

HOUSE BILL 1298

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71r0041

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

Re-referred to: Health and Government Operations, March 5, 2007

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 26, 2007

CHAPTER _____

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; altering the
11 circumstances under which an authorized facility is not civilly liable for certain
12 acts or omissions; and generally relating to the Automated External
13 Defibrillator Program.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 13–517
17 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume)

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

4 **Article - Education**

5 13-517.

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

7 (2) "Authorized facility" means an organization, business, association,
8 or agency that meets the requirements of the EMS Board for providing automated
9 external defibrillation.

10 (3) "Automated external defibrillator (AED)" means a medical heart
11 monitor and defibrillator device that:

12 (i) Is cleared for market by the federal Food and Drug
13 Administration;

14 (ii) Recognizes the presence or absence of ventricular fibrillation
15 or rapid ventricular tachycardia;

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

18 (iv) On determining that defibrillation should be performed,
19 automatically charges; and

20 (v) 1. Requires operator intervention to deliver the
21 electrical impulse; or

22 2. Automatically continues with delivery of electrical
23 impulse.

24 (4) "Certificate" means a certificate issued by the EMS Board to an
25 authorized facility.

26 (5) "Facility" means an agency, association, corporation, firm,
27 partnership, or other entity.

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

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

7 (8) “Regional council” means an EMS advisory body as created by the
8 Code of Maryland Regulations 30.05.

9 (9) “Regional council AED committee” means a committee appointed
10 by the regional council consisting of:

- 11 (i) The regional medical director;
- 12 (ii) The regional administrator; and
- 13 (iii) Three or more individuals with knowledge of and expertise
14 in AEDs.

15 (10) “Sponsoring physician” means a physician who:

- 16 (i) Is licensed to practice medicine under Title 14 of the Health
17 Occupations Article;
- 18 (ii) Provides medical oversight to an authorized facility; and
- 19 (iii) Meets qualifications established by the EMS Board.

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

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

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

26 (c) The EMS Board may:

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

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

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

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

9 (5) Approve educational and training programs required under this
10 section that:

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

12 (ii) Include training in cardiopulmonary resuscitation; and

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

16 (6) Approve protocols for the use of an automated external
17 defibrillator;

18 (7) Require each authorized facility on reasonable notice to produce for
19 inspection:

20 (i) Maintenance records;

21 (ii) Training records; and

22 (iii) Equipment; and

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

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

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

1 ~~[(2)]~~ **(3)** The Comptroller of the Treasury shall distribute the fees to
2 the [Maryland Emergency Medical System Operations Fund established under §
3 13-955 of the Transportation Article] **AED PROGRAM FUND.**

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

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

11 **(II) ANY UNSPENT PORTION OF THE AED PROGRAM FUND**
12 **MAY NOT BE TRANSFERRED TO THE GENERAL FUND OF THE STATE BUT SHALL**
13 **REMAIN IN THE AED PROGRAM FUND TO BE USED FOR THE PURPOSES OF THIS**
14 **SECTION.**

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

17 (2) This subsection does not apply to:

18 (i) A jurisdictional emergency medical services operational
19 program;

20 (ii) A licensed commercial ambulance service; or

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

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

24 (1) Have medical direction through:

25 (i) A sponsoring physician; or

26 (ii) The regional council AED committee;

27 (2) Be registered with the closest jurisdictional emergency medical
28 services operational program;

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

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

6 (ii) Subsequent reporting of the use of an automated external
7 defibrillator to the closest jurisdictional emergency medical services operational
8 program;

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

12 (5) Ensure that:

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

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

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

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

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

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

25 (3) Meet the requirements under this section.

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

28 (2) Each certificate shall include:

- 1 (i) The type of certificate;
- 2 (ii) The full name and address of the facility;
- 3 (iii) A unique identification number; and
- 4 (iv) The dates of issuance and expiration of the certificate.

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

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

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

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

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

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

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

24 (i) Has ~~satisfied the requirements for making automated~~
25 ~~external defibrillation available under this section; and~~

26 (ii) ~~Possesses~~ **POSSESSES ENSURED THAT EACH INDIVIDUAL**
27 **WHO IS EXPECTED TO OPERATE AN AUTOMATED EXTERNAL DEFIBRILLATOR**
28 **FOR THE AUTHORIZED FACILITY HAS SATISFIED THE REFRESHER TRAINING**

1 **REQUIRED UNDER SUBSECTION (F)(6) OF THIS SECTION NO LATER THAN 60**
2 **DAYS AFTER THE REQUIRED TRAINING RENEWAL DATE; AND**

3 (ii) **POSSESSES** a valid certificate at the time of the act or
4 omission.

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

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

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

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

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

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

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

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

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

28 (5) This subsection does not affect, and may not be construed as
29 affecting, any immunities from civil or criminal liability or defenses established by any
30 other provision of the Code or by common law to which an authorized facility, A

1 **SPONSORING PHYSICIAN, THE REGIONAL COUNCIL AED COMMITTEE**, or an
2 individual may be entitled.

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.