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Health and Government Operations Committee

Hearing on **HB 673 – Real Property – Contract Liens – Medical Debt**

Testimony of Berneta L. Haynes, National Consumer Law Center

February 14, 2024

Position -- SUPPORT

To the Members of the Health and Government Operations Committee:

Thank you for holding this hearing on House Bill 673 – Real Property – Contract Liens – Medical Debt. My name is Berneta L. Haynes, and I am an attorney at the National Consumer Law Center, where I focus on debt collection issues, including medical debt, affecting low-income consumers. The National Consumer Law Center or NCLC is a nonprofit organization that, since 1969, has used its expertise in consumer law and policy to work for consumer justice and economic security for low-income and other disadvantaged people.

Debt resulting from medical care affects tens of millions of consumers around the United States. Total medical debt in the United States is estimated to exceed \$140 billion,¹ with 41% of all adults—insured or uninsured—currently burdened by medical or dental debt.² According to recent estimates from the Consumer Financial Protection Bureau, 17.8% of Americans have at

least one medical debt collection item on their credit reports.³ It is one of the most prevalent types of consumer debt; people report being contacted about medical bills more than any other type of debt.⁴ Furthermore, consumers regularly cite medical debt as a contributing cause of bankruptcy.⁵

Medical debt disproportionately impacts communities of color, low-income individuals, and uninsured or underinsured individuals, reducing access to credit, housing, and employment for these groups who already face financial exclusion or instability.⁶ Among Maryland families, the Urban Institute estimates that 9% of households in white communities and 13% of households residing in communities of color have medical debt in collection.⁷

Because some health care providers use aggressive collection practices, such as seeking liens against homes, many consumers report fearing medical debt more than they fear a medical diagnosis.⁸ Fear of medical debt may discourage some individuals from seeking testing and treatment; avoiding or delaying medical care is associated with not only worse health outcomes but also increased healthcare costs down the line.⁹ Patients have good reason to fear medical debt collection, since some hospitals use judgments against patients to secure liens on their homes,¹⁰ threatening the housing stability of indebted patients. These liens may exacerbate the racial wealth gap and further burden families who have been excluded from wealth-building and homeownership historically.¹¹ In short, medical debt is not only associated with housing insecurity but can be a direct cause of housing loss.

In 2020, National Nurses United reported that hospitals in Maryland obtained thousands of liens against patients over a ten-year period between 2009 and 2018.¹² In that time, Maryland hospitals secured 4,432 liens, totaling \$12,503,871; many of these medical debt lawsuits ended with the patients filing for bankruptcy.¹³ This problem is not limited to Maryland. Hospitals seeking liens against patients became such an egregious problem in New York that in 2022 the state enacted legislation banning health care providers from placing home liens on an individual's

primary residence.¹⁴ Several states, including Maryland, offer some layer of protection against liens on a family's primary residence, typically in the form of "homestead exemptions."¹⁵

However, other states like New York, go further to protect patient housing stability by banning liens based on medical debt in particular. For example, California prohibits county hospitals from enforcing liens against the family home while the debtor or their dependent children reside there.¹⁶ Colorado, likewise, prohibits foreclosure on an individual's home, including a mobile home, to collect a medical debt.¹⁷ Connecticut, Delaware, Massachusetts, and Nevada have similar laws prohibiting or limiting health care practitioners from pursuing liens against patients' homes.¹⁸

Maryland now has an opportunity to protect housing stability for families by specifically banning home liens for non-payment of medical debt. House Bill 673 would create common-sense protections to safeguard families from home loss due to medical debt. The bill would:

- Define "owner-occupied residential property," as a property where an individual has an ownership interest and uses as their primary residence; and
- Explicitly shield "owner-occupied residential property" from liens resulting from non-payment of medical debt.

By providing relief from one of the most harmful types of medical debt collection practices, House Bill 673 goes a long way toward recognizing how vital housing stability and homeownership is to economic security and physical health.

In conclusion, NCLC supports House Bill 673 to better protect struggling families from home liens due to medical debt. If you have questions regarding this testimony, please contact Berneta L. Haynes, Senior Attorney, National Consumer Law Center, at bhaynes@nclc.org or (301) 485-6195.

Sincerely,



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¹ Raymond Kluender, Ph.D., et al., “Medical Debt in the US, 2009-2020,” *Journal of the American Medical Assoc.* (July 20, 2021), Vol. 326, No. 3, pp. 250-256.

² Alex Montero, Audrey Kearney, Liz Hamel, and Mollyann Brodie, “Americans’ Challenges with Health Care Costs,” *Kaiser Family Foundation* (Dec. 21, 2023), available at <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/>.

³ Raymond Kluender, Ph.D., et al., “Medical Debt in the US, 2009-2020,” *Journal of the American Medical Assoc.* (July 20, 2021), Vol. 326, No. 3, pp. 250-256. See also “Medical

Debt Burden in the United States,” *Consumer Financial Protection Bureau* (February 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

⁴ “Medical Debt Burden in the United States,” *Consumer Financial Protection Bureau* (February 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

⁵ “Medical Debt Burden in the United States,” *Consumer Financial Protection Bureau* (February 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf. See also Himmelstein et al., “Medical Bankruptcy: Still Common Despite the Affordable Care Act,” *American Journal of Public Health* (Feb. 6, 2019), available at <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304901>.

⁶ Berneta L. Haynes, “The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families,” *National Consumer Law Center* (2022), available at <https://www.nclc.org/wp-content/uploads/2022/09/RacialHealth-Rpt-2022.pdf>.

⁷ “Debt in America: Interactive Map,” *Urban Institute* (Oct. 10, 2023), available at <https://apps.urban.org/features/debt-interactive-map/?type=medical&variable=medcoll&state=24>.

⁸ “Issue Brief: Americans’ Views of Healthcare Costs, Coverage and Policy,” NORC at the University of Chicago (March 2018).

⁹ Avoiding and delaying healthcare is associated with late diagnosis of disease, lower rates of cancer screening, reduced survival rate from disease, and preventable health complications. See Pranav M. Patel, Shipra Singh, and Ishmael Tago. “Association of Social Risks With Avoiding or Delaying Health Care and With Emergency Department Visits: Evidence From 2017 Ohio Medicaid Assessment Survey,” *American Journal of Managed Care* (March 2021), available at <https://www.ajmc.com/view/association-of-social-risks-with-avoiding-or-delaying-health-care-and-with-emergency-department-visits-evidence-from-2017-ohio-medicaid-assessment-survey>.

¹⁰ Benjamin, Elisabeth and Amanda Dunker, “Discharged into Debt: Nonprofit Hospitals File Liens on Patients’ Homes,” *Community Service Society* (November 2021), available at <https://www.cssny.org/publications/entry/discharged-into-debt-nonprofit-hospitals-file-liens-on-patients-homes>. In 2022, New York enacted legislation prohibiting judgments that impose a lien on a medical debtor’s primary residence. See “Governor Hochul Signs Legislation to Protect Patients with Medical Debt,” (Nov. 23, 2023), available at <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-protect-patients-medical-debt>.

¹¹ In a study examining medical debt and foreclosure in Tuscaloosa, Alabama, Black households were twice as likely as white households to have medical debt preceding foreclosure actions. The study showed that medical debt presents a greater burden to Black families, corresponding to higher rates of foreclosure and susceptibility to mortgage default no matter where Black families lived. See Bronwen Lichtenstein and Joe Weber, “Losing Ground: Racial Disparities in

Medical Debt and Home Foreclosure in the Deep South,” *Family and Community Health* (2016), 39(3), 178-187.

¹² “Preying on Patients: Maryland’s Not-for-Profit Hospitals and Medical Debt Lawsuits,” *National Nurses United* (Feb. 2020), available at

https://www.nationalnursesunited.org/sites/default/files/nnu/graphics/documents/0220_JHH_PreyingOnPatients_Report.pdf.

¹³ “Preying on Patients: Maryland’s Not-for-Profit Hospitals and Medical Debt Lawsuits,” *National Nurses United* (Feb. 2020), p. 11, available at

https://www.nationalnursesunited.org/sites/default/files/nnu/graphics/documents/0220_JHH_PreyingOnPatients_Report.pdf.

¹⁴ “Governor Hochul Signs Legislation to Protect Patients with Medical Debt,” (Nov. 23, 2023), available at

<https://www.governor.ny.gov/news/governor-hochul-signs-legislation-protect-patients-medical-debt>.

¹⁵ Arkansas (Ark. Const. art. 4); Washington DC (D.C. Code § 15-501(a)(14)), Florida (Fla. Stat. Ann. §§222.01, 222.02, & Fla. Const. Art. X §4); Iowa (Iowa Code Ann. § 561.156); Kansas (Kan. Stat. Ann. §60-2301); Maryland (Md Health Code §19-214.1); Oklahoma (31 Okla. St. Ann §2); Puerto Rico (PR Home Protection Act No. 195); South Dakota (S.D. Cod. Laws §43-45-3); and Texas (Tex Const. Art XVI, §§50, 51 & Tex Prop. Code §§41.001-.002).

¹⁶ Cal. Welf. & Inst. Code § 17401. This protection has been limited to medical debts incurred by indigent patients. *Joseph v. J.J. Mac Intyre Cos.*, 238 F. Supp. 2d 1158 (N.D. Cal. 2002).

¹⁷ Colo. Rev. Stat. § 6-20-201(5).

¹⁸ Conn. Gen. Stat. § 52-352b(t); Senate Substitute 2 for S.B. 8, 152nd Gen. Assemb. (Del. 2023); 101 Mass. Code Regs. § 613.08(1)(b); Nev. Rev. Stat. § 21.095.