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April 17, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 1134 and Senate Bill 579, "Immunity from Liability - Use of Automated External Defibrillator" and Senate Bill 570, "State Emergency Medical Services Board - Public Access Automated External Defibrillator Program." While we approve each of these bills, we write to advise of the interaction of the bills' provisions and to recommend an order to their signing.

House Bill 1134 and Senate Bill 579 are identical bills that alter the circumstances under which an individual is immune from civil liability for providing automated external defibrillation. To be immune from civil liability under current Education Article (ED), § 13-517(m)(3), an individual, in addition to other factors, must have been (1) acting while the individual is providing automated external defibrillation (AED) at an authorized facility, (2) have successfully completed an AED training course, and (3) have been authorized to provide automated external defibrillation and have been using an automated external defibrillator obtained by a prescription issued by a physician. The bills repeal these three requirements, thus leaving intact the requirements that the individual has been acting in good faith, the assistance has been provided in a reasonably prudent manner, and the AED has been provided without compensation. The bills also provide that the immunities under this section are not available if the conduct of the individual amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

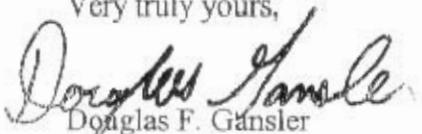
Senate Bill 570 renames the Automated External Defibrillator Program to be the Public Access Automated External Defibrillator Program with a stated purpose of coordinating an effective statewide public access defibrillator program. The bill alters the authority of the Emergency Medical Services (EMS) Board, removes the requirement that facilities meet certain requirements and be authorized by the EMS Board, and substitutes the requirement that facilities be registered with the EMS Board. Additionally, SB 570 alters the conditions under which an individual or a registered facility is immune from civil liability relating to the provision of automated external defibrillation.

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In particular, SB 570 leaves intact, with a few amendments the three requirements discussed above, that are repealed by HB1134 and SB 579 relating to immunity for individuals.

It is our view that all of the bills' provisions may be read together and given effect with the exception of ED § 13-517(m)(3). If, as a matter of policy, you wish to give effect to the repeal of the conditions under which an individual is immune from civil liability as enacted by HB1134 and SB 579, these bills should be signed after SB 570.

Very truly yours,



Douglas F. Gansler
Attorney General

DFG/BAK/mlb

cc: The Honorable Rob Garagiola
The Honorable Susan D. Lee
The Honorable Dennis Schnepfe
Joseph Bryce
Karl Aro