

**§ 90-408. Exceptions for underserved areas.**

(a) The provisions of G.S. 90-406 shall not apply to the referral by any health care provider to any entity in which such health care provider has a legal, beneficial, or investment interest upon receipt by such health care provider of a determination by the Department of Health and Human Services that:

- (1) There is a demonstrated need in the county where the entity is located or is proposed to be located; and
- (2) Alternative financing is not available on reasonable terms from other sources to develop such entity.

(b) The Department shall promulgate regulations governing the form and content of the applications to be filed by health care providers making application for exemption from G.S. 90-406, the business conduct of any such entity and the fair and reasonable access by all health care providers in such county to the entity. Any determination made by the Department under this section shall be applicable for a period of five years from the date of issuance.

(c) In all cases in which a health care provider refers a patient to a health care facility outside that health care provider's practice in which the health care provider has a legal, beneficial, or investment interest, the health care provider shall disclose to the patient the health care provider's investment interest. Patients shall be given a list of effective alternative facilities if any such facilities become reasonably available, informed that they have the option to use one of the alternative facilities, and assured that they will not be treated differently by the health care provider if they do not choose the health care provider's facility. (1993, c. 482, s. 1; 1997-443, s. 11A.118(a).)