

TITLE 7: CIVIL PROCEDURE
DIVISION 2: ACTIONS AND SPECIAL PROCEEDINGS

§ 2808. Statutory Liability Limitations: Negligence Actions Against Physicians, Surgeons, Nurses, and EMT's.

(a) In any action for damages involving a claim of negligence against a physician, surgeon, nurse, EMT, Advanced EMT, or paramedic, arising out of emergency medical services provided in a general acute care hospital or clinical emergency department, or, arising from emergency medical services provided at the scene of an emergency, the trier of fact shall consider, together with all the other relevant matters, the circumstances constituting the emergency, and the degree of care and skill ordinarily exercised by reputable members of the physician, surgeon, nurse, EMT, Advanced EMT, or paramedic's profession, respectively, in the same or similar locality, in like cases, and under similar emergency circumstances.

(b) For the purposes of this section, "emergency medical services" and "emergency medical care" means those medical services required for the immediate diagnosis and treatment of medical conditions which, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death.

(c) In any action for damages involving a claim of negligence against a physician, surgeon, nurse, EMT, Advanced EMT, or paramedic providing emergency medical services for a general acute care hospital or clinical emergency department, or arising from emergency medical services provided at the scene of an emergency, the court shall admit expert medical testimony only from physicians, surgeons, nurses, EMT, Advanced EMT, or paramedics, who have had substantial professional experience within the last five years while assigned to provide emergency medical coverage either in a general acute care hospital or clinical emergency department, or, providing emergency medical services at the scene of emergencies. For purposes of [7 CMC §§ 2802](#) to 2808, "substantial professional experience" shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in either general acute care hospital and clinical emergency departments or as it is provided at the scene of emergencies, in the same or similar localities where the alleged negligence occurred.

Source: PL 10-52, § 4(G); subsections (a) and (c) amended by global amendment by PL 18-73 § 7(a) (Jan. 25, 2015), modified.

Commission Comment: Each subpart of PL 10-52, § 4 has been made into its own separate section, and subsections have been relettered or renumbered in accordance with standard code format.

PL 10-52 also contained severability and savings clauses as follows:

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

The Commission corrected the capitalization of the word “paramedic” in subsections (a) and (c) pursuant to [1 CMC § 3806\(f\)](#).