LEGISLATIVE RESEARCH COMMISSION

DEFIBRILLATORS--USE AND LIABILITY

REPORT TO THE
2000 SESSION OF THE
1999 GENERAL ASSEMBLY
OF NORTH CAROLINA

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH, NC 27601

May 4, 2000

TO THE MEMBERS OF THE 1999 GENERAL ASSEMBLY (REGULAR SESSION 2000):

The Legislative Research Commission herewith submits to you for your consideration its 2000 interim report on defibrillators; use and liability. The report was prepared by the Legislative Research Commission's Committee on Defibrillators--Use and Liability pursuant to G.S. 120-30.17(1).

Respectfully submitted,

James B. Black
Speaker of the House

Marc Basnight
President Pro Tempore

Cochairs
Legislative Research Commission

1999 - 2000

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of
the Senate
Marc Basnight, Cochair

Senator Austin M. Allran
Senator Linda D. Garrou
Senator Jeanne H. Lucas
Senator R.L. "Bob" Martin
Senator Ed N. Warren

Speaker of the House
of Representatives
James B. Black, Cochair

Rep. James W. Crawford, Jr.
Rep. Beverly M. Earle
Rep. Verla C. Insko
Rep. William L. Wainwright
Rep. Steve W. Wood

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1998 Session and 1999 Sessions, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Defibrillators; use and liability was authorized by House Bill 1118. Part II of Chapter 395 allows for studies authorized by that Part for the Legislative Research Commission to consider House Bill 1118 in determining the nature, scope and aspects of the study. Section 1 of House Bill 1118 reads in part: "The Legislative Research Commission may study the issue

of limited liability when a person uses an automated external defibrillator to render emergency treatment to save the life of a person in cardiac arrest." The relevant portions of Chapter 395 and House Bill 1118 are included in Appendix A.

The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Human Resources and Health Issues area under the direction of Representative James W. Crawford, Jr. The Committee was chaired by Senator Ed Warren and Representative Thomas E. Wright. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the 1999-2000 biennium.

COMMITTEE PROCEEDINGS

The Defibrillators--Use and Liability Study Committee met three times in Raleigh on March 1, 2000, March 29, 2000, and April 18, 2000.

The minutes of these meetings, which are on file in the Legislative Library, provide a detailed record of the testimony before the Committee.

The Committee was presented with the following information that proved helpful during its deliberations and formed the informational basis for its findings and recommendations.

REFERENCE MATERIALS SUBMITTED TO THE COMMITTEE

A. Frequently Asked Questions

The following FAQ (Frequently Asked Questions) document was based on a document prepared by the American Heart Association and provides background to understanding the Committees proceedings, deliberations, and recommendations.

1. What is an AED?

AED stands for automated external defibrillator. An AED is a device that is a little larger than a laptop computer. It automatically analyzes heart rhythms and delivers an electric current to the heart if the heart is in ventricular fibrillation. In other words, an AED can restore a fibrillating heart to a normal rhythm. There are two different kinds of AEDs. One, after determining that a lifesaving shock is required will give that shock without further human intervention. The other, after determining that a life saving shock is required, informs the human operator, through an audible command, to press a button which gives the life saving shock.

2. What is ventricular fibrillation?

Ventricular fibrillation is an abnormal heart rhythm, or arrhythmia. When ventricular fibrillation develops, the heart quivers and stops its pumping action. Victims of ventricular fibrillation collapse and quickly lose consciousness. When a person goes into ventricular fibrillation, or sudden cardiac arrest, without further intervention, most likely the person will die.

3. Why are AEDs important?

AEDs are important because they can restore a normal heart rhythm in persons suffering from ventricular fibrillation (sudden cardiac arrest). They are also important because they don't require a lot of training to be used effectively. This training involves recognizing the symptoms of a heart problem and calling 911 or another emergency system number. AEDs are important to save lives.

4. What is the long-term survival rate of persons who are resuscitated during a sudden cardiac arrest?

People who survive a sudden cardiac arrest have a very good chance of long-term survival. Approximately 83% of sudden cardiac arrest survivors live at least 1 year, and 57% survive for 5 years or more.

5. What are survival rates for victims of sudden cardiac arrest?

Only about 1 of 20 victims (5%) of sudden cardiac arrest survives. Many of these victims could be saved with early CPR and early defibrillation.

6. How much training is required to use an AED?

A person can be properly trained in CPR and use of an AED in just a few hours. For example, the American Heart Association Heartsaver AED program, which includes training in CPR and use of an AED, can be completed in 3 to 4 hours. CPR training is important because once the normal heart rhythm is restored, CPR may be needed to provide oxygen to the brain and prevent "brain death."

7. Who would use an AED?

Most AEDs are designed to be used by nonmedical personnel such as police, firefighters, flight attendants, security guards, and other designated lay responders, including family members who have been properly trained. Having more people in the community who can respond to a medical emergency by providing early defibrillation will greatly increase survival rates from sudden cardiac arrest.

8. How safe are AEDs to use?

AEDs are very safe if used appropriately. AEDs are designed to deliver a shock only when they detect a life-threatening arrhythmia such as ventricular fibrillation.

9. Are AEDs difficult to use?

No. AEDs are very easy to use. AEDs have voice and text prompts that lead the user through the treatment process from diagnosis to delivery of a shock. Once the electrode pads are attached to the victim's chest, the AED determines if a shock is necessary. If a shock is needed, the AED will tell the responder to press a button on the device to deliver the shock. After the shock is delivered, the device will prompt the responder to begin CPR if needed.

10. Are AEDs safe to use on children?

An AED should not be used on a child who is younger than 8 years old or who weighs less than approximately 55 pounds.

11. How much does an AED cost?

The price of an AED depends on the manufacturer and model. Most AEDs cost about $2,000, however, the price for these devices is going down.

12. What steps would need to be taken if an organization to acquire an AED for its premises?

The Federal Drug Administration, which regulates medical devices, has determined that the AED is a medical device subject to their regulation. As of the date of this study, no final FDA regulations have been issued that require a prescription for the acquisition of an AED. However, there is an interpretation from the staff of the FDA that a prescription is necessary, so, in an abundance of caution most organizations (individuals) first get a prescription from a physician. The North Carolina Medical Board has issued a letter ruling that the use of AEDs is not the "practice of medicine."

13. Why are some businesses hesitant to purchase and place an AED on their premises?

Some businesses may have concerns about being sued for damages. As of November 1999, 45 states have enacted defibrillator laws or adopted regulations, some have provided limited liability coverage for lay rescuers using AEDs. Some states provide explicit liability protection to businesses or organizations that acquire an AED, a physician who provides oversight, and the person who provides training.

14. What is the purpose of state AED legislation?

The purpose of state AED legislation is to make AEDs more available and ensure effective use of AEDs in an emergency. This is done by:

- Providing limited immunity from liability for civil damages for persons who use an AED in an emergency situation and liability protection for businesses and organizations that provide AEDs, AED trainers, and physicians who prescribe and authorize the purchase of AEDs.
- By reducing training requirements for using an AED to a more appropriate 3 to 4 hours.

15. Providing liability protection to certain persons would encourage greater availability and use of AEDs. Who should receive liability protection?

All lay rescuers, businesses or other organizations that provide an AED, prescribing physicians, and AED trainers should and have at least limited protection from liability for civil damages.

16. Many AED manufacturers have their own indemnification program for those who purchase their AEDs. Is state legislation still necessary if this practice becomes more widespread?

Yes. Manufacturers' indemnification programs are often narrowly written and may not provide the broad liability coverage needed to foster greater deployment and use of AEDs. Most manufacturers' indemnification programs provide some limited liability protection to the lay rescuer who uses an AED and the business or organization that provided the AED. However, they often do not provide the broad liability protection that is needed for the prescribing physician and the AED trainer.

17. All persons or entities that acquire an AED should notify the local emergency medical services (EMS) office. Why is this important?

It is important for the local EMS system to know where AEDs are located in the community. This allows them to be better prepared to deal with the situation they will encounter at the scene of the emergency. In some systems, this also will allow the 911 dispatcher to know if an AED is on the premises and will be able to notify the EMS system as well as responders who are already at the scene.

18. All persons trained in the use of an AED should also be trained in CPR. Why is this important?

Early CPR is an integral part of providing lifesaving aid to persons experiencing a cardiac emergency. While the AED may restart a heart that has stopped beating, CPR is necessary to ensure that blood and oxygen flow to the vital organs, including the brain. After delivering an electric shock to a person in sudden cardiac arrest, most AEDs will prompt the operator to CPR while the device continues to analyze the patient.

19. What is the role of the FDA concerning AEDs?

The FDA provides premarket clearance of all AEDs and ensures that the device does what the manufacturer says it will do and that the labeling of the device is consistent with the device itself.

20. Does the FDA approve AEDs for placement in certain locations such as airplanes?

No. The FDA does not approve or disapprove the placement of AEDs in certain locations. The FDA approves the AED and the manufacturer's label. On many AEDs, the manufacturer's label states that the device is safe and effective for use on airplanes, which will allay concerns about whether the AED would be safe and effective at high altitudes.

21. What is the difference between a first responder, a traditional first responder, a lay responder, and other persons who use AEDs?

The terms traditional first responder and first responder are often used interchangeably and have, in certain respects, lost their original meaning. A first responder was originally used to describe a person who had been trained in a first-aid program that followed the Department of Transportation First Responder National Standard Curriculum. A traditional first responder was often described as a person with a duty to respond to medical emergencies, e.g., ambulance personnel and firefighters. Now the term first responder describes all personnel who respond to public requests for assistance, including ambulance personnel, firefighters, and police or other law enforcement officials. The terms lay responder, lay rescuer, and designated responder are often used to describe persons who have been trained in CPR, use of an AED, and possibly other first-aid assistance whose job might require that they respond to a medical emergency, e.g., security guards, supervisors, flight attendants, etc.

B. Power Point presentation prepared by the Committee Counsel

The following two pages contain a Power Point presentation that was presented by the Al Andrews, Committee Counsel to further inform the committee to aid in its deliberations and discussions.

AED Study Committee

Definitions (1)

- AED stands for *Automated External Defibrillator.* A device that automatically analyzes a cardiac arrest victim's heart rhythm and makes a decision to defibrillate the patient.
- Defibrillation is the therapeutic delivery of an electric current to a patient's chest wall that in turn passes through the heart, hopefully terminating lethal heart rhythms.
- Sudden Cardiac Arrest is the condition where the heart stops beating suddenly and unexpectedly.

AED Study Committee

Definitions (2)

- Ventricular Fibrillation is the most common lethal rhythm leading to a sudden cardiac arrest, caused by a disturbance in the heart's electrical system. The *only* definitive treatment is to render rapid defibrillation.

AED Study Committee

Liability Issues

- A good starting point when discussing liability issues and AED technology is the fact that the sudden cardiac arrest victim is dead unless rapid CPR and defibrillation successfully resuscitates them.
- CPR is performed thousands of times a year with a nationwide success rate of 3 %. No one has ever been sued for performing CPR.
- AEDs raise the sudden cardiac arrest victim's chances for survival to as high as 40%.

AED Study Committee

State Public Access Defibrillation Liability Immunity Legislation

- As of September, 1999, 42 states provided limited liability for lay responders.

AED Study Committee

North Carolina Immunity Statutes (1)

- **G.S. 1-539.10. Immunity from civil liability for volunteers.**--Applies to volunteers for charitable organizations.
- **G.S. 20-166. Duty to stop in event of accident or collision; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability.**--Applies to persons rendering first aid at the scene of a motor vehicle accident on any street or highway to persons injured as a result of the motor vehicle accident.

AED Study Committee

North Carolina Immunity Statutes (2)

- **G.S. 90-21.14. First aid or emergency treatment; liability limitation.**--Any person...who renders first aid or emergency health care treatment to a person who is unconscious, ill or injured...shall not be liable for damages for injuries alleged to have been sustained by the person or for damages for the death of the person alleged to have occurred by reason of an act or omission in the rendering of the treatment unless it is established that the injuries were or the death was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the person rendering the treatment.

AED Study Committee

Purposes of Proposed Legislation (1)

- Insure immunity from suit for person actually using AED (May be covered by G.S. 90-21.14).
- Provide immunity from suit for company or organization purchasing and placing AEDs. To encourage the purchase and placement of the devices.
- Provide immunity from suit for doctor dispensing and supervising the placement and use of AEDs.
- Provide immunity from suit for the organizations or agencies training the potential users of AEDs in proper use of the device and CPR. CPR training is considered important because the AED will "restart" the heart but without CPR, oxygenated blood may not reach the brain and the person, if he survives, will have a diminished quality of life.

AED Study Committee

Purposes of Proposed Legislation (2)

- No immunity from suit for manufacturers of AEDs. Existing product liability law pertains.
- No immunity from suit for paid health care providers. Current medical malpractice law pertains.
- Not intended to create a new liabilities based upon fact that placement of AEDs may one day become the accepted standard in the workplace.
- Not intended to diminish any existing immunity from suit based on current statutes.

C. Other State Statutes

As part of the presentations to the Committee the following chart of AED Liability legislation from other states was presented to aid the Committee in its deliberations and discussions.

The next few pages contain a printout of "Laws on Heart Attacks and Defibrillators" report prepared by the National Conference of State Legislatures.

Health Care Program

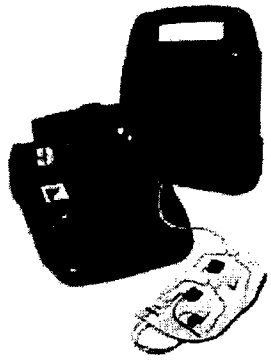
State Laws on Heart Attacks & Defibrillators

Encouraging community access and use

Each year, more than 250,000 Americans die from sudden cardiac arrest. The key to survival is timely initiation of a "chain of survival", including CPR (cardiopulmonary resuscitation). Because of recent technological advances there is now a portable lifesaving device, called an "**automated external defibrillator**" or "**AED**". Trained non-medical personnel can use these simplified electronic machines to treat a person in cardiac arrest. The AED device "guides the user through the process by audible or visual prompts without requiring any discretion or judgment".[1] The American Heart Association notes that at least 20,000 lives could be saved annually by prompt use of AEDs.

- "Shocks to Save Lives" - NCSL *State Legislatures Magazine* article, October-November, 1999 by Richard Cauchi, Health Care Program

- More details on cardiac arrest, defibrillation and CPR, on-line facts courtesy of the Washington State legislative staff.[2]



automated external defibrillators

Advocates of this approach envision placement of AEDs in public buildings, transportation centers and even large offices and apartment buildings. Legislators have become actively involved with this issue mostly in the past two years. Most commonly, the recent laws encourage broader availability, rather than creating new regulatory restrictions. A number of bills enacted in the last two years included one or more provisions to:

- Establish legislative intent that an "automatic external defibrillator may be used by any person for the purpose of saving the life of another person in cardiac arrest."
- Encourage or require training in the use of AED devices by potential users.
- Require AED devices to be maintained and tested to manufacturer's standards.
- Create a registry of the location of all such defibrillators, or notification of a local emergency medical authority.
- Allow a "Good Samaritan" exemption from liability for any individual who renders emergency treatment with a defibrillator.
- Authorize a state agency to establish more detailed requirements for training and registration.

Florida was the first state to enact such a broad public access law in April 1997 (Chapter 34 of 1997). As of November 1999, **45** states, listed below, had enacted defibrillator laws or adopted regulations.

Note that blue citations are links directly to bill text or summaries on state legislative web sites.

Chart codes:	A = allow lay persons to use AED L = provide limited immunity for trained lay persons under state Good Samaritan law. *$ = funding & distribution*

State	Law /Year/Sponsor	Codes	Comments
AK	H 395 (signed 5/14/98) Rep. Bunde	A / L	
AL	S 5 + S 351	A / L	Enacted 6/9/99
AL	*SB 373 (1998)*	*$*	*Appropriation: $3 million for purchase of AED*
AR	Act 101 of '99 HB 1006 (1999) Rep. Laverty	A / L	Signed by Governor 2/18/99
AZ	H 2475 (enacted 5/12/99)	A / L	Signed by Governor 5/12/99 as Chapter 217 of 1999
CA	Statute: Health & Safety Code 1797.190 SB 911 of 1999	A L	"Only those individuals who meet the training and competency standards established by the authority shall be approved for, and issued a prescription authorizing them to use AED." SB 911 - added exemption from liability.
CO	HB 1283 of 1999 by Rep. Spence (signed 4/16/99)	A /L	"Expected AED users receive training... through a course approved by the department of public health and environment"
CT	S 318 Rep. Flaherty (signed 5/19/98)	A / L	User must be trained
DE	H.332 of 1999 Rep. Ennis	A / L	Effective date 7/12/99. Requires the Office of Emergency Medical Services to coordinate a statewide effort to promote and implement widespread use of semi-automatic external defibrillators (SAEDs) and to maintain a minimum number of individuals trained to use SAEDs. [see note #3]
FL	H. 411 (signed 4/97 as Ch 34 of 1997)	A / L	Use by any person who has had appropriate training; must complete basic AED course; must activate emergency medical services system upon use.
GA	S. 566: (Signed 4/6/98) Sen. Hill	A / L	Use by "any appropriately trained person"; owners must be subject to direct supervision of a physician.
HI	H.2598 (signed 7/14/98) Rep. Kawakami	A / L	User who completes training by physician is immune from civil liability.
IA	Reg.: Public Health 641-132.1(147A)	A / L	(Public Health administrative regulation)
ID	S 1185 of 1999 (enacted 3/25/99)	A / L	Chapter 351 of 1999; effective 3/25/99
IL	Public Act 90-746 HB 1217 (1998) Public Act 91-524 SB 458 (1999).	A / L	- SB 458 expands AED - Signed 8/13/1999

IN	S. 171 (1998)	A / L	Owners shall ensure that "expected users" complete a training course.
KS	SB 585 (signed 5/98) Senator Steineger	A / L	(§19) AED "may be used by any person who has ...obtained training and demonstrated proficiency in use..."
LA	S 100 Senator Hines (Signed 7/2/99)	A / L	
MA	S 2164 (chapter 137) (signed 5/28/98) Sen. Morrissey Chapter 142 of 1999	A / L L	Any person trained in AED or basic cardiac life support is immune from civil liability 1999 law adds definition of AED Provider
MD	S. 294 Rep. Hollinger (enacted 4/27/99)	A / L	Adds MD Education Code §13-517 - Requires facilities to have a certificate before making AEDs available; users should have training and authorization before use; requires reports and records.
MI	H.4420 Rep. Gerald Law (signed 11/15/99)	A / L	Extends MI §691.1504, the Good Samaritan law on CPR, to include immunity for AED use. Effective date 11/16/99. See staff analysis.
MN	S.2861 (1998, Chapter 329) S 3345 of 1998	A / L $	Non-professional user is exempt from civil liability. Appropriates $450,000 for distribution to law enforcement.
MS	H 954 (signed 3/30/99)	A / L	Appropriate training "required"; A Mississippi licensed physician must exercise medical control authority.
MO	HB 1668 Rep. Hosmer (signed 6/18/98)	A / L	Use by emergency personnel or any person who has completed a course certified by the American Red Cross or American Heart Association that includes CPR.
MT	H 126 of 1999 (enacted 4/19/99)	A / L	
NE	L 498 of 1999 (enacted 3/30/99) Senator Wickersham	A / L	
NH	S. 67 (signed 7/16/99)	A / L	
NJ	Chapter 34 of 1999, was A 2321 (signed 3/8/99)	A	A person shall not use a defibrillator unless trained.
NM	H. 375 (enacted 4/1/99)	A / L	
NV	AB 147; Ch. 474 of 1997 AB 409 of 1999 (enacted 5/20/99)	A / L	(§7 of AB 409) Use by "any person who has successfully completed the training requirements" Encourages employers to hire a person trained in CPR and AED

			use.
NY	S 5477 [Public Health, Art 30, sec 3000-a;-b] (signed 8/5/98) Sen. Goodman	A / L	Only a person who has completed training in CPR & AED operation may use. Authorizes possession & use after obtaining written agreement w/ emergency health care provider.
ND	H 1242 (enacted 3/25/99)	A / L	Requires notification of Dept. of Health of location of AEDs. See agency description of Chapter 300 of 1999
OH	HB_717 (signed 12/17/98)	A / L	Effective 12/98
OK	HB 1190 of 1999 by Rep. Stanley (enacted 4/26/99)	A / L	
OR	S. 313 (signed 6/4/99)	A / L	States use of AED is "medical care"
PA	H.1897 of 1998 (signed 12/15/98)	A / L	§11 of bill provides AED civil immunity
RI	*S.2239 of 1998 &* *S.920 of 1999* RI §23-6.2-2 *Sen. Polisena* *Sen. Kelly*		*S.239 mandates distribution of AED devices to every city, town and public college in R.I.* *S.920 funds 35 AEDs to State Police. (signed 6/29/99)*
SC	S. 728 of 1999 Enacted 6/1/99	A / L	
TN	H.2970; Ch. 963 of 1998 (signed 5/11/98) Rep. Halteman-Harwel H.1218 of 1999	A / L	Expected users shall complete AED course; maintain & test device; users also must activate emergency services.
TX	H.580 of 1999 Rep. Kyle Janek Enacted 6/19/99)	A / L	
UT	H.B. 98 (1998) Rep. J. Valentine H.B. 50 (1999) Rep. R. Siddoway	A L	Allows use by trained persons w/o a license. H.B. 50, now Chapter 285 of 1999, expands Good Samaritan liability exemption
VA	HB2097 (passed 4/7/99)	A / L	
WA	Text of H2998 (1998) Rep. Sheahan	A / L	Owners shall ensure "expected users" complete a training course.
WI	AB 239 Senator Johnsrud	A / L	Signed 7/28/99
WV	H.2269 (enacted 4/1/99)	A	

WY	H. 178 (3/3/99) Rep. Diercks	A / L	Any person acquiring an AED required to ensure that "expected defibrillator users" receive training"

FEDERAL ACTION:

- **On April 24, 1998 President Clinton signed** Public Law 105-170 sponsored by Rep. Duncan, relating to defibrillators on airplanes. It declares that air carriers and individuals "shall not be liable for damages" in attempting to obtain or provide assistance. It directs the FAA Administrator to "evaluate regulations" and decide on future required use of AEDs on passenger aircraft and in airports.
- In Congress, Rep. Cliff Stearns (R-FL) and 96 cosponsors introduced the "Cardiac Arrest Survival Act of 1999", H.R.2498 on July 13, 1999, regarding the placement of AEDs in federal buildings. The measure was pending in committee as of the start of the 2000 session.

RELATED WEB RESOURCES:

- American Heart Association - details on emergency cardiac care
- American Red Cross - AED web information
- Public Access Defibrillation League (PADL) - more resources and information
- MERGInet - Medical, Emergency, Rescue and Global Information Network
- Northwest Airlines to equip planes with AEDs - May 11, 1999
- "Shocks to Save Lives" - NCSL *State Legislatures Magazine* article, October-November, 1999 by Richard Cauchi, Health Care Program

---

Notes

1 - CT: Quote from summary of CT S 318 of 1998.
2 - WA: "Final Bill Report, SHB 2998: Synopsis as Enacted" Washington State Legislature.
3 - DE: The Delaware Health & Social Services, Division of Public Health, Office of Emergency Medical Services promulgated: "The Delaware Early Defibrillation Program Administrative Policy", Protocol revised 5/6/98. §9 Provider Training Program "shall be under the direction and supervision of the American Heart Association". According to the office of the Director, these agency protocols are interpreted as allowing and encouraging AED use by non-health professionals.

4 - The NCSL Health Policy Tracking Service also has published a 1999 issue brief titled "Automated External Defibrillators". Copies are available to legislators, staff and subscribers via www.hpts.org

Definitions - cardiac arrest or heart attack? Sudden cardiac arrest occurs when the heart fibrillates - a chaotic, abnormal electrical activity of the heart -- which causes the heart to quiver in an uncontrollable fashion. The person loses consciousness very quickly and unless the condition is reversed, death follows in a matter of minutes. Heart attack, on the other hand, occurs when the blood supply to part of the heart muscle itself is severely reduced or stopped because of an obstruction in an artery. A heart attack can trigger sudden cardiac arrest, but they are not the same things.
Mixing up the terms "heart attack" and "cardiac arrest" is quite common. In the media, reporters often misreport people dying from a "massive heart attack." Chances are, the reporter is actually referring to sudden cardiac arrest. Making the distinction is important because, while both heart attack and cardiac arrest are medical emergencies, a person suffering cardiac arrest literally has minutes to live and responding with an AED within those minutes will mean the difference between life and death for the victim. - *Source: American Heart Association, 1999*

NCSL Contact - for legislators and legislative staff:
Dick Cauchi - Health Care Program-Denver, Colorado

American Heart Association Contact:
laylen@heart.org Layle Nelson, AHA Office, Washington, DC - 202 785-7900

Visit this site again: www.ncsl.org/programs/health/aed.htm ~ revised: 1/26/2000

 **Health Menu**

Visitor counts for this page.

National Conference of State Legislatures
info@NCSL.ORG (autoresponse directory)

Denver Office:
1560 Broadway, Suite 700
Denver, CO 80202
Tel: 303-830-2200
Fax: 303-863-8003

Washington Office:
444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001
Tel: 202-624-5400
Fax: 202-737-1069

D. North Carolina Immunity Statutes

The Committee considered the existing North Carolina statutes that afford limited liability for persons providing medical services. The Committee determined not to enhance nor to diminish, to the extent possible, any of the existing immunities or limitations of liability, while clarifying that the user of an AED, the placer of an AED, and any North Carolina physician writing a prescription for an AED would not be liable because of the use of an AED.

The following are the North Carolina statutes, with annotations, that were considered by the Committee.

VOLUNTEER IMMUNITY

ARTICLE 43B.
Defense of Charitable Immunity Abolished; and Qualified Immunity for Volunteers.

1-539.9. Defense abolished as to actions arising after September 1, 1967.
1-539.10. Immunity from civil liability for volunteers.
1-539.11. Definitions.
1-539.12. Immunity from civil liability for employers disclosing information.
1-539.13 through 1-539.14. [Reserved.]

§ 1-539.9. Defense abolished as to actions arising after September 1, 1967.

The common-law defense of charitable immunity is abolished and shall not constitute a valid defense to any action or cause of action arising subsequent to September 1, 1967.
(1967, c. 856.)

Annotations

CASE NOTES

Stated in Darsie v. Duke Univ., 48 N.C. App. 20, 268 S.E.2d 554 (1980).

§ 1-539.10. Immunity from civil liability for volunteers.

(a) A volunteer who performs services for a charitable organization is not liable in civil damages for any acts or omissions resulting in any injury, death, or loss to person or property arising from the volunteer services rendered if:

(1) The volunteer was acting in good faith and the services rendered were reasonable under the circumstances; and

(2) The acts or omissions do not amount to gross negligence, wanton conduct, or intentional wrongdoing.

(3) The acts or omissions did not occur while the volunteer was operating or responsible for the operation of a motor vehicle.

(b) To the extent that any charitable organization or volunteer has liability insurance, that charitable organization or volunteer shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance for the negligence by any volunteer.

(c) Nothing herein shall be construed to alter the standard of care requirement or liability of persons rendering professional services.

(1987, c. 505, s. 1(2).)

§ 1-539.11. Definitions.

As used in this Article:

(1) "Charitable Organization" means an organization that has humane and philanthropic objectives, whose activities benefit humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward and is exempt from taxation under either G.S. 105-130.11(a)(3) or G.S. 105-130.11(a)(5) or Section 501(c)(3) of the Internal Revenue Code of 1954.

(2) "Volunteer" means an individual, serving as a direct service volunteer performing services for a charitable, nonprofit organization, who does not receive compensation, or anything of value in lieu of compensation, for the services, other than reimbursement for expenses actually incurred.

(1987, c. 505, s. 1(2).)

§ 1-539.12. Immunity from civil liability for employers disclosing information.

(a) An employer who discloses information about a current or former employee's job history or job performance to a prospective employer of the current or former employee upon request of the prospective employer or upon request of the current or former employee is immune from civil liability and is not liable in civil damages for the disclosure or any consequences of the disclosure. This immunity shall not apply when a claimant shows by a preponderance of the evidence both of the following:

(1) The information disclosed by the current or former employer was false.

(2) The employer providing the information knew or reasonably should have known that the information was false.

(b) For purposes of this section, "job performance" includes:

(1) The suitability of the employee for re-employment;

(2) The employee's skills, abilities, and traits as they may relate to suitability for future employment; and

(3) In the case of a former employee, the reason for the employee's separation.

(c) The provisions of this section apply to any employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section. For the purposes of this section, "employer" also includes a job placement service but does not include a private personnel service as defined in G.S. 95-47.1 or a job listing service as defined in G.S. 95-47.19 except as provided hereinafter. The provisions of this section apply to a private personnel service as defined in G.S. 95-47.1 and a job listing service as defined in G.S. 95-47.19 only to the extent that the service conveys information derived from credit reports, court records, educational records, and information furnished to it by the employee or prior employers and the service identifies the source of the information.

(d) This section does not affect any privileges or immunities from civil liability established by another section of the General Statutes or available at common law.
(1997-478, s. 1.)
Annotations

Editor's Note. - Session Laws 1997-478, s. 2, made this section effective October 1, 1997, and applicable only to causes of action arising on or after that date.

Legal Periodicals. - For 1997 legislative survey, see 20 Campbell L. Rev. 389.
§§ 1-539.13 through 1-539.14: Reserved for future codification purposes.

GOOD SAMARITAN LAW

§ 20-166. Duty to stop in event of accident or collision; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability.

(a) The driver of any vehicle who knows or reasonably should know:
(1) That the vehicle which he is operating is involved in an accident or collision; and
(2) That the accident or collision has resulted in injury or death to any person;
shall immediately stop his vehicle at the scene of the accident or collision. He shall remain at the scene of the accident until a law-enforcement officer completes his investigation of the accident or collision or authorizes him to leave; Provided, however, that he may leave to call for a law-enforcement officer or for medical assistance or medical treatment as set forth in (b), but must return to the accident scene within a reasonable period of time. A willful violation of this subsection shall be punished as a Class H felony.

(b) In addition to complying with the requirement of (a), the driver as set forth in (a) shall give his name, address, driver's license number and the license plate number of his vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that such person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such accident or collision reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a Class 1 misdemeanor.

(c) The driver of any vehicle, when he knows or reasonably should know that the vehicle which he is operating is involved in an accident or collision, which accident or collision, results:

(1) Only in damage to property; or

(2) In injury or death to any person, but only if the operator of the vehicle did not know and did not have reason to know of the death or injury;

shall immediately stop his vehicle at the scene of the accident or collision. A violation of this subsection is a Class 1 misdemeanor.

(c1) In addition to complying with the requirement of (c), the driver as set forth in (c) shall give his name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the accident or collision or to any person whose property is damaged in the accident or collision. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the said driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided he thereafter within 48 hours fully complies with G.S. 20-166.1(c), shall immediately place a paper-writing containing said information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing said information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following said collision. A violation of this subsection is a Class 1 misdemeanor.

(d) Any person who renders first aid or emergency assistance at the scene of a motor vehicle accident on any street or highway to any person injured as a result of such accident, shall not be liable in civil damages for any acts or omissions relating to such services rendered, unless such acts or omissions amount to wanton conduct or intentional wrongdoing.
(1937, c. 407, s. 128; 1939, c. 10, ss. 1, 11/2; 1943, c. 439; 1951, cc. 309, 794, 823; 1953, cc. 394, 793; c. 1340, s. 1; 1955, c. 913, s. 8; 1965, c. 176; 1967, c. 445; 1971, c. 958, s. 1; 1973, c. 507, s. 5; 1975, c. 716, s. 5; 1977, c. 464, s. 34; 1979, c. 667, s. 32; 1983, c. 912, s. 1; 1985, c. 324, ss. 1-4; 1993, c. 539, ss. 373-375, 1260; 1994, Ex. Sess., c. 24, s. 14(c).)

Annotations

Cross References. - As to immunity from liability of any person rendering first aid or emergency health care treatment to an unconscious, ill or injured person in certain circumstances, see § 90-21.14.

FIRST AID IMMUNITY

§ 90-21.14. First aid or emergency treatment; liability limitation.

(a) Any person, including a volunteer medical or health care provider at a facility of a local health department as defined in G.S. 130A-2 or at a nonprofit community health center or a volunteer member of a rescue squad, who receives no compensation for his services as an emergency medical care provider, who renders first aid or emergency health care treatment to a person who is unconscious, ill or injured,

(1) When the reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and

(2) When the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the person,

shall not be liable for damages for injuries alleged to have been sustained by the person or for damages for the death of the person alleged to have occurred by reason of an act or omission in the rendering of the treatment unless it is established that the injuries were or the death was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the person rendering the treatment.

(a1) (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center;

(2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health center at the provider's place of employment; or

(3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency,

who receives no compensation for medical services or other related services rendered at the facility, center, or agency or, who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients.

(b) Nothing in this section shall be deemed or construed to relieve any person from liability for damages for injury or death caused by an act or omission on the part of such person while rendering health care services in the normal and ordinary course of his business or profession.

Services provided by a volunteer health care provider who receives no compensation for his services and who renders first aid or emergency treatment to members of athletic teams are deemed not to be in the normal and ordinary course of the volunteer health care provider's business or profession. Services provided by a medical or health care provider who receives no compensation for his services and who voluntarily renders such services at facilities of local health departments as defined in G.S. 130A-2 or at a nonprofit community health center, or as a volunteer medical director of an emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary course of the volunteer medical or health care provider's business or profession.

(c) In the event of any conflict between the provisions of this section and those of G.S. 20-166(d), the provisions of G.S. 20-166(d) shall control and continue in full force and effect. (1975, 2nd Sess., c. 977, s. 4; 1985, c. 611, s. 2; 1989, cc. 498, 655; 1991, c. 655, s. 1; 1993, c. 439, s. 1; 1995, c. 85, s. 1.)

Annotations

Cross References. - As to immunity from liability of persons rendering first aid or emergency assistance at the scene of a motor vehicle accident, see § 20-166(d).

The Committee considered the training requirement, recommended by the American Heart Association, noting that there is no separate training for the use of AEDs but that the training is incorporated in the course of training for certification in CPR.

As noted above, CPR training, while not essential for the actual use of AEDs is recommended and beneficial to enhance the potential for a successful outcome for the victim or sudden cardiac arrest if an AED is used.

If the AED restarts the heart or converts the victim's heart rhythm from ventricular fibrillation to normal rhythm, there is no assurance that adequate oxygen will reach the vital organs and the person could end up in a vegetative state or with brain damage if the person's brain is deprived of oxygen which might be prevented through the application of CPR.

FINDINGS AND RECOMMENDATIONS

The Committee finds that to encourage the placement of AEDs and to, therefore, enhance the likelihood that a victim going into cardiac arrest would survive, the existing statutes providing limited liability for the person engaging in the actual use of the AED in a medical emergency should be clarified and that limited immunity should be afforded to those persons or agencies placing the AEDs if there is a program of training, to those persons or agencies providing the program of training, and to a licensed North Carolina physician who writes any required prescription to allow for the placement of the AED. The Committee finds that these limited immunities will enhance the possibility of the placements of AEDs.

The following Drafter's Notes will explain the proposed legislation listed as Legislative Proposal I at the end of this report.

Drafter's Notes for House Bill 1118-Study Bill-K

Section 1 of the bill adds a new section to Chapter 90 of the General Statutes covering the use and liabilities for use of automated external defibrillators.

Subsection (a)
DRAFTER'S NOTES: It is the intent of this bill to clarify that the "first aid immunity" found in G.S. 90-21.14(a) applies to the use of automated external defibrillators. It is the intent of the bill neither to extend nor to diminish the existing "first aid immunity" as it applies to the actual user of the AED.

Subsection (b)
DRAFTER'S NOTES: Provides the definitions for "Automated external defibrillator" contained in the American Heart Association model bill, which has been accepted nationwide. Provides the definition for "Training" contained in the American Heart Association model bill with the addition of the American Red Cross, as an example of a nationally recognized course.

Subsection (c)
DRAFTER'S NOTES: Adds a duty to the seller of an automated external defibrillator to notify the local 911 or EMS dispatch of the existence, location, and type of AED within their service area.

Subsection (d)
DRAFTER'S NOTES: Clarifies that the use of an automated external defibrillator when used to attempt to save or to save a life is "first aid or emergency health care treatment" affording to the user the first aid liability exemption found in G.S. 90-21.14(a).

Subsection (e)
DRAFTER'S NOTES: Provides additional immunity from suit, to the same extent as provided to the actual user of the AED, to the trainers, the person or entity who purchased and placed the AED, providing

that there is a program of "training" as defined in (b)(2), and to a North Carolina physician who writes a prescription, if one is necessary, for the placement of the AED.

The intent of these limits on liabilities is to facilitate the placements of AED throughout the state. No immunity from liability would be afforded to the purchaser of the AED if there was no training program in place, providing motivation for AED training programs.

This subsection also clarifies that there is not extension of immunity from liability to any health care provider who regularly provides cardiac defibrillation for compensation.

Subsection (f)
DRAFTER'S NOTES: This subsection recognizes the limited liability provisions in existing law and indicates that this section neither extends nor diminishes those existing provisions.

Subsection (g)
DRAFTER'S NOTES: This subsection provides that the use of an AED is not the "practice of medicine" as regulated by the North Carolina Medical Board.

Subsection (h)
DRAFTER'S NOTES: This subsection makes it clear that the purchase, placement, and use of AEDs is voluntary and that it is not the intention of the General Assembly to make the purchase, placement, or use of AEDs the established "standard of care".

Section 2. Adds the use of AEDs to the list of actions not constituting the "practice of medicine" and not subject to regulation by the North Carolina Medical Board.

Section 3. Makes the bill effective on October 1, 2000 and applies it to all causes of action arising on or after that date.

APPENDIX A

CHAPTER 395
1999 Session Laws (1999 Session)

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE VARIOUS STUDY COMMISSIONS, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO AMEND OTHER LAWS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1999".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1999 Regular Session of the 1999 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

* * * * *

(4) Human Resources and Health Issues:

* * * * *

m. Defibrillators; use and liability (H.B. 1118 - Wright).

* * * * *

Section 2.2. Committee Membership. -- For each Legislative Research Commission committee created during the 1999-2001 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

Section 2.3. Reporting Date. -- For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1999 General Assembly, 2000 Regular Session, or the 2001 General Assembly.

Section 2.4. Funding. -- From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

* * * * *

PART XXII.-----BILL AND RESOLUTIONS REFERENCES

Section 22.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XXIII.-----EFFECTIVE DATE AND APPLICABILITY

Section 23.1. Except as otherwise specifically provided, this act becomes effective July 1, 1999. If a study is authorized both in this act and the Current Operations Appropriations Act of 1999, the study shall be implemented in accordance with the Current Operations Appropriations Act of 1999 as ratified.

In the General Assembly read three times and ratified this the 21st day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:03 p.m. this 5th day of August, 1999

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ISSUE OF LIMITED LIABILITY WHEN A PERSON USES AN AUTOMATED EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY TREATMENT TO SAVE THE LIFE OF A PERSON IN CARDIAC ARREST.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the issue of limited liability when a person uses an automated external defibrillator to render emergency treatment to save the life of a person in cardiac arrest.

Section 2. The Commission may report its findings and recommendations to the General Assembly prior to the Regular Session of the 1999-2000 General Assembly.

Section 3. This act becomes effective July 1, 1999.

APPENDIX B

MEMBERSHIP OF THE LRC COMMITTEE ON DEFIBRILLATORS – USE AND LIABILITY

President Pro Tem's Appointments

Sen. Ed Warren, Cochair

Sen. Charles Carter

Sen. James Forrester

Sen. Jeanne Lucas

Sen. William Purcell

Speaker of the House's Appointments

Rep. Thomas Wright, Cochair

Rep. Bill Culpepper

Rep. Donald Davis

Rep. Marian N. McLawhorn

Rep. Russell Tucker

STAFF

Ken Levenbook

Al Andrews

CLERK

Vanda Wilson-Wormack

APPENDIX C

AED Working Group

The following persons represented entities interested in seeing the North Carolina General Assembly legislation pass legislation that would grant limited liability to lay users of Automated External Defibrillators (AED's). These persons formed a working group that met several times with committee co-counsel between the first and last Defibrillators—Use and Liability committee meetings. The purpose of these meetings was to identify issues and areas of agreement and nonagreement and to try come to a consensus regarding the language of the proposed study bill.

Name	Title	Organization Represented
Amy Jo B. Bain	Asst. Dir., Government Affairs	N.C. Medical Society
Andrew W. Watry	Exec. Dir., N.C. Medical Board	N.C. Medical Board
Charles Kitchen	County Attorney	Durham County, N.C.
Charles L. Cromer	Legislative Counsel	N.C. Academy of Trial Lawyers
F. Stephen Glass	Counsel	American Heart Association
G. Peyton Maynard	Lobbyist	American Red Cross
Harrison J. Kaplan	Lobbyist	American Heart Association
Hugh H. Tilson, Jr.	V.P., Government Relations Assoc. General Counsel	N.C. Hospital Association
Linwood Mercer	Lobbyist	American Heart Association
Lynette Rivenbark	Director of Public Advocacy	American Heart Association
Richard T. Boyette	Counsel	American Heart Association

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1118-STUDY BILL-L

Short Title: Limit Liability/Defibrillators. (Public)

Sponsors: Representative Wright.

Referred to: Health.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY HEALTH CARE TREATMENT TO ATTEMPT TO SAVE THE LIFE OF A PERSON WHO IS IN OR WHO APPEARS TO BE IN CARDIAC ARREST.

The General Assembly of North Carolina enacts:

Section 1. Article 1B of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-21.15. Emergency treatment using automated external defibrillator; immunity.**

(a) Intent. -- It is the intent of the General Assembly that, when used in accordance with this section, an automated external defibrillator may be used during an emergency for the purpose of attempting to save the life of another person who is in or who appears to be in cardiac arrest.

(b) Definitions. -- For purposes of this section:

(1) 'Automated external defibrillator' means a device, heart monitor, and defibrillator that meets all of the following requirements:

a. The device has received approval from the United States Food and Drug Administration of its premarket notification filed pursuant to 21 U.S.C. § 360(k), as amended.

b. The device is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention by an operator, whether defibrillation should be performed.

c. Upon determining that defibrillation should be performed, the device automatically charges and requests delivery of, or delivers, an electrical impulse to an individual's heart.

(2) 'Training' means successful completion of a nationally recognized course or training program in cardiopulmonary resuscitation (CPR) and automated external defibrillator use including the programs approved and provided by the:

a. American Heart Association.

b. American Red Cross.

(c) Duties. -- In order to enhance public health and safety, a seller of an automated external defibrillator shall notify an agent of the local emergency communications or vehicle dispatch center of the existence, location, and type of automated external defibrillator.

(d) Immunity. -- The use of an automated external defibrillator when used to attempt to save or to save a life is 'first aid or emergency health care treatment' as defined in G.S. 90-21.14(a).

(e) Scope of Immunity. --

(1) In addition to the person actually using the automated external defibrillator, the immunity from civil liability under subsection (d) of this section includes (i) the person or entity who provides the CPR and automated external defibrillator training, (ii) the person or entity responsible for the site where the automated external defibrillator is located provided there is a program of training, and (iii) a North Carolina licensed physician writing a prescription for an automated external defibrillator whether or not required by any federal or state law for no compensation.

(2) No immunity from civil liability is granted, under this section, to any emergency health care provider who receives compensation for rendering cardiac

defibrillation to patients as a regular part of that provider's services to patients.

(f) Other Immunities. -- This section does not diminish the qualified immunity from civil liability for volunteers provided by G.S. 1-539.10, for persons rendering aid at the scene of an accident provided by G.S. 20-166, for members of a volunteer fire department or rescue squad provided by G.S. 58-82-5, or any other existing grant of immunity.

(g) Use Not 'Practice of Medicine.' -- The use of an automated external defibrillator is not the 'practice of medicine' as defined in G.S. 90-18(b).

(h) No Purchase, Placement, or Use Requirement. -- Nothing in this section requires the purchase, placement, or use of automated external defibrillators by any person, entity, or agency of state, county, or local government."

Section 2. G.S. 90-18(c) reads as rewritten:

"(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

. . . . .

(17) The use of an automated external defibrillator as provided in G.S. 90-21.15(g)."

Section 3. This act becomes effective October 1, 2000, and applies to causes of action arising on or after that date.