

# HOUSE BILL 1298

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By: **Chair, Health and Government Operations Committee (By Request – Departmental – Maryland Institute for Emergency Medical Services Systems)**

Introduced and read first time: February 26, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Automated External Defibrillator Program**

3 FOR the purpose of establishing an Automated External Defibrillator (AED) Program  
4 Fund; requiring the Comptroller to distribute certain fees to the AED Program  
5 Fund instead of the Maryland Emergency Medical System Operations Fund;  
6 providing for the purposes of the Fund; establishing that the Fund is a  
7 continuing, nonlapsing fund that is not subject to certain provisions of law;  
8 prohibiting unspent portions of the Fund from being transferred to the General  
9 Fund; repealing any limitation on individual use of AEDs; extending certain  
10 immunity provisions to entities participating in the AED Program; and  
11 generally relating to the Automated External Defibrillator Program.

12 BY repealing and reenacting, with amendments,  
13 Article – Education  
14 Section 13–517  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Education**

20 13–517.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2                   (2)   “Authorized facility” means an organization, business, association,  
3 or agency that meets the requirements of the EMS Board for providing automated  
4 external defibrillation.

5                   (3)   “Automated external defibrillator (AED)” means a medical heart  
6 monitor and defibrillator device that:

7                           (i)   Is cleared for market by the federal Food and Drug  
8 Administration;

9                           (ii)   Recognizes the presence or absence of ventricular fibrillation  
10 or rapid ventricular tachycardia;

11                           (iii)   Determines, without intervention by an operator, whether  
12 defibrillation should be performed;

13                           (iv)   On determining that defibrillation should be performed,  
14 automatically charges; and

15                           (v)   1.   Requires operator intervention to deliver the  
16 electrical impulse; or

17   2.   Automatically continues with delivery of electrical  
18 impulse.

19                   (4)   “Certificate” means a certificate issued by the EMS Board to an  
20 authorized facility.

21                   (5)   “Facility” means an agency, association, corporation, firm,  
22 partnership, or other entity.

23                   (6)   “Jurisdictional emergency medical services operational program”  
24 means the institution, agency, corporation, or other entity that has been approved by  
25 the EMS Board to provide oversight of emergency medical services for each of the local  
26 government and State and federal emergency medical services programs.

27                   (7)   “Regional administrator” means the individual employed by the  
28 Institute as regional administrator in each EMS region.

1 (8) "Regional council" means an EMS advisory body as created by the  
2 Code of Maryland Regulations 30.05.

3 (9) "Regional council AED committee" means a committee appointed  
4 by the regional council consisting of:

5 (i) The regional medical director;

6 (ii) The regional administrator; and

7 (iii) Three or more individuals with knowledge of and expertise  
8 in AEDs.

9 (10) "Sponsoring physician" means a physician who:

10 (i) Is licensed to practice medicine under Title 14 of the Health  
11 Occupations Article;

12 (ii) Provides medical oversight to an authorized facility; and

13 (iii) Meets qualifications established by the EMS Board.

14 (b) (1) There is an Automated External Defibrillator Program.

15 (2) The purpose of the Program is to provide a means of authorizing a  
16 facility to make automated external defibrillation available to an individual who is a  
17 victim of sudden cardiac arrest if physician services or emergency medical services are  
18 not immediately available.

19 (3) The Program shall be administered by the EMS Board.

20 (c) The EMS Board may:

21 (1) Adopt regulations for the administration of the Program;

22 (2) Set reasonable fees for the issuance and renewal of certificates and  
23 other services it provides under the Program provided that the fees set produce funds  
24 to approximate the cost of maintaining the certification program and the other  
25 services provided under the Program;

26 (3) Issue and renew certificates to facilities that meet the  
27 requirements of this section;

1           (4) Deny, suspend, revoke, or refuse to renew the certificate of an  
2 authorized facility for failure to meet the requirements of this section;

3           (5) Approve educational and training programs required under this  
4 section that:

5                   (i) Are conducted by any private or public entity;

6                   (ii) Include training in cardiopulmonary resuscitation; and

7                   (iii) May include courses from nationally recognized entities such  
8 as the American Heart Association, the American Red Cross, and the National Safety  
9 Council;

10           (6) Approve protocols for the use of an automated external  
11 defibrillator;

12           (7) Require each authorized facility on reasonable notice to produce for  
13 inspection:

14                   (i) Maintenance records;

15                   (ii) Training records; and

16                   (iii) Equipment; and

17           (8) Delegate to the Institute any portion of its authority under this  
18 section.

19           (d) (1) **THERE IS AN AED PROGRAM FUND.**

20                   (2) The EMS Board shall pay all fees collected under the provisions of  
21 this section to the Comptroller of the Treasury.

22                   [(2)] (3) The Comptroller of the Treasury shall distribute the fees to  
23 the [Maryland Emergency Medical System Operations Fund established under §  
24 13-955 of the Transportation Article] **AED PROGRAM FUND.**

25                   (4) **THE AED PROGRAM FUND SHALL BE USED EXCLUSIVELY TO**  
26 **FUND THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING**  
27 **THE STATUTORY AND REGULATORY DUTIES OF THE EMS BOARD AS PROVIDED**  
28 **BY THIS SECTION.**

1           **(5) (I) THE AED PROGRAM FUND IS A CONTINUING,**  
2 **NONLAPSING FUND AND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE**  
3 **AND PROCUREMENT ARTICLE.**

4                   **(II) ANY UNSPENT PORTION OF THE AED PROGRAM FUND**  
5 **MAY NOT BE TRANSFERRED TO THE GENERAL FUND OF THE STATE BUT SHALL**  
6 **REMAIN IN THE AED PROGRAM FUND TO BE USED FOR THE PURPOSES OF THIS**  
7 **SECTION.**

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

10                   (2) This subsection does not apply to:

11                           (i) A jurisdictional emergency medical services operational  
12 program;

13                           (ii) A licensed commercial ambulance service; or

14                           (iii) A health care facility as defined in § 19-114 of the Health –  
15 General Article.

16           (f) To qualify for a certificate a facility shall:

17                   (1) Have medical direction through:

18                           (i) A sponsoring physician; or

19                           (ii) The regional council AED committee;

20                   (2) Be registered with the closest jurisdictional emergency medical  
21 services operational program;

22                   (3) Comply with written protocols approved by the EMS Board for the  
23 use of an automated external defibrillator which include:

24                           (i) Notification of the emergency medical services system  
25 through the use of the 911 universal emergency access number as soon as possible on  
26 the use of an automated external defibrillator; and

1                   (ii) Subsequent reporting of the use of an automated external  
2 defibrillator to the closest jurisdictional emergency medical services operational  
3 program;

4                   (4) Have established automated external defibrillator maintenance,  
5 placement, operation, reporting, and quality improvement procedures as required by  
6 the EMS Board;

7                   (5) Ensure that:

8                   (i) Each automated external defibrillator is maintained,  
9 operated, and tested according to manufacturers' guidelines; and

10                   (ii) Written records of the maintenance and testing of each  
11 automated external defibrillator are maintained as required by the EMS Board; and

12                   (6) Ensure that each individual who [operates] **IS EXPECTED TO**  
13 **OPERATE** an automated external defibrillator for the authorized facility has  
14 successfully completed an educational training course and refresher training as  
15 required by the EMS Board.

16                   (g) A facility that desires to establish or renew a certificate shall:

17                   (1) Submit an application on the form that the EMS Board requires;

18                   (2) Pay to the EMS Board the application or renewal fee set by the  
19 EMS Board; and

20                   (3) Meet the requirements under this section.

21                   (h) (1) The EMS Board shall issue a new or a renewed certificate to a  
22 facility that meets the requirements of this section.

23                   (2) Each certificate shall include:

24                   (i) The type of certificate;

25                   (ii) The full name and address of the facility;

26                   (iii) A unique identification number; and

27                   (iv) The dates of issuance and expiration of the certificate.

1 (i) A certificate is valid for 3 years.

2 [(j) An individual who is authorized to operate an automated external  
3 defibrillator at an authorized facility may administer automated external  
4 defibrillation to an individual who is reasonably believed to be a victim of sudden  
5 cardiac arrest if physician services or emergency medical services are not immediately  
6 available.]

7 [(k) (J) An individual who is [authorized] **EXPECTED** to operate an  
8 automated external defibrillator at an authorized facility shall follow the protocols  
9 established by the EMS Board.

10 [(l) (K) The EMS Board may issue a cease and desist order or obtain  
11 injunctive relief:

12 (1) If a facility makes automated external defibrillation available in  
13 violation of this section; or

14 (2) If an individual provides automated external defibrillation in  
15 violation of this section.

16 [(m) (L) (1) In addition to any other immunities available under  
17 statutory or common law, an authorized facility is not civilly liable for any act or  
18 omission in the provision of automated external defibrillation if the authorized  
19 facility[:

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

22 (ii) Possesses] **POSSESSES** a valid certificate at the time of the  
23 act or omission.

24 (2) In addition to any other immunities available under statutory or  
25 common law, the sponsoring physician [of an authorized facility] **OR THE REGIONAL**  
26 **COUNCIL AED COMMITTEE** is not civilly liable for any act or omission in the  
27 provision of automated external defibrillation.

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

1 (i) The individual is acting in good faith while rendering  
2 automated external defibrillation to a person who is a victim or reasonably believed by  
3 the individual to be a victim of a sudden cardiac arrest; **AND**

4 (ii) [The assistance or aid is provided in a reasonably prudent  
5 manner;

6 (iii)] The automated external defibrillation is provided without  
7 fee or other compensation[; and

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

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

13 3. The individual is using an automated external  
14 defibrillator obtained by a prescription issued by a physician].

15 (4) The immunities in this subsection are not available if the conduct  
16 of the authorized facility **OR INDIVIDUAL** amounts to gross negligence, willful or  
17 wanton misconduct, or intentionally tortious conduct.

18 (5) This subsection does not affect, and may not be construed as  
19 affecting, any immunities from civil or criminal liability or defenses established by any  
20 other provision of the Code or by common law to which an authorized facility, **A**  
21 **SPONSORING PHYSICIAN, THE REGIONAL COUNCIL AED COMMITTEE**, or an  
22 individual may be entitled.

23 [(n)] **(M)** (1) An authorized facility aggrieved by a decision of the  
24 Institute acting under the delegated authority of the EMS Board under this section  
25 shall be afforded an opportunity for a hearing before the EMS Board.

26 (2) An authorized facility aggrieved by a decision of the EMS Board  
27 under this section shall be afforded an opportunity for a hearing in accordance with  
28 Title 10, Subtitle 2 of the State Government Article.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 July 1, 2007.