



HOUSE BILL 258: Amend Med. Mal. Health Care Provider Defin.

2017-2018 General Assembly

| | | | |
|-----------------------|--|---------------------|----------------------|
| Committee: | Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate | Date: | June 15, 2017 |
| Introduced by: | Reps. Riddell, Fraley, Bert Jones, Clampitt | Prepared by: | Bill Patterson |
| Analysis of: | First Edition | | Committee Co-Counsel |

OVERVIEW: *House Bill 258 would apply statutory medical malpractice requirements to lawsuits seeking damages from paramedics arising out of the provision of health care services.*

CURRENT LAW: In a medical malpractice action, the plaintiff must meet substantive and procedural requirements under Article 1B of Chapter 90 of the General Statutes that are more demanding than those governing ordinary negligence actions.¹ These heightened requirements apply to actions seeking damages for personal injury or death resulting from furnishing or failing to furnish professional health care services by a "health care provider," as statutorily defined.

Paramedics² are not included within the current definition of "health care provider" applicable to medical malpractice actions. As a consequence, lawsuits against a paramedic seeking damages arising from the paramedic's furnishing or failing to furnish professional health care services are currently governed by ordinary negligence law requirements.

BILL ANALYSIS: House Bill 258 would amend the definition of health care provider in Article 1B of Chapter 90 to include paramedics. As a result, the requirements governing medical malpractice actions would apply in lawsuits against paramedics for personal injury or death arising from furnishing or failure to furnish professional health care services.

EFFECTIVE DATE: This act would be effective when it becomes law and would apply to causes of action arising on or after that date.

¹ Among other requirements, the plaintiff in a medical malpractice action:

- Must certify in the complaint that a person reasonably expected to qualify as an expert witness has reviewed all reasonably available relevant medical records and is willing to testify in support of the claim.
- Must prove that the defendant failed to provide the level of care that would have been provided by a similarly educated and trained health care provider from a similar community under similar circumstances, and in actions arising out of emergency care, must prove this by clear and convincing evidence.
- Can recover no more than \$500,000 in noneconomic damages, with certain exceptions.
- Must prove that the health care provider's conduct amounted to gross negligence, wanton conduct, or intentional wrongdoing if the medical care at issue was provided voluntarily without expectation of compensation.

² "Paramedic" is defined in G.S. 131E-155(15a) as an individual credentialed as a paramedic by Department of Health and Human Services after completing a Department-approved educational program in emergency medical care.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578