

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 8

Short Title: No Self-Referrals/Health.

(Public)

Sponsors: Senators Daniel; Perdue and Tally.

Referred to: Judiciary II.

January 28, 1993

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT HEALTH CARE PROVIDERS FROM REFERRING PATIENTS TO HEALTH CARE GOODS OR SERVICES OFFERED BY ENTITIES IN WHICH THE REFERRING PROVIDER HAS AN OWNERSHIP INTEREST.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 28.

"SELF-REFERRALS BY HEALTH CARE PROVIDERS.

"§ 90-405. Definition.

As used in this Article, a health care provider is any person who, pursuant to this Chapter, is licensed, or is otherwise registered or certified to engage in the practice of any of the following: medicine, surgery, dentistry, osteopathy, podiatry, chiropractic, anesthesiology, psychiatry; or any person acting at the direction or under the supervision of a health care provider.

"§ 90-406. Self-referrals prohibited.

(a) A health care provider shall not knowingly refer any patient for health care goods or services, including laboratory services, to a partnership, firm, corporation, or other business entity in which the health care provider or the health care provider's employer has an equity interest of ten percent (10%) or more unless the health care provider demonstrates proof of the following:

(1) The goods or services for which the patient is being referred are unavailable from any other business entity located in or a reasonable

- 1 distance from the community where the patient resides or is employed,
2 or the community where the provider's practice is located; and
3 (2) The absence of financing from sources other than the provider's
4 personal financial resources, for the establishment of a business entity
5 to provide the goods or services for which a patient is or may be
6 referred.
- 7 (b) This section does not apply to the following types of equity interest:
- 8 (1) The ownership of registered securities issued by a publicly held
9 corporation, or the ownership of securities issued by a publicly held
10 corporation, the shares of which are traded on a national exchange or
11 the over-the-counter market;
- 12 (2) A health care provider's own practice, whether the provider is a sole
13 practitioner or part of a group, when the health care goods or services
14 are prescribed or provided solely for the health care provider's own
15 patients and provided or performed by the health care provider or
16 under the health care provider's supervision;
- 17 (3) An interest in real property resulting in a landlord-tenant relationship
18 between the health care provider and the entity in which the equity
19 interest is held, unless rent is determined, in whole or in part, by the
20 business volume or profitability of the tenant or is otherwise unrelated
21 to fair market value.

22 **"§ 90-407. Sanctions.**

23 Violation of G.S. 90-405 shall be grounds for the State-established licensing board
24 that has authority over the license or certificate of the offending health care provider to
25 suspend, revoke, or refuse to renew the provider's license or certificate, or to take any
26 other disciplinary action authorized by law."

27 Sec. 2. This act becomes effective October 1, 1994, and applies to referrals
28 made on or after that date.