

(PRE-FILED)

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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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 10, 2005

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CHAPTER \_\_\_\_\_

AN ACT concerning

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

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

BY renumbering

Article - Health - General

Section 19-1417 to be Section 19-1418

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, without amendments,

Article - Education

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

Annotated Code of Maryland

(2004 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, with amendments,

Article - Education

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

Annotated Code of Maryland

(2004 Replacement Volume and 2004 Supplement)

BY adding to

Article - Health - General

Section 19-1417 and 19-1808

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)

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

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

**Article - Education**

13-517.

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

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

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

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

(2) This subsection does not apply to:

program;

(i) A jurisdictional emergency medical services operational

(ii) A licensed commercial ambulance service; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Article - Health - General**

19-1417.

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

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

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

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

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

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

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

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

~~(II) AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL IMPULSE.~~

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

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

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

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

19-1808.

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

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

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

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

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

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

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

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

~~(II) AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL IMPULSE.~~

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

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

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

(E) THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY TO AN ASSISTED LIVING PROGRAM 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; OR

(3) HAS A DEFIBRILLATOR ON-SITE.

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