospital in the early 1990s, she couldn't afford the Hospital's health plan. Fortunately, she qualified for Medicaid when she was hospitalized at Yale-New Haven for a brain aneurysm in 1994. When she switched jobs in 1997, she got private health coverage through her new employer. Soon afterwards, she had three more brain aneurysms, and was hospitalized again at Yale-New Haven. Although she remembers giving the Hospital her new insurance information, she said, Medicaid was billed for the hospitalization.

By the time Ms. Jaynes found out about the mistake, over a year had passed, and a $4,000 bill she owed to Yale Diagnostic Radiology (a practice owned by Yale University that provides services at the Hospital) had already been passed on to the collections law firm Tobin & Melien. Her proper insurance wouldn't cover the balance, claiming too much time had passed. Tobin & Melien obtained a default judgment against her, and she arranged to pay $50 a month.

In December 2000, Ms. Jaynes had yet another aneurysm. She was incapacitated and out of work for over six months, unable to earn any income and hence unable to make the $50 monthly payments. She called Tobin & Melien and told them that she wasn't currently working and so would have to postpone payments. "They didn't respond in one way or the other to that," she said, and she heard nothing more from them. However, in September 2002, Yale Diagnostic Radiology began to garnish 25% of Ms. Jaynes's wages. She went to court and, after pleading financial hardship, got the garnishment lowered to $50 a week.

Ms. Jaynes, a single mother with two small children, earns $25,000 a year, well below the $37,550 income threshold Yale-New Haven sets for a household of three to qualify for free bed funds. "I never heard of free care," she said. "Right now I'm scrounging every penny just to make it. Yale doesn't want to hear it. They just want their money."

Renee Trotman

In 1996, when Renee Trotman was working at Yale University on a "casual" basis without benefits and her only health insurance was Medicaid, she went to Yale-New Haven Hospital and learned that a procedure she needed wouldn't be covered. A Hospital staff person helped her fill out a form for what Ms. Trotman remembers as Yale-New Haven's "hardship program." Ms. Trotman went in for the procedure, and remembers never hearing from the Hospital's billing office again. "All I know is I did everything right and I never heard anything. So I assumed everything was fine."

In 1997, without Ms. Trotman's knowledge, Yale-New Haven filed a lawsuit against her for $6,500, plus interest and court costs, for the bills she thought had been taken care of. The court records show that a summons was left at her residence, but Ms. Trotman says she never received it. "We were sharing a mailbox with the folks on the first floor," she said, and the papers were probably misplaced. Yale-New Haven won a default judgment against her for $7,600 (including retroactive interest and court costs).

The years passed, and Ms. Trotman never found out about the judgment until August 2002, when she suddenly found 25% of her Yale University paycheck missing due to a wage garnishment. By this time, ironically, Ms. Trotman was working as a full-time account assistant for the Yale School of Medicine's own medical services billing department. Her job is to make sure that insurance companies are billed correctly. "That's why I know there should've been steps to get in touch with me."

"I was doing pretty good on my utility bills, but now I'm behind again."

Ms. Trotman appealed to the court to have the garnishment lowered to $25 a week: "Did not know about outstanding bill or judgment. Hospital has purged records and is unable to tell me why insurance at the time did not pay bill." Due to the 10% interest that has accrued for nearly six years, she now owes over $11,000. "I'm still catching up now," she said of the surprise wage deductions. Ms. Trotman is a single mother with two children, a 2 year old baby and a 7 year old. "It threw me off on the balance for day care, and I was doing pretty good on my utility bills, but now I'm behind again."

Velma Williams

On Halloween night, 1997, Velma Williams's step-son was shot and taken to Yale-New Haven Hospital for emergency treatment. Although Ms. Williams had health insurance through her clerical job at Yale University, the child was uninsured, and his father, Mr. Greene, was billed for the $6,000 in hospital charges. Soon after, Ms. Williams divorced Mr. Greene, who moved to in South Carolina. "I still received some of his mail, including the Yale Hospital bills, and I would forward them to him," Ms. Williams said.

In 1998, Yale-New Haven sued Mr. Greene for the bills and won a default judgment. About a month later, without Ms. Williams's knowledge, Yale-New Haven placed a lien on the house Ms. Williams had won in the divorce settlement. "I found out about the lien when I went to refinance my mortgage," Ms. Williams explained. When she tried to convince Yale-New Haven's attorneys that she was not responsible for the hospital bills and the lien should be removed, "They told me I couldn't contest the lien because my name wasn't on the lawsuit."

In early 1999, Yale-New Haven filed a foreclosure suit against Mr. Greene, won a default judgment, and began preparations to auction Ms. Williams's home. Charging $175 per hour, Yale-New Haven's attorneys at Tobin & Melien began to rack up over $2,500 in legal fees that were added onto the outstanding debt (including $35 for a 12-minute phone call to Ms. Williams). Another $550 was added for appraisal costs.

In 2000, a couple of weeks before the auction date of May 27, Yale-New Haven's foreclosure committee placed a foreclosure sign in front of Ms. Williams's house. Desperate, Ms. Williams removed the sign and contacted Yale-New Haven's attorneys, and in order to save her home, signed a contract agreeing to make a $10,342 lump-sum payment toward the total debt of $13,634 (the original $6,000, plus accrued interest and the foreclosure costs). She agreed to pay off the remainder in $250 per month installments (later lowered to $125). The contract states that the former judgment lien (which was in Mr. Greene's name) was to be replaced by a new one for the unpaid balance (this time, in Ms. Williams's name). The contract also states that Yale-New Haven retains the right to foreclose if Ms. Williams does not make the payments as agreed.

Ms. Williams made the lump-sum payment by refinancing her home, bringing her mortgage rate up to 12%. "Now I pay $1,200 a month for the mortgage and it only pays the interest." Due to the lien and her ruined credit, she can't find a bank that will agree to a second refinancing that would lower this payment. "I try to make the monthly payment to Yale whenever I can, but sometimes I just can't make ends meet, because of the mortgage."

Martha Green (pseudonym)*

Martha Green was uninsured and unemployed when she went to Yale-New Haven Hospital for her delivery in the late 1990s. According to court documents, she "filled out paper work at the hospital before my discharge by hosp. personnel. They advised that they would take care and assisted with payment."

Yale-New Haven received just $1,900 to apply toward Ms. Green's $6,554 debt. Ms. Green lost her home.

However, Yale-New Haven sued and received a judgment against her for $6,554, and in 2000, sued to foreclose on her West Haven home, winning a default judgment against her. Her home was appraised at $30,000, advertised in local papers, and put up for auction in 2001. The highest bidder paid $6,000. The court records show that three months after the auction, Ms. Green returned from abroad and learned of the foreclosure. She attempted to reopen the case, but the sale had already been finalized.

Ms. Green was held responsible for all costs of the foreclosure of her own home, including the cost of advertising the auction in local papers ($454), liability insurance ($250), appraisal fees ($350), and legal fees ($3,000 at $150/hr). After the over $4,000 in foreclosure costs, Yale-New Haven received just $1,900 to apply toward Ms. Green's $6,554 debt. Ms. Green lost her home.

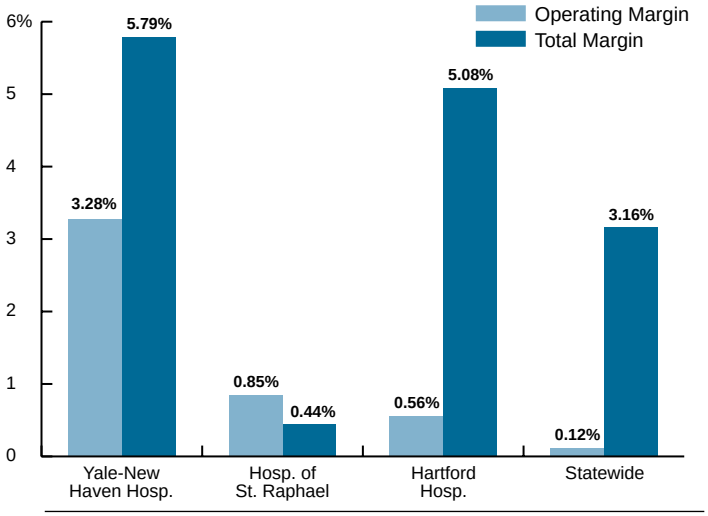
*This account is based solely on court records.

PART II: OBSERVATIONS AND ANALYSIS

Defining "uncompensated care" at Yale-New Haven Hospital

Yale-New Haven Hospital is Yale University's primary teaching hospital and the flagship of the Yale-New Haven Health System, the dominant healthcare provider in southern Connecticut. At 944 beds, Yale-New Haven is the state's largest hospital, as well as one of the most prosperous. The 2002 Annual Report of the Connecticut Office of Health Care Access (OHCA) lists Yale-New Haven among the "Financially Strong" hospitals in the state, and presents Fiscal Year[2] 2000 data showing that Yale-New Haven performed far above the state average, as well as above its closest peers, Hartford Hospital and the Hospital of Saint Raphael, in both operating and total profit margins (excess revenue as percent of all revenue).[3] (See graph.)

Total and Operating Profit Margins, Fiscal Year 2000



Source: Office of Health Care Access
http://www.ohca.state.ct.us/HealthData/hospital_specific.htm

A state with no public general hospitals, Connecticut relies heavily on Yale-New Haven and its other 29 non-profit hospitals to fill the role of "safety-net" healthcare providers. To comply with federal law, Yale-New Haven must screen and stabilize all emergency patients regardless of ability to pay.[4] The Hospital also has a policy of waiving charges to "self-pay" patients who fall below certain income guidelines, stating in its Credit and Collections Policy: "Yale-New Haven Health System recognizes its responsibility to those patients that meet the specific criteria and are unable to pay for services rendered."[5] Yale-New Haven has two free care programs:

- "**The Yale-New Haven Fund**," a general, internally-funded free care program, for patients with income below 1.5 times the federal poverty line;
- "**Free bed funds**," funded by income from donor-restricted funds, available for patients with income below 2.5 times the federal poverty line.

To be eligible for either program, patients must furnish proof of rejection from all public assistance (such as Medicaid and HUSKY).

Yale-New Haven takes credit for providing a large amount of "uncompensated care" in New Haven, an urban community with the health needs and access problems that accompany poverty.[6] For instance, in its Fiscal Year 2001 Form 990, submitted to the IRS for tax exemption purposes, Yale-New Haven stated:

> Yale-New Haven Hospital is the largest provider of institutionally-based health care to the so-called medically indigent in the New Haven area, providing **$65.9 million in free and undercompensated care** in fiscal year 2001.[7]

This $66 million claim is comprised of the following:

- **"Medicaid shortfall," $33 million:** the difference between what the government sets as Medicaid reimbursement rates, and what Yale-New Haven claims as its expense for services to Medicaid patients;
- **"Free care" (also called "charity care"), $3 million:** services for which payment was never anticipated due to the patient's successful application to Yale-New Haven's free care program or free bed funds;

- **"Bad debt," $30 million:** in Yale-New Haven's case, unpaid accounts which were billed for a maximum of 90 to 120 days and then transferred to professional collectors (attorneys or an agency).

It is also important to recognize that the value of Yale-New Haven's free care and bad debt are reported at "charge," or the Hospital's list price, and not at the actual cost of the services (see box on "discriminatory pricing"). According to its reported costs, Yale-New Haven provided $1.5 million worth of free care in FY2001 (before subsidies received as reimbursement for free care).[8]

Yale-New Haven's charity care policy distinguishes between "bad debt" and "charity care" as follows:

> **Bad debts** result from a patient's unwillingness to pay their healthcare bills, whereas **charity care** is recognized by a patient's demonstrated inability to pay. ...It is necessary to differentiate charity care from bad debts because charity care consumes resources that must be managed wisely. Charity care is also an important indicator of charitable purpose for non-profit organizations.[9]

In spite of Yale-New Haven's policy, there are patients and families of patients unable to pay who are stuck with bills the Hospital has categorized as "bad debt," and who are subject to aggressive collections efforts. Many of these patients, even after informing Yale-New Haven and its collectors of their limited ability to pay, were either not informed of or otherwise did not access the Hospital's free care programs.

Discriminatory pricing: "charging" the uninsured

Although already disadvantaged compared to insured patients, patients without insurance or who can't receive insurance coverage for a particular hospital procedure face higher prices than most patients with insurance coverage. Like other hospitals, Yale-New Haven negotiates contracts with commercial insurers that provide large discounts off the "charge," or the list price of its services and supplies. Yale-New Haven's discounts to major insurers range from 30% up to 47%. Government insurance programs such as Medicaid and Medicare reimburse according to fixed cost guidelines, also well below charge. The only category of patients that must always pay the full charge are the uninsured—precisely those who can afford it the least. When uninsured patients pay their entire bills, the Hospital receives significantly more money that it would for the same services provided to a comparable insured patient.[10]

In 2000, a West Haven resident who was uninsured when admitted to Yale-New Haven, and who became the brunt of a collections suit for $4,000 in Hospital bills, filed a counterclaim against the Hospital alleging that the rates she was charged were "higher than those rates charged to patients treated at Yale who are afforded healthcare insurance." (The suit is still pending.) [11]

Yale-New Haven's collections on "bad debt"

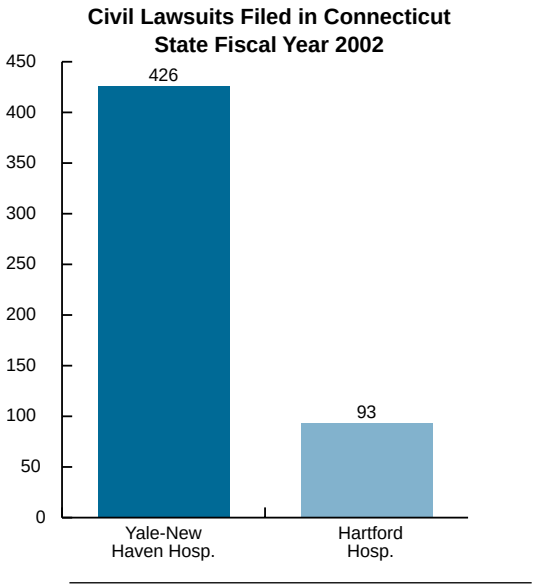
Yale-New Haven does not simply write off and abandon what it reports as "bad debts." After a maximum of 120 days, any unpaid amount that the Hospital has billed to an individual (a "self-pay" balance) is turned over to either a collections agency or collections attorneys, with few exceptions.[12] Once turned over, the unpaid balance is tallied in the Hospital's "bad debt" account for that fiscal year.[13] However, Yale-New Haven's professional collectors may continue pursue "bad debt" patients and their families for years, even decades.

Collections lawsuits

In Fiscal Year 2000, Yale-New Haven's two highest paid independent contractors were professional collectors: the New Haven-based collections law firm Tobin & Melien at $1.7 million, and Century Collection Agency in North Haven at $1.2 million. Yale-New Haven's fees to Tobin & Melien increased in FY2001 to $2.1 million.[14] The Hospital's policy states that the accounts it or its collections agencies turn over to attorneys "are usually accounts of patients who have jobs or assets such as a house or investments that indicate that there is an ability, but an unwillingness, to pay the bill."[15]

In State Fiscal Year 2002, Yale-New Haven was lead plaintiff in a total of 426 civil lawsuits in Connecticut (99% of which are estimated to be collections or foreclosure lawsuits against individuals[16]). By comparison, Hartford Hospital, an urban hospital just 10% smaller than Yale-New Haven,[17] was lead plaintiff in 93 civil suits during that year.[18] Yale-New Haven files many more small claims lawsuits each year (for sums less than $3,500), filing an estimated 2,000 in New Haven County alone during 2002.[19]

In 2001, Yale-New Haven won the vast majority of its collections lawsuits by default, either due to the defendant's failure to appear in court (66%) or the defendant's failure to plead an answer to the Hospital's charges (20%). That year, only 9% of Yale-New Haven's debtors were represented by attorneys; 21% were "pro-se," or self-representing, and 70% never filed an appearance with the court.[20]



Source: Connecticut Court Operations, Caseflow Statistics.

According to interviews with debtors and local attorneys, there are many reasons why debtors don't file appearances, including: fear and feelings of guilt, in spite of inability to pay; limited knowledge of the legal system; no resources to hire an attorney; and simple ignorance of the lawsuit.[21] It was a repeating theme throughout the court records reviewed[22] and interviews that debtors had never received court summonses or other legal notices because the documents had been served to the wrong address, misplaced or lost.[23] Also observed were cases of debtors being sued for a spouse or relative's bill who didn't believe they were liable.[24] Finally, bills and court notices are in English only, presenting a serious barrier for debtors who have limited or no knowledge of English.

When Yale-New Haven wins a judgment (by default or otherwise), the judge typically issues an order for weekly payments on the judgment amount (recent orders are for $35 a week). The judgment amount also includes significant add-ons to the outstanding medical charges:

- **Court costs.** Judgment debtors can be liable for roughly $30 in costs per small claims case, over $200 per civil case, and $1,000 per foreclosure case.
- **Legal fees.** Yale-New Haven may be entitled to legal fees if the debtor signed a financial liability statement upon admission to the Hospital. In civil cases, this can add $400-$700 to the judgment amount. In foreclosure cases, Yale-New Haven is entitled under state law to collect all legal fees associated with the foreclosure process, which can add $2,000-$3,000. (The Hospital's collections attorneys, Tobin & Melien, charge $175 per hour.)
- **Interest.** Under Connecticut law, creditors are entitled to 10% interest (compounding annually) on judgment amounts, from the judgment date until the amount is paid in full. Yale-New Haven also generally requests and is granted discretionary 10% interest retroactive to the date of discharge from the Hospital.[25]

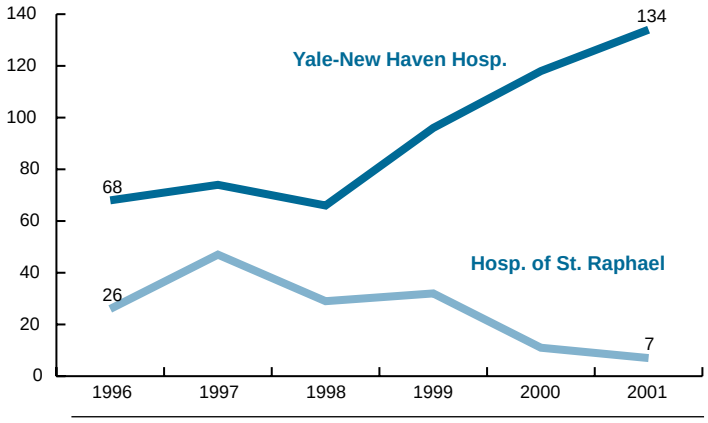
Interest proves to be an extremely harmful add-on. Depending on the size of the judgment amount, interest will at times accrue more rapidly than the court-ordered weekly payments or voluntary post-judgment agreements struck between debtors and Yale-New Haven's attorneys. This results in an ever-increasing burden of debt that leaves debtors subject to never-ending financial hardship, and which can be eliminated only through bankruptcy.

Post-judgment collections actions

Yale-New Haven's debtors are often unaware of judgments and court-ordered payment schedules, or may have scarce means available to meet the payments every week. However, when judgment debtors miss payments, creditors are entitled to use more aggressive collections measures. Yale-New Haven engages in the following tactics:

- **Wage garnishment.** Yale-New Haven orders the debtor's employer to deduct 25% from weekly take-home earnings.[26] The debtor has the right to plead for a modification of the garnishment (see excerpts from court records, page 2).[27] Judges will sometimes comply, but at times the garnishment is lowered to a weekly amount below what is needed to pay down accruing interest, binding the debtor to interminable garnishments.
- **Bank executions.** Yale-New Haven seizes entire bank accounts, up to the satisfaction of the outstanding judgment amount plus the costs of bank execution ($30-$70 for marshal costs and bank fees). The Hospital drains accounts of a range of sizes, from hundreds to thousands of dollars, forcing debtors to relinquish all savings.[28]
- **Property liens.** Yale-New Haven places liens on debtors' homes for judgment amounts ranging from hundreds to thousands of dollars. In 2001, The Hospital filed 134 new property liens in the city of New Haven (not including outstanding liens from prior years), almost 20 times more than those filed by New Haven's other hospital, St. Raphael. Yale-New Haven has grown increasingly aggressive at attaching property in New Haven in recent years (see graph).[29]

Lien Actions in the City of New Haven, 1996-2001



Source: City of New Haven Land Records

In some cases, a wage execution or property lien appeared within a couple of months after the payment order; in others, it took years, regardless of whether payments had been made. A factor clearly affecting this is what information Yale-New Haven has about the debtor's employment, bank accounts or property.[30] The Hospital at times demands post-judgment "debtor examination" hearings, where the debtor is ordered to bring in relevant information that could be used to establish place of employment, income, home ownership, and the existence of bank accounts or other assets.

Foreclosure

Yale-New Haven must file and win a separate lawsuit in order to foreclose. As in civil suits, default and summary judgments were observed in the Hospital's foreclosure suits. It is unclear what circumstances drive the Hospital to foreclose, but it is logical that cost effectiveness would play a significant role. However, in one case where Yale-New Haven successfully foreclosed, the auction only produced a $6,000 bid on a home appraised at $30,000, and since foreclosure costs and legal fees totaled over $4,000, the Hospital retrieved less than $2,000 to apply toward the original judgment debt of $6,500.

Of the foreclosure cases reviewed, many debtors declared bankruptcy in order to protect their homes. Some debtors also made lump-sum settlements or agreed to stringent payment plans in order to fend off foreclosure. Those settlements included thousands of dollars in legal fees and costs that had accrued since the foreclosure judgment.

A local bankruptcy attorney, Brian Kaligian, said in an interview that in his experi-

"Never does this provider take into account ability to pay."

ence Yale-New Haven's collections practices were the most aggressive of any hospital in the state: "Never does this provider take into account ability to pay."[31] Although Mr. Kaligian has helped a number of debtors declare bankruptcy in order to protect their homes from Yale-New Haven's attempts at foreclosure, he had never heard of "charity care" or "free care" programs at the Hospital.

Inability to pay

As can be seen in the individual stories featured in this report, and as demonstrated throughout the court records, there are numerous patients unable to pay their hospital bills who have slipped through Yale-New Haven's "safety-net," in spite of the Hospital's policy to provide free care to those unable to pay. There was clear evidence that some "bad debtors" were below Yale-New Haven's own free care income guidelines. For example, in an appeal submitted to the court in 2001 to lower a 25% wage garnishment, one debtor wrote:

> I make 2 weeks [/] 975.00 before taxes and health insurance is taken out of my check. I have 4 children and rent and bills to pay. After paying taxes and health insurance and the court ordered amount of 231.80 I barely make 500.00 for two weeks. I am going to loose my place of residence and my utilities. Please reconsider.

Based on this information, and assuming there were no other wage earners in the household, the debtor's annual income before taxes was $25,350. In 2001, the federal poverty line for a household of five was $20,670; Yale-New Haven's income criteria for free care eligibility was below $31,005 (1.5 times poverty) for general free care, and $51,675 (2.5 times poverty) for free bed funds.

Yale-New Haven 2002 Free Care Income Guidelines

Family Size	General Free Care	Free Bed Funds
1	$13,290	$22,150
2	$17,910	$29,850
3	$22,530	$37,550
4	$27,150	$45,250
5	$31,770	$52,950
6	$36,390	$60,650
7	$41,010	$68,350
8	$45,630	$76,050

Yale-New Haven's free care enrollment process requires proof of rejection from available public assistance such as Medicaid. Some interviewed debtors said they had applied for and been denied public assistance, or qualified for aid that would not cover a Yale-New Haven charge. One interviewee followed the Hospital's instructions and applied for public assistance after his discharge. Although unemployed, he was rejected, twice, but was still stuck with a $10,000 debt. Another interviewee successfully enrolled in Medicaid after her Hospital stay, but too late to receive retroactive coverage for her $3,000 in charges.

Consequences of aggressive collections

For patients who already have a low or moderate income, have other significant financial obligations, or are unable to work due to a medical problem, Yale-New Haven's collections practices can cause increased financial hardship. The Hospital's "bad debtors" face damaged credit records, difficulties with home ownership, eliminated savings, diminished weekly earnings, insurmountable debts, and bankruptcies. Furthermore, the aggressive collections process causes significant stress for debtors who already might be facing poverty and medical problems. Interviewees expressed concern that opportunities for education or homeownership would be limited by their financial hardship, the specter of liens, or ruined credit records. Some lived in fear that Yale-New Haven's lawyers or collectors would find out about their current employment or residence, enabling the Hospital to garnish wages or engage in repeated phone calls.

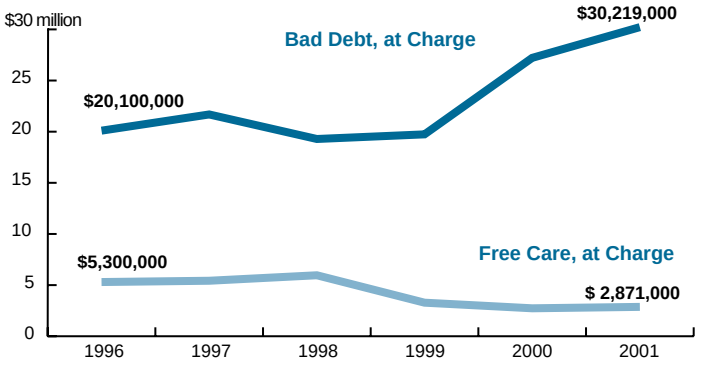
Yale-New Haven's provision of charity care and collections practices may have a disproportionate impact on minorities in New Haven. According to the Kaiser Family

Foundation, more than one-third of all Latinos in the United States are uninsured, and Latinos are 2.5 times more likely than non-Latino whites to be uninsured.[32] Close to one-fourth of all African Americans in the country are uninsured, compared to 11% of whites. This means Latinos and African Americans are more susceptible to acquiring hospital debts, and are likely to be in greater need of free and subsidized care at Yale-New Haven. New Haven's population of 123,600 is over 21% Latino and 37% African American.[33]

Free care and bad debt trends and comparisons

The unpaid charges Yale-New Haven categorized as "bad debt" have risen significantly in recent years, even as the charges deemed "free care" have gone down. Yale-New Haven's bad debt charges were $30.2 million in Fiscal Year 2001, up 50% from 1996, while its free care charges were $2.9 million, down 46% from 1996.[34] If Yale-New Haven is adhering to its own charity care definitions, this trend would imply that each year, more and more patients are "able" but "unwilling" to pay their hospital bills. However, during these years, the Hospital's charges increased, and the financial strain on healthcare consumers rose as insurers and employers transferred rising healthcare costs on to working families.[35]

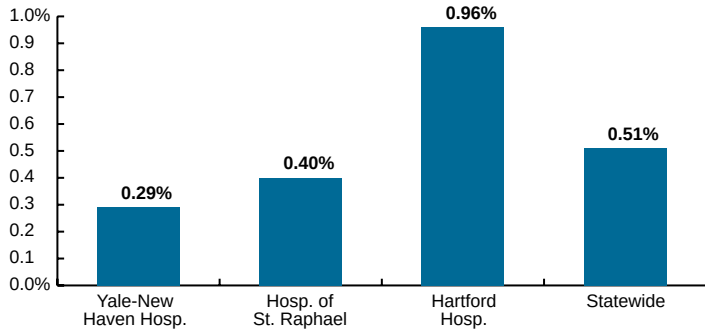
Yale-New Haven Free Care and Bad Debt Charges FY1996-2001



Source: Yale-New Haven Hospital's annual financial filings with the Connecticut Office of Health Care Access.

Patients at Yale-New Haven are less likely than those at other Connecticut hospitals to receive free care. In 2001, Yale-New Haven's free care charges comprised only 0.29% of its total charges for patient services, 43% below the state average of 0.51%. Yale-New Haven also compares unfavorably to its closest peers, Hartford Hospital and the Hospital of St. Raphael (see graph).[36]

Free Care Charges as Percent of Hospital Charges Fiscal Year 2001



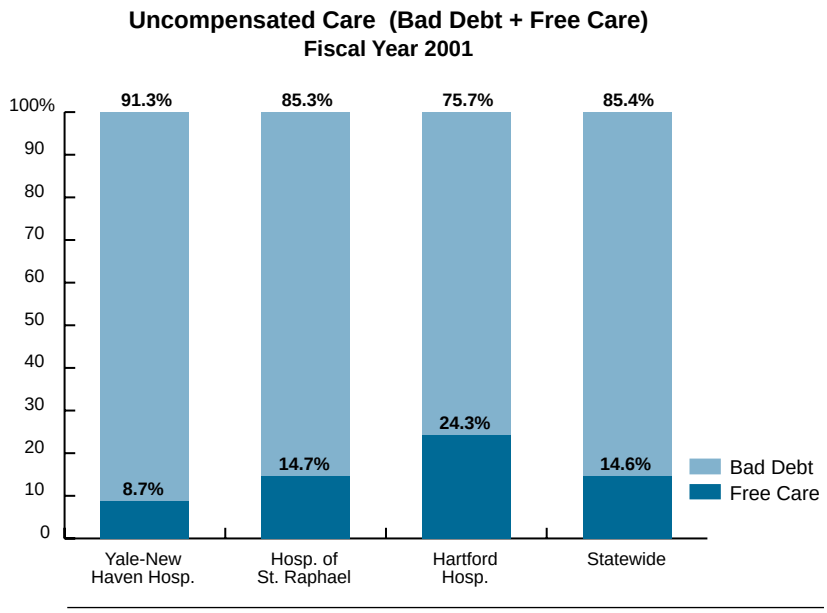
Source: Hospital financial filings with the Connecticut Office of Health Care Access.

In 2001, Yale-New Haven had more uncompensated care (here defined as free care plus bad debt) than its peers Hartford Hospital and St. Raphael: Yale-New Haven reported $33.1 million, St. Raphael $15.6 million, and Hartford $26.3 million in charges. However, Yale-New Haven's free care was just 8.7% of its uncompensated care compared to the state average of 14.6%, St. Raphael at 14.7%, and Hartford at 24.3%. This suggests that Yale-New Haven is not making the effort to qualify patients for free care that other hospitals make.

Safety-net hospitals' resources for charity care

There are numerous public subsidies and incentives that obligate safety-net hospitals to serve the poor, theoretically ensuring that free hospital care will be available to those in need. Major resources available to Yale-New Haven for free care include:

- **Tax exemption.** Yale-New Haven is a non-profit hospital, exempt from most taxes due to the assumption that it meets a vaguely defined "community benefit stan-



Source: Hospital financial filings with the Connecticut Office of Health Care Access.

dard." The IRS has recently grown somewhat more critical of non-profit hospitals, and recently wrote in a Field Service memo that "[a hospital] must demonstrate that its charity care policies actually yield significant health care services to the indigent to qualify for exemption."[37] Yale-New Haven also enjoys lower borrowing costs as a nonprofit whose debt is generally exempt from federal taxation.

- **Disproportionate Share Hospital (DSH) payments.** Yale-New Haven receives both Medicare and Medicaid "DSH" payments, which are intended to support hospitals that serve a disproportionate share of the poor and uninsured. Medicare DSH is disbursed as a percent add-on to Medicare reimbursement rates. In 2001, Yale-New Haven received approximately $5.1 million from its Medicare DSH add-on.[38] Medicaid DSH proves even more valuable (see below).
- **Free bed funds.** Some fortunate hospitals, including Yale-New Haven, are trustees for endowments specified by donors to be used only for free care, called "free bed funds" (see below).
- **Graduate Medical Education (GME) funding.** Teaching hospitals are more likely than non-teaching hospitals to be "safety-net" hospitals.[39] The federal and state funding teaching hospitals receive as reimbursement for medical education supports their safety-net status.[40] Yale-New Haven received $32.5 million in GME funding in Fiscal Year 1999, 21% of the state total.[41]

While Yale-New Haven has provided less and less free care in recent years, it has grown increasingly successful at netting subsidies intended to expand access to free care, particularly Medicaid DSH and free bed funds.

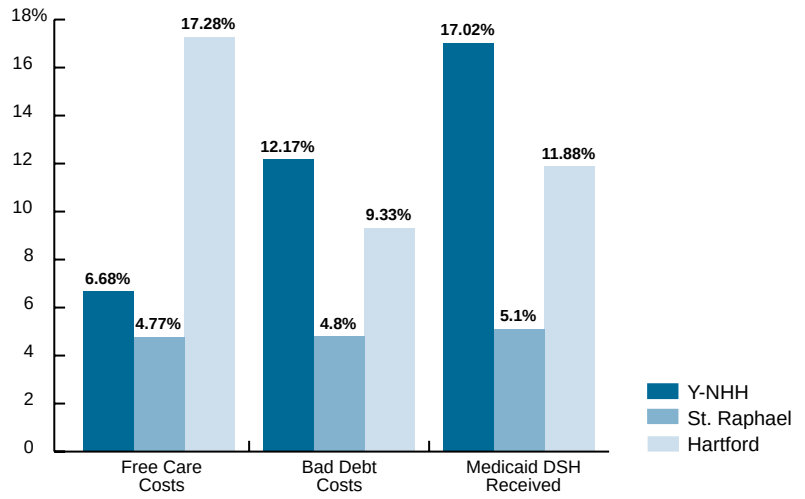
Connecticut's Uncompensated Care Pool/Medicaid DSH

In the early 1990s Connecticut began to participate in a Federal matching-fund program to provide Medicaid DSH reimbursements for "uncompensated care." The method of Medicaid DSH disbursement varies state-to-state. Connecticut finances its DSH program primarily by allotting funds to the Uncompensated Care Pool (UCP), which receives a 50% match from federal Medicaid funds. Hospitals are reimbursed from the pool in proportion to their total "uncompensated care" relative to the statewide total.

Like the financing structure of Medicaid DSH programs, the definition of "uncompensated care" also varies state-to-state. Connecticut's principal disbursement formula recognizes and gives equal weight to free care, bad debt and Medicaid shortfall. (Some states do not recognize bad debt for reimbursement, or recognize it only conditionally.[42])

Connecticut hospitals have little incentive to identify patients eligible for free care, since bad debt and Medicaid shortfall receive the same rate of reimbursement as free

Free Care, Bad Debt and Medicaid DSH, as Share of State Totals, Fiscal Year 2001



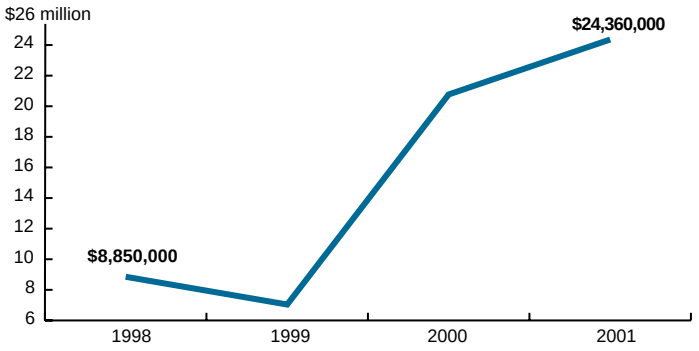
Source: Hospital annual filings with the Office of Health Care Access; Connecticut Department of Social Services 2001 Annual Report to the Center for Medicare and Medicaid Services (see endnote 43).

care. In 2001, while Yale-New Haven provided less than 7% of Connecticut's hospital free care, and reported 12% of the state's bad debt, it received 17% of the Medicaid DSH payments, more than any other hospital in the state. Hartford Hospital, on the other hand, received no special recognition for providing a disproportionate share of free care: Hartford provided 17% of the state's free care, reported 9% of the bad debt, and received 12% of the Medicaid DSH (see graph).[43]

Originally, a tax on hospital revenues was used to produce revenue for the UCP, redistributing resources to those hospitals with larger burdens of "uncompensated care." The DSH tax has been gradually reduced in recent years and was temporarily suspended in State Fiscal Years 2001-2003, leading the state to shrink its allotment to the UCP (and lose out on roughly $50 million per year in federal matching DSH funds). Primarily as a result of the tax relief and changes to the DSH program that provide additional payments to urban hospitals, Yale-New Haven's net Medicaid DSH subsidies (after taxes) have nearly tripled in the past four years, going from $8.9 million to $24.4 million,[44] even as the Hospital's free care offerings have steadily diminished.

It shocked many debtors interviewed for this study to learn that Yale-New Haven has $37 million worth of "free bed funds."

Net Medicaid DSH/Uncompensated Care Pool Payments to Yale-New Haven Hospital



Source: Connecticut Department of Social Services 1998-2001 Annual Reports to the Center for Medicare and Medicaid Services; Schedule UCT to Yale-New Haven's annual filings with the Connecticut Office of Health Care Access. Amount paid in taxes to Connecticut is deducted from total Medicaid DSH received (see endnote 44).

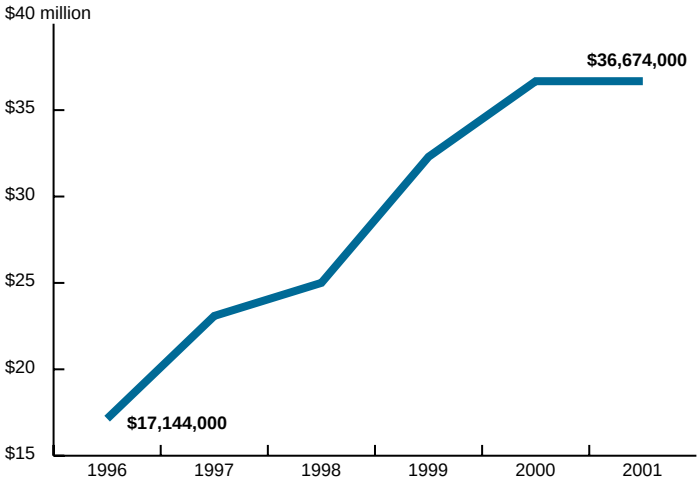
Yale-New Haven's Free Bed Funds

Adding to its extensive government subsidies, Yale-New Haven has substantial resources set aside by philanthropists for free care. It shocked many debtors interviewed for this study to learn that Yale-New Haven has $37 million worth of "free bed funds," the income from which can be used only for free care.[45]

Yale-New Haven's free bed funds were created by over 110 donor contributions, some dating back to the Hospital's first decades. Some of the funds have "double restrictions," meaning the donor specified that first priority for charity care be given to patients who are members of certain organizations, churches or demographic groups. The majority of the funds are intended for *any* needy patients unable to pay their bills.

Yale-New Haven invests the free bed funds with the rest of its endowment, keeping track of earnings attributed to the funds. From 1996-2000 (the years for which full data is available), the Hospital's free bed funds saw 21% annualized returns on invest-

Yale-New Haven's Free Bed Fund Endowment
(Fair Market Value)



Source: Connecticut Attorney General Office 2001 survey of hospital free bed funds; 2001 data from Attachment 23 to Yale-New Haven's 2001 annual filing with the Connecticut Office of Health Care Access.

ment. At the same time, the Hospital's average spending on the funds' fair market value was 1.7%.[46] During these years, the funds saw income of $10.4 million (realized gains and interest earnings) and additional appreciation of $11.3 million (unrealized gains). Yale-New Haven spent just $2.2 million of these earnings, only 20% of income and 11% of all returns. Since most earnings were reinvested, the free bed fund endowment more than doubled across five years (see graph).

Connecticut free bed funds are governed by state laws enacted in 1991 after the Attorney General's Charities Division found that hospitals were widely abusing their funds.[47] In addition to making all earnings on the funds (over what is needed to maintain the earning power of the principal) available to patients in need, hospitals must post signs in all admitting areas advertising the funds,[48] and offer a descriptive summary to patients on how to apply for free bed funds. Connecticut law states:

> If during the admission process or during its review of the financial resources of the patient, the hospital reasonably believes the patient will have limited funds to pay for any portion of the patient's hospitalization not covered by insurance, the hospital shall provide the summary [on applying for free bed funds] to each such patient. (Connecticut General Statutes Sec. 19a-509b)

In a 1990 report, the Attorney General's Charities Division criticized excessive accumulation of free bed fund earnings as a potential demonstration of unmet fiduciary obligation.[49] Among a small number of hospitals including Yale-New Haven, the study noted "patterns of extraordinary appreciation in the reported fair market value of some funds. This increase may be due to growth, or to excessive accumulation and reinvestment of income rather than actual use for the provision of free care." The report argued that "*while a trustee may properly accumulate income if it has made best efforts to find beneficiaries and has not been successful, application of that principle of trust management only comes into play when the trustee has, in fact, fulfilled its obligation to reach out to the public and search for qualified beneficiaries.*"

Yale-New Haven receives very few applications for free bed funds, reporting an average of 55 per year.

Yale-New Haven receives very few applications for free bed funds, reporting an average of 55 per year from 1996-2000. (By comparison, in 2000, the Hospital discharged 1,600 uninsured patients.[50]) The approval rate on these applications was 99%. In addition to Yale-New Haven's rising bad debt levels, shrinking free care offerings, and the ignorance among interviewed debtors about free care (let alone free bed funds), the low application rate suggests that the free bed funds are being underspent not because of limited demand, but because few patients are learning of the existence of the funds.

Free bed fund expenditures are distinct from Yale-New Haven's general free care program, the Yale-New Haven Fund, which is paid for by the Hospital's general funds. (State law requires that free bed funds be distinguished from and accounted for separately from other hospital free care.) From 1996-2000 Yale-New Haven used 41% of its free bed fund expenditures to subsidize its general free care program.[51]

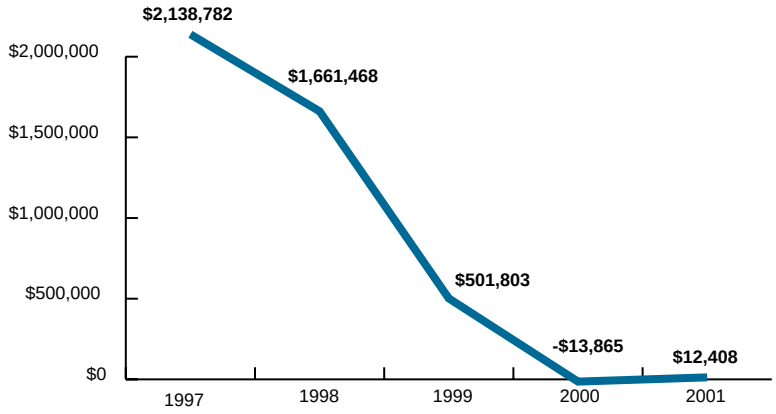
Although spending from free bed funds comprised an average of 10% of Yale-New Haven's total free care allowances from 1996-2000, Yale-New Haven does not deduct

this subsidy from the amount of free care it reports to the state for its DSH reimbursements.[52] In other words, Yale-New Haven receives state reimbursements for services that have been completely paid for, at full "charge," by funds that can be used for no other purpose than free care—a special advantage over hospitals without significant free bed funds. Yale-New Haven is one of 31 Connecticut hospitals, but holds 31% of all free bed funds in the state.[53]

Estimating the true cost of Yale-New Haven's free care

Yale-New Haven reported $2.9 million in free care charges in Fiscal Year 2001. Based on the Hospital's average $0.53 in expense per dollar of charge, the cost of this free care was approximately $1.5 million[54]—before reimbursements and subsidies. Free bed funds contributed $680,000 toward free care in FY2001, and after DSH-related taxes, the estimated Medicaid DSH reimbursement attributable to free care for FY2001 is $836,900.[55] After these deductions, without considering the value of tax exemptions, GME payments or Medicare DSH, the estimated out-of-pocket cost of free care to Yale-New Haven in FY2001 was a negligible $12,400.

Yale-New Haven Hospital, Net Cost of Free Care
(after net Medicaid DSH for Free Care and Free Bed Fund Spending)



Source: Annual filings with the Office of Health Care Access; DSS Annual Report to the Center for Medicare and Medicaid Services; Attorney General 2001 survey of hospital free bed funds. Calculations assume Yale-New Haven will receive the same level of net Medicaid DSH reimbursements (after taxes) in 2002 and 2003 as in 2001 (see endnote 55).

Based on this analysis, the cost of free care to Yale-New Haven has gone down by 99.4% since 1997, mostly due to the Hospital's shrinking free care offerings and the jump in its net Medicaid DSH (see graph). Ironically, the cost of free care *before* subsidies, $1.5 million, was less than the $2.1 million in fees Yale-New Haven paid that year to its principal collections law firm, Tobin & Melien.

Holes in Yale-New Haven's safety-net

There are a number of identifiable shortcomings in Yale-New Haven's current practices and policy that may currently restrict access to free care for individuals in need.

Insufficient communication and follow-up about free care

Out of 20 debtors interviewed in this study, most said they were unaware that Yale-New Haven has a "free care" or "charity care" program, and did not remember ever being informed of such a program. One interviewee said that she explicitly asked about charity care, and was told there was no such assistance. A lack of communication about free care after the accounts had become "bad debt" was especially evident, since the Hospital's professional collectors had access to the most detailed information about the debtor's income, assets and mitigating circumstances. Multiple interviewees recalled being told by Yale-New Haven's attorneys that their ability to pay was irrelevant. As mentioned above, there was clear information on file that some targets of wage garnishments and bank executions had income that met eligibility criteria for free care.

Of the two interviewees that did know about free care, one received free care once

Yale-New Haven Hospital, by the Numbers (Fiscal Year 2001)	
Estimated cost of free care, before subsidies:	$1,530,000
Estimated cost of free care, after subsidies:	$12,000
Fees paid to Tobin & Melien (collections law firm)[56]:	$2,111,000
Advertising expenses[57]:	$831,000
Chief Executive Officer's compensation[58]:	$976,000
Compensation of top ten officers[59]:	$4,936,000
Total hospital profits[60]:	$19,500,000
Transfers to parent corporation[61]:	$20,011,000

but did not know whether or how he could receive free care again; the other had applied for free care, thought she had been accepted, but years later found out she owed a substantial debt.

Finally, since Yale-New Haven requires free care applicants to furnish proof of rejection from all public assistance programs, careful and timely follow-up with public assistance applications is needed.

No free care for Yale University charges

Although patients admitted to Yale-New Haven Hospital are billed for both hospital services and Yale School of Medicine physician services, the Hospital's free care programs only cover unpaid Hospital balances. Yale University has resources that far exceed those of the Hospital, but does not appear to offer free care. Although on a smaller scale, the Yale School of Medicine and Yale Diagnostic Radiology use Tobin & Melien, the same collections law firm as the Hospital, to sue patients for "bad debt" and engage in collections tactics such as liens on homes.

Overly restrictive income guidelines

Yale-New Haven's current income criteria for free care eligibility (1.5 times the federal poverty line for general free care, and 2.5 times poverty for free bed funds) may be overly restrictive, particularly when it comes to large hospital charges, driving uninsured or underinsured patients with moderate incomes into debt. In Connecticut, 36% of the non-elderly uninsured have household income above 2 times the federal poverty line[62]; it is likely that this proportion is higher among the underinsured. Some interviewed debtors had household income above 2.5 times poverty, but had major financial demands such as high mortgage payments and newborns. Such households would benefit from more generous income criteria, a sliding scale and flexible payment plans.

The Yale School of Medicine and Yale Diagnostic Radiology use the same collections law firm as the Hospital and engage in tactics such as liens on homes.

English only

Yale-New Haven's billing and collections practices may present special difficulties for immigrants with limited or no knowledge of English. Interpreters are available at the Hospital, but billing inquiries, collections letters and legal notices are sent in English. Lack of knowledge and understanding of the legal process due to this language barrier may increase the likelihood of default judgments against non-English speakers. Non-English speakers may also be deprived of other rights, especially in circumstances of wage garnishments and bank executions. For example, if unable to read the notification of wage garnishment, a non-English-speaking debtor may not be aware that he or she is entitled to appealing to the court for a lower garnishment due to economic hardship.

Undocumented immigrants may face difficulties beyond language barriers in qualifying for Yale-New Haven's free care programs. Since many work "under the table," they may not have the proof of income the Hospital requires to establish eligibility, and may experience fear or problems from the scrutiny required in order to receive the proof of rejection from public assistance. (Undocumented immigrants are not eligible for Medicaid or other public insurance programs in Connecticut.)

Conclusion: Toward a Charitable Hospital

Recommendations for Yale-New Haven

Yale-New Haven is a financially stable, non-profit hospital, with extensive resources at hand to provide free care to patients unable to pay their hospital bills. Even as resources intended for free care have grown, and more and more unpaid bills have ended up as "bad debt," subject to aggressive collections practices, the Hospital has spent less and less on free care. To expand needed access to free care, institutional practice should change on numerous fronts:

- **Debt forgiveness.** Due to Yale-New Haven's broken "safety-net," it is likely that many individuals unable to pay are currently saddled with debt to the Hospital. The Hospital should immediately cease collections activity on all outstanding "bad debt" accounts.
- **Free care overhaul.** Yale-New Haven should improve employee training and staffing in order to identify early on patients who may not be able to pay; give patients ample opportunity to apply for free care before turning accounts over to collectors; provide adequate assistance and follow-up with applications; commit resources to advertising the availability of free care to patients in the New Haven area; include a free care application with every "self-pay" billing statement; raise income criteria for free care eligibility, permitting eligibility when the unpaid balance is inordinately large in proportion to family income; and, finally, make billing statements, collections notices and free care information available in Spanish.
- **Public assistance outreach.** Yale-New Haven should increase efforts to identify and enroll uninsured patients eligible for public coverage such as Medicaid and HUSKY, cooperate with community and government enrollment initiatives and remove the onus from patients to prove ineligibility in order to qualify for free care.
- **Reasonable collections practices.** Yale-New Haven and its professional collectors should take care throughout the collections process to identify circumstances that have left the debtor unable to pay (such as loss of employment, underemployment or new medical problems), and assist such debtors in applying for free care. The Hospital should refrain from unnecessary legal action, refrain from charging interest above inflation, and should not penalize home-ownership, employment and savings.
- **Free care for Yale University bills.** Yale University should provide free care to patients unable to pay for medical services provided by Yale University physicians or Yale University-owned departments at the Hospital. The Hospital should make its free bed funds available for Yale School of Medicine and Yale Diagnostic Radiology balances incurred at the Hospital.
- **Spending free bed funds.** Yale-New Haven should enact a reasonable spending rule for its free bed funds, and work actively with donor-specified nominators, informing them of their role, the available yearly earnings on free bed funds, and any accrued reinvested income (which nominators are allowed to use at any time). The Hospital should incorporate questions on admitting questionnaires for uninsured patients about membership in churches and relevant organizations, to identify patients who may be eligible for funds with double restrictions.

Recommendations for Policymakers

Charity care at the state's leading hospital should be a subject of state-level concern. Although Yale-New Haven is worse than peers and the state average in levels of free care and bad debt, and worse than peers in frequency of lawsuits and liens, it is likely that an examination of other hospitals in the state would turn up cases of patients unable to pay facing aggressive collections practices. State-level policy should change so

that a lack of hospital accountability to the poor and uninsured is no longer tolerated:

- **Improving Connecticut's DSH program.** Medicaid DSH resources should be used more wisely to eliminate improper shifting of hospital costs to taxpayers and encourage the provision of free care. Connecticut should maximize federal matching funds available for state DSH, and revise the state's disbursement formula to create incentives to provide free care and either eliminate or only conditionally provide reimbursement of bad debt, as is done in other states.
- **Consumer protection.** Hospital debts are involuntarily acquired, and should not be subject to the same collections methods as other consumer debts. Laws should be enacted to protect hospital debtors from rash lawsuits, court and foreclosure costs, attachments on homes, and harassment from collectors. Judgment interest on hospital debts, currently 10%, should be eliminated or limited to the rate of inflation.
- **Regulating free bed funds.** The reasonable investment, spending and advertisement of free bed funds should be more strictly monitored and enforced.
- **Fair pricing.** The uninsured, the only patients who are always billed full hospital charges, should receive discounts comparable to those received by insured patients.

Notes

1 Community surveys have found that medical debt forces patients to defer care, forego care, and undergo serious financial hardship and accumulation of additional debt in order to maintain access to a healthcare provider (Health Matrix: Journal of Law-Medicine, "Into the Red to Stay in the Pink: the Hidden Cost of Being Uninsured," by Hugh Daly III, Leslie Oblak, Robert Seifert, and Kimberly Shellenberger, Winter 2002). Half of all bankruptcies in the United States are medically related, with one third including medical debt (New York University Law Review, "Rethinking the Debates over Health Care Financing: Evidence from the Bankruptcy Courts," by Melissa B. Jacoby, Teresa A. Sullivan, and Elizabeth Warren, May 2001).

In January 2003, the Access Project at Brandeis University released a new national survey of uninsured patients at "safety-net" hospitals and health centers—last resort sources of care for patients with no health insurance and limited ability to pay for care-examining how medical debt affects way of life and access to health care. ("Paying for Health Care When You're Uninsured: How Much Support Does the Safety Net Offer?" by Dennis Andrulis, Lisa Duchon, Carol Pryor, and Nanette Goodman, January 2003.) The survey found that two out of three respondents who used a hospital emergency room, or a hospital emergency room and outpatient department, were in debt to that facility. Also, medical debt was shown to have serious implications for future access to care: 24% of respondents with unpaid bills said that their medical debt would deter them from seeking care at the same facility in the future. The report emphasized the important role of information about financial assistance from safety-net providers: "Results showed that the more often staff offered to help respondents obtain financial assistance, the less likely that respondents reported having outstanding bills." Also see: Idaho Community Action Network, The Access Project, and Community Catalyst, "Don't Lien on Me: Why the State's Medical Indigency Care Program is Unhealthy for Idahoans," by Kevin Borden and Matt Haney, 2001; Health Affairs, "Income Levels of Bad-Debt and Free-Care Patients in Massachusetts Hospitals," by Joel S. Weissman, Paul Dryfoos, and Katharine London, August 1999.

2 In Connecticut, the Hospital Fiscal Year ends on September 30 of the cited year. In this report, "Fiscal Year" or "FY" refers to the Hospital Fiscal Year unless otherwise noted.

3 Office of Health Care Access, "Annual Report on the Financial Status of Connecticut's Short term Acute Care Hospitals," 2002.

4 The Emergency Medical Treatment and Labor Act, 1986.

5 Yale-New Haven Health Credit and Collection Policy, Revised 9/11/00, Attachment 22 to Yale-New Haven Hospital's FY2001 Annual Filings with the Office of Health Care Access (applies to Yale-New Haven Hospital and Bridgeport Hospital, both System members).

6 The City of New Haven has the highest rate of preventable hospitalizations (hospitalizations for conditions avoidable through preventative primary care) in the state, at 16.2 per 1,000, compared to Hartford at 14.0 and Bridgeport at 10.5. Yale-New Haven Hospital treats the highest number of preventable hospitalizations as percentage of total hospital discharges, at 14.7%, compared to Hartford Hospital at 6.0%, the Hospital of St. Raphael at 5.1% and Bridgeport Hospital at 4.9%. (Office of Health Care Access, Achieve Issue Brief, "Preventable hospitalizations during the 1990s," May 2000).

7 Yale-New Haven Hospital FY2001 Form 990, Statement 5B: "Statement of Program Service Accomplishments." In a recent New Haven Aldermanic hearing, Yale-New Haven's Executive Vice President/Chief Financial Officer Marna Borgstrom testified, "We are the largest health care provider to New Haven's uninsured and underinsured, and in 2002 provided $60 million in services to these patients" (Public Safety Committee, 10/28/02). Yale-New Haven serves a higher proportion of the uninsured compared to New Haven's other hospital, St. Raphael: Yale-New Haven's adjusted uninsured discharges were 3.65% of total adjusted discharges in 2001, while St. Raphael's uninsured were 2.44% of total adjusted discharges.

8 Based on expenses and charges reported in Yale-New Haven Hospital's FY2001 Annual

Filing with the Office of Health Care Access. Hospitals' claims of "cost" are not standardized.

9 (Emphasis added.) Yale-New Haven Health System Policy on Charity Care, September 2001, Attachment 22 to Yale-New Haven Hospital's FY2001 Annual Filing with the Office of Health Care Access (applies to Yale-New Haven Hospital and Bridgeport Hospital, both System members).

10 Information on Yale-New Haven Hospital's contractual discounts with insurers is from the Hospital's FY2001 Annual Filing with the Office of Health Care Access, Schedule 203.

See "Gouging the Medically Uninsured: A Tale of Two Bills," by Irene Wielawski, Health Affairs 19(5), 2000. Yale-New Haven's Credit and Collections Policy states that the Hospital will "entertain settlement offers of no less than 80% of the [unpaid] balance. Payment must be a lump sum within 10 days." This is the only indication of discounts to the uninsured visible in Yale-New Haven's policy, in spite of a Connecticut Statute (Sec. 19a-673) that requires hospitals to only bill the cost of services, at maximum, to uninsured patients whose income is below 2 times poverty and who are ineligible for public assistance.

11 Yale-New Haven Hospital v. Christine Turcott, CV-00-0434944, New Haven County.

12 According to Yale-New Haven's Credit and Collections Policy: "Evidence that the account is uncollectible, a history of bad debt accounts, or other legal consideration may result in an expedited referral to an agency or attorney." The only other exception to the 120 day maximum is when a payment plan is successfully negotiated prior to the 120 day deadline, which requires the balance to be paid in equal monthly installments within a maximum of 10-24 months (no further discretion is permitted, according to the policy).

13 If Yale-New Haven later receives any amount of payment on the debt through the collection activities of the agency or attorney, the amount is deducted from the bad debt account in the fiscal year in which it is received. The Hospital's policies do not specify whether or how accounts turned over to professional collectors may be transferred back to the Hospital's billing department or ascribed free care status, such as in a case where the collectors identify a patient who is unable to pay, or a case where an error was identified. The Hospital of St. Raphael's collections policy has clear provisions for withdrawing bad debt accounts from professional collectors under appropriate conditions, most notably when a patient has been identified as eligible for free care.

14 Yale-New Haven Hospital FY2000 and FY2001 IRS Form 990.

15 Yale-New Haven Health Policy on Charity Care, September 2001, Attachment 22 to Yale-New Haven Hospital's FY2001 Annual Filing with the Office of Health Care Access. (Emphasis added.)

16 This estimate is based on online dockets available at http://www.jud2.ct.state.us. Current as of 12/27/02, a search of the online database produced 227 civil lawsuits filed in New Haven County in the calendar year 2001 in which Yale-New Haven Hospital was lead plaintiff. Of these cases, 99% were foreclosure or collections suits against individuals: 2 were collections suits against businesses, 269 were collections suits against individuals, and 6 were foreclosure suits against individuals. The online database is not exhaustive and does not include purged files, but all available dockets were examined for this estimate.

17 Based on Total Patient Days for Fiscal Year 2000, from the Office of Health Care Access, http://www.ohca.state.ct.us/HealthData/StatewideTable/PatientDays.pdf.

18 Data on Yale-New Haven Hospital and Hartford Hospital civil suits provided by Connecticut Court Operations, Caseflow Statistics. Docket information available at http://www.jud2.ct.state.us indicates that the vast majority of civil suits brought by the hospitals are collections or foreclosure suits against individuals.

19 This is an estimate based on taking a count of the number of small claims suits filed in the month of October, 2002 (168), and extrapolating to a twelve month estimate. This assumes that the number of suits filed do not fluctuate on a seasonal basis. The count identified all claims filed in October from a list of docket numbers generated by the New Haven County Small

Claims Court's database where Yale-New Haven Hospital was lead plaintiff. As this database is periodically purged of settled claims, this extrapolation from one month's data may be a more accurate way of calculating the suits brought in one year than a count of all docket numbers from the past year still remaining in the database.

20 All percentages here are estimates; see endnote 16 for data source and methodology. 4% of the collections suits were summary judgments, and 6% were withdrawn. This estimate does not include a small number of changes in disposition that occurred due to a stipulated agreement, re-opening or withdrawal.

21 Interview with Attorney Sheldon Toubman, New Haven Legal Aid, 11/9/02.

22 Approximately 100 New Haven County civil court files were reviewed in this study.

23 A civil summons must be hand-delivered by a marshal. In making delivery of the summons, the marshal is required to either give it directly to the debtor in hand or leave it at the debtor's usual place of abode (generally by placing it under or through a door of the debtor's house or apartment). But sometimes the marshal will leave the summons anywhere at the defendant's address on record-in the hall, mailbox or outside the home. For this reason, civil summonses can easily be lost or overlooked. Also, low-income individuals change residences frequently, and the marshal may not learn that the summons has been left at the wrong address. In these cases, the debtor may not learn that a court action had been filed until after a default judgment is made. With alarming frequency, a post-judgment wage, bank or property execution-even a foreclosure-was said to be the first time a debtor found out that she or he had an outstanding Yale-New Haven Hospital bill.

24 Connecticut hospitals are permitted to sue spouses for uncollected hospital debts. Also, relatives of patients who sign forms for the patient upon admission may be instructed to sign a financial liability form entitling Yale-New Haven to sue them for the patient's unpaid bills.

25 Connecticut General Statutes Sec. 37-3a.

26 The garnishment maxes out at the difference between the debtor's take home pay and the minimum wage, if that difference is less than 25% of the debtor's earnings.

27 Civil court records showed requests for modification due to inability to afford the garnishment, lack of knowledge of the judgment or the origin of the due balance, or feelings that insurance or billing errors were to blame. The court never halted but frequently lowered garnishments in response to debtors' pleas of hardship, but rarely approved modifications in response to belated pleas of innocence.

28 Certain monies are exempt from bank execution under Connecticut General Statutes Sec. 52-352b. Debtors must submit a statement to the court within 30 days of the bank execution notice in order to claim an exemption.

29 Liens have serious financial consequences for debtors, as described in "Don't Lien on Me: Why the State's Medical Indigency Care Program is Unhealthy for Idahoans" (Idaho Community Action Network, The Access Project, and Community Catalyst, 2001). Liens present barriers when selling property or refinancing mortgages, and harm FICO scores (credit ratings), which are used to screen applicants for employment, rentals and new credit.

30 Attorneys can track down bank accounts using personal checks debtors may have used to make payments. A hospital also may learn about patients' employment through information submitted at the time of medical treatment.

31 Interview dated 10/29/02.

32 UCLA Center for Health Policy Research and The Henry J. Kaiser Family Foundation, Policy Research Report, "Racial and Ethnic Disparities in Access to Health Insurance and Health Care," April 2000.

33 Census 2000 New Haven Town data available at http://www.state.ct.us/ecd/research/census2000/index.html.

34 Yale-New Haven's gross charges increased 38% from FY's 1996-2001. Data from Yale-

New Haven's annual filings with the Office of Health Care Access.

35 The most recent Comptroller's Report on Connecticut's Economic Health (February 2002) describes how healthcare cost inflation affects insurance coverage: "As health benefits get more expensive, employers tend to shift more of the cost onto employees and some may stop offering coverage altogether. For their part, workers-especially low wage earners-are less likely to accept offers of coverage when costs rise because they cannot afford the employee portion of the insurance premium." The Comptroller predicts a rise in Connecticut's uninsured and underinsured as a result of the economic downturn and medical cost inflation.

36 Hartford Hospital is the state's next largest urban hospital, and St. Raphael is the only other general hospital in New Haven. Like Yale-New Haven, both are teaching hospitals. Hartford is 10% smaller than Yale-New Haven, and St. Raphael 41% smaller (based on total adjusted patient days); Hartford's FY2001 free care ($6.4 million) was 220% the size of Yale-New Haven's ($2.9 million), and St. Raphael's ($2.2 million) was 24% less than Yale-New Haven's.

37 Administrative Rulings; IRS Field Service Advice, "Hospital must show it serves indigent for exemption," by Elizabeth Purcell (Branch Chief, Exempt Organizations, Branch 2), 2/5/01. The memo poses a number of "questions to address when developing the factual record on the charitable care policies and activities of a hospital," which include: "Under what circumstances may, or has, the hospital deviated [from] its stated policies on providing free or low-cost health care services to the poor or indigent?"; "Does the hospital broadcast the terms and conditions of its charity care policy to the public?"; "What inpatient, outpatient and diagnostic services does the hospital actually provide to the poor or indigent for free or reduced charges?"; "Does the hospital operate with the expectation of receiving full payment from all persons to whom it renders services?"; "How and when does the hospital ascertain whether a patient will be able to pay for the hospital's services?"

38 Schedule 201, Yale-New Haven Hospital FY2001 Annual Filing with the Office of Health Care Access.

39 "It is often to America's teaching hospitals that low-income individuals and those without the ability to pay look to receive needed healthcare," writes the Council of Teaching Hospitals and Health Systems (*AAMC Teaching Hospitals and Health Systems: Serving the nation through education, research and patient care,* Fall 2001). According to the Association of American Medical Colleges, while teaching hospitals were only 23% of all hospitals in the United States, they provided 76% of all charity care in 1999 (see http://www.aamc.org/uninsured/charts.htm).

40 The Office of Health Care Access writes, "Treatment is provided, regardless of ability to pay, at all Connecticut hospitals. However, it is likely that without GME programs in our hospitals, this provision of health care to the uninsured and underinsured would be more costly to Connecticut taxpayers. Without the significant contribution of the Medicare payments in the form of direct and indirect payments, Connecticut citizens might be faced with higher health care costs to continue the current standard of hospital treatment to all. Thus, GME programs do not directly alter the level of access to inpatient care in Connecticut as much as they affect how this access to care is financed." (OHCA, *Second Annual Report on Graduate Medical Education,* January 2001.)

41 Includes indirect GME received as add-ons to Medicare reimbursements, and direct GME disbursed through the state, partially funded through Medicaid matching payments. Yale-New Haven is one of seventeen teaching hospitals in Connecticut. Data on GME from the Office of Health Care Access, *Second Annual Report on Graduate Medical Education,* January 2001.

42 Urban Institute, "Market Competition and Uncompensated Care Pools," by Randal R. Bovbjerg, Alison Evans Cuellar, and John Holahan, March 2000; Massachusetts Health Policy Forum Issue Brief, "The Uncompensated Care Pool: Saving the Safety Net," 2002; The Access Project, "Untangling DSH: A guide for community groups to using the Medicaid DSH program to promote access to care," by Jocelyn Guyer, Andy Schneider and Michael Spivey, 2000.

43 For this calculation, we use the estimated cost of the hospitals' free care and bad debt, found in this case by multiplying the reported bad debt and free care charges by the revenue-to-

charge ratio found in Schedule UCT (Sec. II.F.12) from the hospitals' annual filings with the Office of Health Care Access. (When analyzing the distribution of Medicaid DSH payments, as in this case, the revenue-to-charge ratio is most appropriate, since it is used in the UCP's main disbursement methodology. Elsewhere, an expense-to-charge ratio is more suitable.) While for clarity this graph compares FY2001 Medicaid DSH payments to FY2001 free care and bad debt data, most FY2001 Medicaid DSH payments are based on uncompensated care reported in FY1999. In 1999, at estimated cost, Yale-New Haven reported 6.8% of all free care in the state and 9.9% of all bad debt; St. Raphael provided 3.8% of free care and 4.8% of bad debt; and Hartford reported 15.6% of free care and 8.4% of bad debt.

44 Fiscal Year 2001 includes a special settlement made to Yale-New Haven in the amount of $6.8 million (a provision of Public Act 01-3, June Special Session). Since the DSH-related hospital tax was suspended beginning July 1, 2001, hospitals still paid taxes for all but three months of FY2001 (year ending September 30, 2001.) Yale-New Haven's total taxes in FY2001 were $10.2 million (down from $18.3 million in FY2000 and $31.5 million in FY1999). If other factors remain equal, Yale-New Haven's net Medicaid DSH payments in FY2002 can be expected to go up by at least $10.2 million, since the Hospital paid no taxes that year.

45 All data on free bed funds in this report is from the Connecticut Attorney General's 2001 survey of hospital free bed funds, with the exception of the data for FY2001, which is from Attachment 23 to hospital Annual Filings with the Office of Health Care Access.

46 Since Yale-New Haven's only discernible "spending rule" is to limit spending to interest earnings, arbitrarily leaving almost all realized gains untouched, investment decisions that lead to low interest earnings bear on how much of the Hospital's free bed funds are available. From FY's 1996-2000, the Hospital's free bed funds earned $2.04 million in interest earnings and $8.35 million in realized gains, but the Hospital spent only $189,000 of the realized gains on free care, reinvesting the remainder with the funds' principal. (The funds saw $11.33 million in unrealized gains during this period.) The 1990 Attorney General report cited "unnecessarily low" annual interest yields due to inappropriate investment decisions among other problems with free bed fund management.

47 *Hospital Bed Fund Trusts: A Survey of Free Bed Funds in Connecticut Hospitals Provided Through Donations from the Public,* Report to the Connecticut Attorney General by Janet A. Spaulding, Assistant Attorney General, March 1990.

48 In the mid-1990s, the New Haven-based community group Coalition for People ran a campaign to urge Yale-New Haven to meet requirements on posting signs and distributing information about free bed funds. The group succeeded in winning improved signs advertising the funds in admitting areas. (Interview with Mary Johnson, 12/20/02)

49 *Hospital Bed Fund Trusts: A Survey of Free Bed Funds in Connecticut Hospitals Provided Through Donations from the Public*, Report to the Connecticut Attorney General by Janet A. Spaulding, Assistant Attorney General, March 1990, pp. 32-33.

50 Inpatient and adjusted outpatient discharges, based on Yale-New Haven Hospital FY2000 Annual Filing with the Office of Health Care Access.

51 Based on Yale-New Haven Hospital's submission in response to the Connecticut Attorney General's 2001 survey of hospital free bed funds. According to *Hospital Bed Fund Trusts,* the 1990 survey, some of Yale-New Haven's donors said free bed funds may only be used for members of certain nominating organizations, meaning all left-over income is required by law to be reinvested. Other donors specified that left-over income may be made available for general free care. Documents from one nominator church show that Yale-New Haven has sent annual "opt-out" letters to nominators informing them that the interest earnings on their funds will go toward general free care if the Hospital doesn't receive other instructions, even though the Hospital is required to reinvest earnings on some of these funds. According to the Attorney General's Charities Division, only donor permission or a court order can lift or waive donor restrictions (not permission, tacit or otherwise, from a donor-specified nominator).

52 Based on Yale-New Haven's free bed fund spending as reported in its response to the Attorney General's 2001 survey of free bed funds, as a percentage of the Hospital's total free

care allowances reported in its Annual Filings with the Office of Health Care Access. OHCA's reporting requirements for free care (defined in Sec. 19a-167g-55(b)(33) of OHCA's regulations) do not currently require the exclusion of free bed fund expenditures. Free care data submitted to OHCA is used for Uncompensated Care Pool payment calculations.

53 Based on Attachment 23 to all Connecticut hospitals' FY2001 Annual Filing with the Office of Health Care Access.

54 Estimated by multiplying the free care charges by the ratio of expenses ("Total Net Operating Expenses," as reported in Schedule 300 of Yale-New Haven's FY2001 OHCA filing) over total charges (Schedule UCT).

55 Yale-New Haven's total FY2001 Medicaid DSH payment was $34,592,790 (as reported in the Department of Social Service's Annual Report to the Centers for Medicare and Medicaid Services, plus Yale-New Haven's $6.8 million DSH settlement-see endnote 44); and its DSH-related taxes in FY2001 were $10,230,821 (Schedule UCT), leaving net Medicaid DSH of $24,361,969. According to data from OHCA and DSS, Uncompensated Care Pool (UCP) payments comprised 87% of the total Medicaid DSH disbursements in FY2001. The amount of FY2001 Medicaid DSH attributable to free care is therefore estimated according to the approximate UCP disbursement methodology: adding the cost of Medicaid underpayment, bad debt and free care, as calculated in Section II.F of Yale-New Haven's FY2001 Schedule UCT (yielding "uncompensated care"), then dividing the cost of free care (based on the Schedule UCT revenue-to-charge ratio) by that sum to find free care as a percent of "uncompensated care." (Free care was 3.44% of the $44.9 million in "uncompensated care" calculated in this section of Schedule UCT.) That percentage is then multiplied by the total net Medicaid DSH, yielding a rough estimate of what Yale-New Haven's reimbursement for free care in FY2001 will be. (UCP payments in a given year are based on data from two years prior; our calculations assume that the net DSH received in FY2003 will be equal to that received in FY2001.) Medicaid DSH is subject to revisions and adjustments that may not be reflected in the publicly available data. Also, although Medicaid DSH is primarily disbursed through the Uncompensated Care Pool, it is also partially disbursed through some minor programs where this proportional analysis will not apply. However, this methodology is conservative in that it assumes Yale-New Haven's net Medicaid DSH payments will remain level from FY2001-2003, contrary to the recent trend (the Hospital's payments have increased 64% since FY1998).

56 As reported in Yale-New Haven Hospital's FY2001 Form 990.

57 As reported in Yale-New Haven Hospital's FY2001 Form 990.

58 As reported in Yale-New Haven Hospital's FY2001 Form 990. Includes fringe benefits and compensation from Yale-New Haven Health System.

59 As reported in Yale-New Haven Hospital's FY2001 Form 990, for the CEO/President, Executive VP/COO, Sr. VP-Finance, Sr. VP-Human Resources, Sr. VP-Patient Services, Sr. VP-Clinical Administration, Sr. VP-Administration, two Vice Presidents, and the Chief of Staff. Includes fringe benefits and compensation from Yale-New Haven Health System, when applicable. The average compensation for these ten officers: $493,590.

60 As reported in Schedule 300 to Yale-New Haven's FY2001 annual filing with the Office of Health Care Access.

61 As reported in Yale-New Haven Hospital's FY2001 Form 990. $5,123,453 is described as "Transfer to Parent - Clinical Development Fund," and $14,887,114 is described as "Transfer to YNH Network Corporation."

62 Kaiser Family Foundation Online State Health Facts, 1999-2000: http://www.statehealthfacts.kff.org.

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