§ 90-407. Disciplinary action and penalties.

(a) Any violation of this Article shall constitute grounds for disciplinary action to be taken by the applicable Board pursuant to Chapter 90 of the General Statutes.

(b) Any health care provider who refers a patient in violation of G.S. 90-406(a), or any health care provider or entity who

(1) Presents or causes to be presented a bill or claim for service that the health care provider or entity knows or should know is prohibited by G.S. 90-406(b), or

(2) Fails to make a refund as required by G.S. 90-406(c),

shall be subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each such bill or claim, to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina.

(c) Any health care provider or other entity that enters into an arrangement or scheme, such as cross-referral arrangement, that the health care provider or entity knows or should know is intended to induce referrals or patients for designated health care services to a particular entity and that, if the health care provider directly made referrals to such entity, would violate G.S. 90-406(d), shall be subject to a civil penalty of not more than seventy-five thousand dollars ($75,000) for each such circumvention arrangement or scheme, to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina. No civil penalty shall be assessed hereunder for any arrangement fully disclosed to the Attorney General in writing which receives a favorable determination by the Attorney General that, in his opinion, such arrangement is not a violation of G.S. 90-406, until a contrary determination is made in a court of law.

(d) The clear proceeds of civil penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1993, c. 482, s. 1; 1998-215, s. 74.)