

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 21 (Delegate Costa, *et al.*)

Health and Government Operations

Finance

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Nursing Homes and Assisted Living Program Facilities - Automated External  
Defibrillator

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This bill requires nursing homes and assisted living facilities to have and maintain an automated external defibrillator (AED) and have a trained operator on-site 24 hours each day.

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Fiscal Summary

**State Effect:** Potential increase in special fund revenues depending on the number of facilities becoming certified under the State's AED program. Special fund revenues could increase by \$25,500 in FY 2006 and 2009 if all newly eligible facilities chose to be certified.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful. AEDs can range in price from \$800 for a refurbished unit to more than \$4,000. Depending on the device and the size and budget of the nursing home or assisted living facility, the economic impact may be meaningful.

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Analysis

**Bill Summary:** The Department of Health and Mental Hygiene (DHMH) must adopt regulations on AED operator training requirements. The bill does not apply to an assisted living facility that: (1) is licensed for nine or fewer beds; (2) participates in the Certified Adult Residential Environment Program administered by the Department of Human Resources (DHR); or (3) has a defibrillator on-site.

The bill also allows an assisted living program facility, a nursing home, and a nursing facility to participate in the AED program. It repeals the prohibition that a nursing facility may not participate in the program.

**Current Law:** Nursing homes and assisted living facilities are not required to have and maintain an AED on-site.

Chapter 167 of 1999, which created the Automated External Defibrillator Program, authorizes a facility to make AED available to victims of sudden cardiac arrest. The program is administered by the Emergency Medical Services Board, which certifies facilities to operate AEDs. A certificate is valid for three years and is not required for a health care facility, a licensed commercial ambulance service, or a jurisdictional emergency medical service. The board also sets fees for certificates and other AED program services to approximate program costs. All fees collected are distributed to the Maryland Emergency Medical System Operations Fund.

The following immunities for facilities, physicians, and individuals participating in the AED program are in addition to other immunities available under statutory or common law.

- An authorized facility is immune from civil liability for an act or omission when using an AED to treat an individual in cardiac arrest if the facility satisfied the AED program's statutory requirements and has a valid certificate when the incident happens.
- The facility's sponsoring physician is immune from civil liability.
- An individual is immune from civil liability for any act or omission if: (1) he or she is acting in good faith while using an AED on a person suffering or who is reasonably believed to be suffering from cardiac arrest; (2) the assistance is provided in a reasonably prudent manner; (3) defibrillation is provided free of charge; and (4) the act or omission happened while he or she was using the AED according to statutory requirements, he or she successfully completed an AED training course and is authorized to provide AED, or the person is using a physician-prescribed AED.

These immunities are not available if the authorized facilities conduct amounts to gross negligence, willful or wanton misconduct, or intentionally tortuous conduct. These immunities do not affect any immunity from civil or criminal liability or defenses under any other provision of the Code or common law.

**Background:** There are 242 nursing homes and 1,575 licensed assisted living facilities in Maryland. No nursing homes have nine or fewer beds. Of the 1,575 licensed assisted living facilities, 1,288 are licensed to serve nine or fewer individuals. This bill also would not apply to the 268 Certified Adult Residential Environment Program (Project HOME) facilities. Of the remaining 1,020 licensed facilities, DHMH cannot say how many have a defibrillator on-site.

DHR reports that most Project HOME providers care for one to three residents in the assisted living home, with no more than eight people being cared for in a home.

Most AEDs are about the size of a laptop computer. They analyze a cardiac arrest victim's cardiac rhythm, charge to an appropriate energy level, and deliver a defibrillation charge, if directed to by the operator. This electrical charge is delivered through adhesive pads placed on the victim's chest.

AEDs can range in price from \$800 for a refurbished unit to more than \$4,000.

The American Red Cross of Central Maryland offers on-site AED operation training. AED training may be scheduled with CPR training (4.5 hours) or with CPR and first aid training (7.5 hours). The AED course includes: (1) interactive training on AED use; (2) interactive training and certification in adult CPR; (3) practice scenarios; (4) a skills card allowing employees to continue practicing after completing the course; and (5) first aid instruction if desired.

### *Maryland AED Program*

There are 415 facilities in Maryland, with a total of 898 sites, authorized to participate in the Automated External Defibrillation Program. Each facility applying for AED certification pays a \$25 application fee. Certification is valid for three years if the facility continues to comply with the program's requirements. None of these facilities are nursing homes or assisted living facilities because statute exempts health care facilities from the program.

### *Federal and State Actions*

The Federal Aviation Administration, in response to the Aviation Medical Assistance Act of 1998, issued a final ruling on April 12, 2001 that requires U.S. airlines to carry AEDs on planes that weigh 7,500 pounds each and have at least one flight attendant. The deadline for complying with this rule was May 12, 2004.

The state of New York has enacted two laws regarding AEDs. Legislation in 2001 authorizes a \$500 credit for businesses and individuals that purchase AEDs after January

1, 2001. Legislation in 2002 requires primary and secondary schools to be equipped with AEDs.

**State Revenues:** If each of the 1,020 licensed facilities participate in the AED program and pay the \$25 certification fee, special fund revenues would increase by \$25,500 in fiscal 2006 and 2009. Future year revenues would reflect a three-year certification renewal cycle and a stable number of facilities renewing.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, American Red Cross of Central Maryland, Maryland Institute of Emergency Medical Services Systems, AED4U.com, Department of Legislative Services

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