



HOUSE BILL 429: Amend Med. Mal. Health Care Provi

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	House Judiciary III	Date:	April 13, 2015
Introduced by:	Reps. Riddell, Ross, Jones, Fraley	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 429 would expand the definition of "health care provider" to include EMS personnel for purposes of the law governing medical malpractice actions.

CURRENT LAW: Article 1B of Chapter 90 of the General Statutes governs "medical malpractice actions," defined as actions seeking damages for personal injury or death arising out of the furnishing or failure to furnish professional services in the performance of health care by a "health care provider."¹

For purposes of Article 1B, "health care provider" is defined to include any of the following:

- persons who are licensed or otherwise authorized to engage in the practice of specified forms of health care under Chapter 90²
- hospitals, nursing homes licensed under Chapter 131E of the General Statutes, and adult care homes licensed under Chapter 131D of the General Statutes³
- persons who are legally responsible for the negligence of any of the foregoing⁴ or who act at the direction or under the supervision of any of the foregoing⁵

Article 7 of Chapter 131E regulates services provided by "emergency medical services personnel" as defined in G.S. 131E-55(7).⁶ Unless acting at the direction or under the supervision of someone who is a health care provider licensed or otherwise authorized to practice under Chapter 90, EMS personnel are not "health care providers" under the statutory definition, and therefore claims against them arising from furnishing or failure to furnish professional services in the performance of health care are not "medical malpractice actions" subject to Article 1B of Chapter 90.

BILL ANALYSIS: House Bill 429 would amend the definition of "health care provider" in G.S. 90-21.12 to include EMS personnel. With this change, civil actions seeking damages for personal injury or death arising out of the furnishing or failure to furnish professional services by EMS personnel in the performance of health care would be subject to the law governing medical malpractice actions, which, among other things, limits the amount of noneconomic damages that may be recovered, subject to certain exceptions,⁷ and in claims arising out of the treatment or failure to treat an emergency medical condition, requires the plaintiff to prove that defendant failed to meet the applicable standard of care by clear and convincing evidence, a higher level of proof than is required for cases involving a non-emergency medical condition.⁸

EFFECTIVE DATE: This act becomes effective October 1, 2015, and applies to causes of action arising on or after that date.

¹ G.S. 90-21-11(2).

² G.S. 90-21.11(1)a. The specified practices are medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, and psychology.

³ G.S. 90-21.11(1)b.

⁴ G.S. 90-21.11(1)c.

⁵ G.S. 90-21.11(1)d.

⁶ "Emergency medical services personnel" is defined to include the following: emergency medical dispatcher, emergency medical services instructor, emergency medical services nurse practitioner, emergency medical services physician assistant, emergency medical technician, EMT-intermediate, EMT-paramedic, medical responder, and mobile intensive care nurse.

⁷ G.S. 90-21.19.

⁸ G.S. 90-21.12(b)

