WEST VIRGINIA CODE CHAPTER 16 ARTICLE 4D

WV Legislature

§16-4D-1. Purpose and findings.

(a) The West Virginia Legislature hereby finds and declares that each year more than two hundred fifty thousand Americans die from out-of-hospital incidents of sudden cardiac arrest. More than ninety-five percent of these incidents result in death and, in many cases, death occurs because properly trained persons with life-saving automated external defibrillators arrive at the scene too late.

(b) The American Heart Association estimates that more than twenty thousand deaths could be prevented each year if early defibrillation were more widely available.

(c) Many communities around the country have invested in 911 emergency notification systems and emergency medical services, including well-trained emergency personnel and ambulance vehicles. However, in many communities, there are not enough strategically placed automated external defibrillators and persons trained to properly operate them.

(d) It is, therefore, the intent of this Legislature to improve access to early defibrillation by encouraging the establishment of automated external defibrillator programs in careful coordination with the emergency medical services system.

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§16-4D-2. Definitions.

(a) "Anticipated operator" means any person trained in accordance with section three of this article who utilizes an automated external defibrillator which was placed through an early defibrillation program.

(b) "Automated external defibrillator", hereinafter referred to as AED, means a medical device heart monitor and defibrillator that: (1) Has undergone the premarket approval process pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §360, as amended; (2) is capable of recognizing the presence or absence of ventricular fibrillation; (3) is capable of determining, without intervention by the operator, whether defibrillation should be performed; and (4) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

(c) "Early defibrillation program" means a coordinated program that meets the requirements of section three of this article and one that provides early public access to defibrillation for individuals experiencing sudden cardiac arrest through the use of an automated external defibrillator.

(d) "Emergency medical services (EMS)" means all services established by the Emergency Medical Services Act of 1973 in article four-c of this chapter, including, but not limited to, the emergency medical services plan of the Department of Health providing a response to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury.

(e) "Entity" means a public or private group, organization, business, association or agency that meets the requirements of section three of this article. "Entity" does not include emergency medical services operational programs or licensed commercial ambulance services.

(f) "Medical director" means a duly licensed physician who serves as the designated medical coordinator for an entity's early defibrillation program.

(g) "Unanticipated operator" means any person rendering emergency medical care involving the use of an AED.

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§16-4D-3. Early defibrillation programs.

An entity providing an early defibrillation program shall:

(1) Register the program with the Office of Emergency Medical Services, pursuant to article four-c of this chapter, identifying the placement of AEDs, training of anticipated operators, preplanned EMS system coordination, designation of a medical director, maintenance of AED equipment and reports of AED utilization;

(2) Require the anticipated operator of an AED to receive appropriate training in cardiopulmonary resuscitation, referred to as "CPR", in the operation of an AED and in the determination of advance directives from the American Heart Association, American Red Cross, any other nationally recognized course in CPR and AED or an AED and CPR training program approved by the Office of Emergency Medical Services;

(3) Maintain and test the AED in accordance with the manufacturer's guidelines and keep written records of this maintenance and testing;

(4) Designate a medical director for the coordination of the program, which shall include, but not be limited to, training, coordinating with EMS, creating AED deployment strategies and reviewing each operation of an AED;

(5) Notify the local EMS system and public safety answering point or other appropriate emergency dispatch center of the existence of an entity's early defibrillation program, the location of the program and the program's plan for coordination with the EMS system;

(6) Provide that an operator of an AED who renders emergency care or treatment on a person experiencing cardiac arrest shall activate the EMS system as soon as possible and shall report the use of an AED to the program medical director; and

(7) Comply with the guidelines of the West Virginia Office of Emergency Medical Services regarding data collection and reporting.

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§16-4D-4. Limitation on liability.

A person is not liable for civil damages as a result of any act or omission in rendering emergency medical care or treatment involving the use of an AED if the care or treatment does not amount to gross negligence and the following conditions are met:

(1) The person, entity, certified trainer or medical director of the early defibrillation program is in compliance with the provisions of section three of this article; and

(2) The person is an anticipated operator of an AED who gratuitously and in good faith rendered emergency medical care, pursuant to the requirements of section three of this article, other than in the ordinary course of the person's employment or profession as a health care provider, as defined in section two, article two-d of this chapter; or

(3) The person is an unanticipated operator who gratuitously and in good faith rendered emergency medical care.

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