

H.B. 2269

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WEST VIRGINIA LEGISLATURE
STATE HOUSE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2269

(By Delegates Staton, Facemyer and Martin)



Passed March 11, 1999

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES
STATE OF WEST VIRGINIA

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[Passed March 11, 1999; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-d, relating to automated external defibrillators; setting forth legislative purposes and findings; defining terms; establishing certain criteria for entities providing an early defibrillation program, including training for designated operators within a defibrillation program; involving a physician medical director in the medical protocols of a defibrillation program; notifying emergency medical services system when an entity establishes an early defibrillation program; activating the emergency medical services system when an automated external defibrillator is used by an operator; authorizing the development of guidelines for coordination of early defibrillator programs by the office of emergency medical services; and providing limitation of liability for compliance with the statutory provisions except in instances of gross misconduct.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article four-d, to read as follows:

ARTICLE 4D. AUTOMATED EXTERNAL DEFIBRILLATORS.

§16-4D-1. Purpose and findings.

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

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

11 (c) Many communities around the country have invested in
12 911 emergency notification systems and emergency medical
13 services, including well-trained emergency personnel and
14 ambulance vehicles. However, in many communities, there are
15 not enough strategically placed automated external defibrill-
16 ators and persons trained to properly operate them.

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

§16-4D-2. Definitions.

1 (a) "Automated external defibrillator", hereinafter referred
2 to as AED, means a medical device heart monitor and
3 defibrillator that: 1) Has undergone the premarket approval
4 process pursuant to the Federal Food, Drug and Cosmetic Act,
5 21 U.S.C. § 360, as amended; 2) Is capable of recognizing the
6 presence or absence of ventricular fibrillation; 3) Is capable of
7 determining, without intervention by the operator, whether
8 defibrillation should be performed; and 4) upon determining
9 that defibrillation should be performed, automatically charges

10 and requests delivery of an electrical impulse to an individual's
11 heart.

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

17 (c) "Emergency medical services (EMS)" means all
18 services established by the Emergency Medical Services Act of
19 1973 in article four-c of this chapter including, but not limited
20 to, the emergency medical services plan of the department of
21 health and human resources providing a response to the medical
22 needs of an individual to prevent the loss of life or aggravation
23 of illness or injury.

24 (d) "Entity" means a public or private group, organization,
25 business, association or agency that meets the requirements of
26 section three of this article. "Entity" does not include emer-
27 gency medical services operational programs or licensed
28 commercial ambulance services.

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

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

1 (a) An entity providing an early defibrillation program
2 shall:

3 (1) Register the program with the office of emergency
4 medical services, pursuant to article four-c of this chapter,
5 identifying the placement of AEDs, training of AED operators,
6 preplanned EMS system coordination, designation of a medical
7 director, maintenance of AED equipment and reports of AED
8 utilization;

9 (2) Require the operator of an AED to receive appropriate
10 training in cardiopulmonary resuscitation, referred to as "CPR",
11 in the operation of an AED and in the determination of advance
12 directives from the American Heart Association, American Red

13 Cross, any other nationally recognized course in CPR and AED,
14 or an AED and CPR training program approved by the office of
15 emergency medical services;

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

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

23 (5) Notify the local EMS system and public safety answer-
24 ing point or other appropriate emergency dispatch center of the
25 existence of an entity's early defibrillation program, the
26 location of the program and the program's plan for coordination
27 with the EMS system;

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

33 (7) Comply with the guidelines of the West Virginia office
34 of emergency medical services regarding data collection and
35 reporting.

§16-4D-4. Limitation on liability.

1 (a) A person is not liable for civil damages as a result of
2 any act or omission in rendering emergency medical care or
3 treatment involving the use of an AED if the care or treatment
4 does not amount to gross negligence and the following condi-
5 tions are met:

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

9 (2) The person is an operator of an AED who gratuitously
10 and in good faith rendered emergency medical care, pursuant to

- 11 the requirements of section three of this article, other than in the
- 12 ordinary course of the person's employment or profession.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



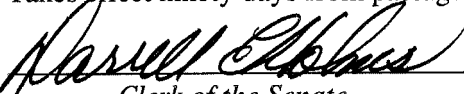
Chairman Senate Committee



Chairman House Committee

Originating in the House.

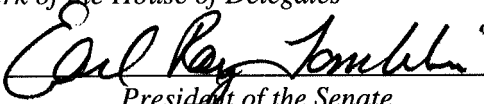
Takes effect ninety days from passage.



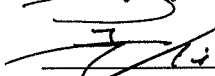
Clerk of the Senate



Clerk of the House of Delegates

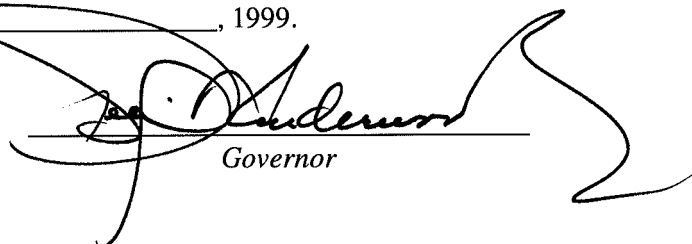


President of the Senate



Speaker of the House of Delegates

The within is APPROVED this the 15th
day of April, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/99

Time 3:52 pm