§ 90-21.52. No liability under this Article on the part of an employer or employer group organization that purchases coverage or assumes risk on behalf of its employees or a physician or health care provider; liability of State Health Plan under State Tort Claims Act.

(a) Except as otherwise provided in subsection (b) of this section, this Article does not create any liability on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its employees.

(b) Liability in tort of the State Health Plan for Teachers and State Employees for its health care decisions shall be under Article 31 of Chapter 143 of the General Statutes.

(c) This Article does not create any liability on the part of a physician or health care provider in addition to that otherwise imposed under existing law. No managed care entity held liable under this Article shall be entitled to contribution under Chapter 1B of the General Statutes. No managed care entity held liable under this Article shall have a right to indemnity against physicians, health care providers, or entities wholly owned by physicians or health care providers or any combination thereof, except when:

(1) The liability of the managed care entity is based on an administrative decision to approve or disapprove payment or reimbursement for, or denial, reduction, or termination of coverage, for a health care service and the physician organizations, health care providers, or entities wholly owned by physicians or health care providers or any combination thereof, which have made the decision at issue, have agreed explicitly, in a written addendum or agreement separate from the managed care organization's standard professional service agreement, to assume responsibility for making noncertification decisions under G.S. 58-50-61(13) with respect to certain insureds or enrollees; and

(2) The managed care entity has not controlled or influenced or advocated for the decision regarding whether or when payment or reimbursement should be made or whether or when the insured or enrollee should receive a health care service.

The right to indemnity set forth herein shall not apply to professional medical or health care services provided by a physician or health care provider, and shall only apply where the agreement to assume responsibility for making noncertification decisions for the managed care entity is shown to have been undertaken voluntarily and the managed care organization has not adversely affected the terms and conditions of the relationship with the health care provider based upon the willingness to execute or refusal to execute an agreement under G.S. 58-50-61(13). (2001-446, s. 4.7; 2001-508, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12.)