

1                                   **EMERGENCY MEDICAL SERVICE PROVIDER**

2   **TORT REFORM**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Sheryl L. Allen**

6   Senate Sponsor: \_\_\_\_\_

7   Cosponsor:   Bradley G. Last

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9   **LONG TITLE**

10 **General Description:**

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

13 **Highlighted Provisions:**

14                   This bill:

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

17 care providers arising from emergency medical care.

18 **Monies Appropriated in this Bill:**

19                   None

20 **Other Special Clauses:**

21                   None

22 **Utah Code Sections Affected:**

23 ENACTS:

24                   **58-13-2.5**, Utah Code Annotated 1953

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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 an emergency medical  
35 condition, as defined in Section 31A-22-627, from the time the treatment for the condition  
36 begins until the condition has been stabilized.

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**Legislative Review Note**  
**as of 11-22-05 12:58 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0270**

**Emergency Medical Service Provider Tort Reform**

*19-Jan-06*

*4:24 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

Individual and business impacts will vary according to individual circumstances.

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**Office of the Legislative Fiscal Analyst**