

Representative Sheryl L. Allen proposes the following substitute bill:

EMERGENCY MEDICAL SERVICE PROVIDER

TORT REFORM

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: Thomas V. Hatch

Cosponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends the Utah Health Care Malpractice Act to establish a clear and convincing standard of evidence for fault in emergency medical care.

Highlighted Provisions:

This bill:

- ▶ defines emergency medical care in the Utah Health Care Malpractice Act; and
- ▶ establishes a clear and convincing standard for malpractice actions against health

care providers arising from emergency medical care.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-13-2.5, Utah Code Annotated 1953



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-13-2.5** is enacted to read:

28 **58-13-2.5. Standard of proof for emergency care when immunity does not apply.**

29 (1) A person licensed under Title 58, Occupations and Professions, who is a health care
30 provider as defined in Section 78-14-3 who provides emergency care in good faith, but is not
31 immune from suit because of an expectation of payment, a legal duty to respond, or other
32 reason under Section 58-13-2, may only be liable for civil damages if fault, as defined in
33 Section 78-27-37, is established by clear and convincing evidence.

34 (2) For purposes of Subsection (1), "emergency care" means the treatment of an
35 emergency medical condition, as defined in Section 31A-22-627, from the time that the person
36 ~~H→~~ [is transported to] presents at ~~←H~~ the emergency department of a ~~H→~~ [general acute] ~~←H~~
36a hospital ~~H→~~ [, as defined in Section
37 ~~H→~~ [26-12-2] 26-21-2 ~~←H~~], ~~←H~~ and including any subsequent transfer to another hospital, until
37a the condition has been
38 stabilized and the patient is either discharged from the emergency department or admitted to
39 another department of the hospital.

40 (3) Nothing in this section may be construed as:

41 (a) altering the applicable standard of care for determining fault; or

42 (b) applying the standard of proof of clear and convincing evidence to care outside of
43 emergency care and the mandatory legal duty to treat.

Fiscal Note**Emergency Medical Service Provider Tort Reform***06-Feb-06***Bill Number HB0270S01***10:25 AM*

State Impact

No fiscal impact.

Individual and Business Impact

Individual and business impacts will vary according to individual circumstances.

Office of the Legislative Fiscal Analyst