

(PRE-FILED)

By: ~~Delegate Costa~~ **Delegates Costa, Mandel, and McDonough**

Requested: September 23, 2004

Introduced and read first time: January 12, 2005

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 10, 2005

CHAPTER _____

1 AN ACT concerning

2 **Nursing Homes and Assisted Living Program Facilities - Automated**
3 **External Defibrillator**

4 FOR the purpose of requiring certain nursing homes and assisted living program
5 facilities to have and maintain automated external defibrillators; requiring
6 certain nursing homes and assisted living program facilities to have certain
7 operators on-site continuously; requiring the Department of Health and Mental
8 Hygiene to adopt certain regulations; expanding the application of the
9 Automated External Defibrillator Program to assisted living program facilities,
10 nursing homes, and nursing facilities; repealing an exemption for nursing
11 facilities from a requirement under the Program that certain facilities possess a
12 valid certificate from the State Emergency Medical Services Board if the
13 facilities desire to make automated external defibrillation available; exempting
14 nursing homes that have a defibrillator on-site and assisted living program
15 facilities that have a defibrillator on-site from certain requirements of this Act;
16 exempting assisted living program facilities that participate in the Certified
17 Adult Residential Environment Program from certain requirements of this Act;
18 exempting assisted living program facilities with less than a certain number of
19 beds from certain requirements of this Act; altering certain definitions; defining
20 a certain term; and generally relating to automated external defibrillators in
21 nursing homes and assisted living program facilities.

22 BY renumbering

23 Article - Health - General

24 Section 19-1417 to be Section 19-1418

25 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Education

4 Section 13-517(a)(1) and (n)

5 Annotated Code of Maryland

6 (2004 Replacement Volume and 2004 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Education

9 Section 13-517(a)(2) and (5) and (e)

10 Annotated Code of Maryland

11 (2004 Replacement Volume and 2004 Supplement)

12 BY adding to

13 Article - Health - General

14 Section 19-1417 and 19-1808

15 Annotated Code of Maryland

16 (2000 Replacement Volume and 2004 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That Section(s) 19-1417 of Article - Health - General of the Annotated
19 Code of Maryland be renumbered to be Section(s) 19-1418.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
21 read as follows:

22 **Article - Education**

23 13-517.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Authorized facility" means an organization, business, association,
26 ASSISTED LIVING PROGRAM FACILITY, NURSING HOME, NURSING FACILITY, or agency
27 that meets the requirements of the EMS Board for providing automated external
28 defibrillation.

29 (5) "Facility" means an agency, association, corporation, firm,
30 partnership, ASSISTED LIVING PROGRAM FACILITY, NURSING HOME, NURSING
31 FACILITY, or other entity.

32 (e) (1) Each facility that desires to make automated external defibrillation
33 available shall possess a valid certificate from the EMS Board.

34 (2) This subsection does not apply to:

1 (i) A jurisdictional emergency medical services operational
2 program;

3 (ii) A licensed commercial ambulance service; or

4 (iii) A health care facility as defined in § 19-114 of the Health -
5 General Article, EXCEPT A NURSING FACILITY.

6 (n) (1) In addition to any other immunities available under statutory or
7 common law, an authorized facility is not civilly liable for any act or omission in the
8 provision of automated external defibrillation if the authorized facility:

9 (i) Has satisfied the requirements for making automated external
10 defibrillation available under this section; and

11 (ii) Possesses a valid certificate at the time of the act or omission.

12 (2) In addition to any other immunities available under statutory or
13 common law, the sponsoring physician of an authorized facility is not civilly liable for
14 any act or omission in the provision of automated external defibrillation.

15 (3) In addition to any other immunities available under statutory or
16 common law, an individual is not civilly liable for any act or omission if:

17 (i) The individual is acting in good faith while rendering
18 automated external defibrillation to a person who is a victim or reasonably believed
19 by the individual to be a victim of a sudden cardiac arrest;

20 (ii) The assistance or aid is provided in a reasonably prudent
21 manner;

22 (iii) The automated external defibrillation is provided without fee or
23 other compensation; and

24 (iv) 1. The act or omission occurs while the individual is
25 providing automated external defibrillation in accordance with the requirements of
26 this section at an authorized facility;

27 2. The individual has successfully completed an AED
28 training course and is authorized to provide automated external defibrillation; or

29 3. The individual is using an automated external
30 defibrillator obtained by a prescription issued by a physician.

31 (4) The immunities in this subsection are not available if the conduct of
32 the authorized facility amounts to gross negligence, willful or wanton misconduct, or
33 intentionally tortious conduct.

34 (5) This subsection does not affect, and may not be construed as
35 affecting, any immunities from civil or criminal liability or defenses established by

1 any other provision of the Code or by common law to which an authorized facility or
2 an individual may be entitled.

3 **Article - Health - General**

4 19-1417.

5 (A) IN THIS SECTION, "AUTOMATED EXTERNAL DEFIBRILLATOR" MEANS A
6 ~~PORTABLE ELECTRONIC DEVICE THAT:~~

7 (1) ~~ANALYZES AN INDIVIDUAL'S HEART RHYTHM FOR ABNORMALITIES;~~
8 ~~AND~~

9 (2) ~~IF AN ABNORMALITY IS DETECTED, ADMINISTERS AN ELECTRICAL~~
10 ~~SHOCK TO THE INDIVIDUAL'S HEART THROUGH THE CHEST WALL THROUGH~~
11 ~~ADHESIVE ELECTRODE PADS MEDICAL HEART MONITOR AND DEFIBRILLATOR~~
12 ~~DEVICE THAT:~~

13 (1) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND DRUG
14 ADMINISTRATION;

15 (2) RECOGNIZES THE PRESENCE OR ABSENCE OF VENTRICULAR
16 FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;

17 (3) DETERMINES, WITHOUT INTERVENTION BY AN OPERATOR,
18 WHETHER DEFIBRILLATION SHOULD BE PERFORMED;

19 (4) ON DETERMINING THAT DEFIBRILLATION SHOULD BE PERFORMED,
20 AUTOMATICALLY CHARGES; AND

21 (5) (I) REQUIRES OPERATOR INTERVENTION TO DELIVER THE
22 ELECTRICAL IMPULSE; OR

23 (II) AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL
24 IMPULSE.

25 (B) EACH NURSING HOME SHALL HAVE AND MAINTAIN AN AUTOMATED
26 EXTERNAL DEFIBRILLATOR AT THE FACILITY.

27 (C) EACH NURSING HOME SHALL HAVE A TRAINED AUTOMATED EXTERNAL
28 DEFIBRILLATOR OPERATOR ON-SITE 24 HOURS EACH DAY.

29 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS REGARDING THE
30 TRAINING REQUIREMENTS FOR AUTOMATED EXTERNAL DEFIBRILLATOR
31 OPERATORS.

32 (E) THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO
33 NOT APPLY TO A NURSING HOME THAT HAS A DEFIBRILLATOR ON-SITE.

1 19-1808.

2 (A) IN THIS SECTION, "AUTOMATED EXTERNAL DEFIBRILLATOR" MEANS A
3 ~~PORTABLE ELECTRONIC DEVICE THAT:~~

4 (1) ~~ANALYZES AN INDIVIDUAL'S HEART RHYTHM FOR ABNORMALITIES;~~
5 ~~AND~~

6 (2) ~~IF AN ABNORMALITY IS DETECTED, ADMINISTERS AN ELECTRICAL~~
7 ~~SHOCK TO THE INDIVIDUAL'S HEART THROUGH THE CHEST WALL THROUGH~~
8 ~~ADHESIVE ELECTRODE PADS; MEDICAL HEART MONITOR AND DEFIBRILLATOR~~
9 ~~DEVICE THAT:~~

10 (1) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND DRUG
11 ADMINISTRATION;

12 (2) RECOGNIZES THE PRESENCE OR ABSENCE OF VENTRICULAR
13 FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;

14 (3) DETERMINES, WITHOUT INTERVENTION BY AN OPERATOR,
15 WHETHER DEFIBRILLATION SHOULD BE PERFORMED;

16 (4) ON DETERMINING THAT DEFIBRILLATION SHOULD BE PERFORMED,
17 AUTOMATICALLY CHARGES; AND

18 (5) (I) REQUIRES OPERATOR INTERVENTION TO DELIVER THE
19 ELECTRICAL IMPULSE; OR

20 (II) AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL
21 IMPULSE.

22 (B) EACH ASSISTED LIVING PROGRAM FACILITY SHALL HAVE AND MAINTAIN
23 AN AUTOMATED EXTERNAL DEFIBRILLATOR AT THE FACILITY.

24 (C) EACH ASSISTED LIVING PROGRAM FACILITY SHALL HAVE A TRAINED
25 AUTOMATED EXTERNAL DEFIBRILLATOR OPERATOR ON-SITE 24 HOURS EACH DAY.

26 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS REGARDING THE
27 TRAINING REQUIREMENTS FOR AUTOMATED EXTERNAL DEFIBRILLATOR
28 OPERATORS.

29 (E) THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO
30 NOT APPLY TO AN ASSISTED LIVING PROGRAM FACILITY THAT:

31 (1) IS LICENSED FOR NINE OR FEWER BEDS;

32 (2) PARTICIPATES IN THE CERTIFIED ADULT RESIDENTIAL
33 ENVIRONMENT PROGRAM ADMINISTERED BY THE DEPARTMENT OF HUMAN
34 RESOURCES; OR

35 (3) HAS A DEFIBRILLATOR ON-SITE.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2005.