

New Mexico AED Law

H.B. 375 - Effective July 1, 1999

HOUSE BILL 375

44 44TH LEGISLATURE TH LEGISLATURE - STATE OF NEW MEXICO - STATE OF NEW MEXICO - FIRST SESSION FIRST SESSION, 1999 , 1999
INTRODUCED BY Edward C. Sandoval

AN ACT

RELATING TO AUTOMATED EXTERNAL DEFIBRILLATORS; ENACTING THE CARDIAC ARREST RESPONSE ACT; PROVIDING CERTAIN REQUIREMENTS FOR ENTITIES ESTABLISHING A DEFIBRILLATION PROGRAM; REQUIRING CERTAIN TRAINING FOR DESIGNATED USERS OF A DEFIBRILLATOR; REQUIRING REGISTRATION OF A DEFIBRILLATION PROGRAM WITH THE DEPARTMENT OF HEALTH; REQUIRING ACTIVATION OF THE EMERGENCY MEDICAL SERVICES SYSTEM IN AN EMERGENCY SITUATION WHERE A DEFIBRILLATOR IS USED; PROVIDING IMMUNITY FROM LIABILITY FOR CERTAIN PERSONS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Cardiac Arrest Response Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.

A. The legislature finds that:

- (1) each year more than three hundred fifty thousand Americans die from out-of-hospital sudden cardiac arrest;
- (2) the American heart association estimates that more than twenty thousand deaths could be prevented each year if early defibrillation were more widely available. In cardiac arrest the first several minutes are the most crucial time in which performing defibrillation can significantly improve chances for survival;
- (3) the reality is that even in the best emergency medical services systems, emergency medical technicians or first responders may not always be able to arrive during that critical window of time; and

- (4) virtually all communities in New Mexico have invested in 911 emergency response systems, emergency medical personnel and ambulance vehicles. However, many of them do not have enough defibrillators in their community.

B. It is the purpose of the Cardiac Arrest Response Act to encourage greater acquisition, deployment and use of automated external defibrillators in communities across the state.

Section 3. [NEW MATERIAL] DEFINITIONS. As used in the Cardiac Arrest Response Act:

- A. "automated external defibrillator and semi-automatic external defibrillation (AED)" means a medical device heart monitor and defibrillator that:
 - (1) has received approval of its pre-market modification filed pursuant to 21 U.S.C. 21(k), from the United States food and drug administration;
 - (2) is capable of recognizing cardiac arrest that will respond to defibrillation, ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining whether defibrillation should be performed; and
 - (3) upon determining that defibrillation should be performed, automatically charges and is capable of delivering an electrical impulse to an individual's heart;
- B. "AED program" means a program of trained targeted responders operating under the supervision of a physician medical director and is registered with the department;
- C. "defibrillation" means the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm;
- D. "department" means the department of health;
- E. "physician" means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico; and
- F. "trained targeted responder" means a person who has completed an authorized AED training program and who uses an AED.

Section 4. [NEW MATERIAL] PROTECTION OF PUBLIC SAFETY.--A person who acquires an AED shall ensure that:

- A. a physician medical director oversees all aspects of the defibrillation program, including training, emergency medical services coordination, protocol approval, AED deployment strategies and other program requirements, and that the physician medical director provides overall quality assurance and reviews each case in which the AED is used by the program;
- B. the trained targeted responder receives appropriate training in cardiopulmonary resuscitation and in the use of an AED by a nationally recognized course in cardiopulmonary response and AED use approved by the department or other training programs authorized by the department;
- C. the defibrillator is maintained and tested according to the manufacturer's guidelines;
- D. any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical system as soon as possible, and reports any clinical use of the AED to the physician medical director;
- E. the AED program is registered with the department; and
- F. the local emergency medical services and local 911 agencies have been notified of the AED program.

Section 5. [NEW MATERIAL] AUTHORITY.--Any person may use an AED if the person has met all the requirements of Section 4 of the Cardiac Arrest Response Act. Nothing in this section limits the right of an individual to practice a health profession that the individual is otherwise authorized to practice under the laws of New Mexico.

Section 6. [NEW MATERIAL] EXEMPTION.--Nothing in the Cardiac Arrest Response Act precludes a physician from prescribing an AED to a patient for use by the patient's caregiver on an individual patient and the use does not require the individual to function in an approved program.

Section 7. [NEW MATERIAL] LIMITED IMMUNITY PROTECTIONS.

A. A physician medical director of an AED program, a person who provides training in cardiopulmonary resuscitation and the use of an AED and a person responsible for a defibrillation program are immune from civil liability

for any personal injury or death that results from any act or failure to act that does not amount to willful or wanton misconduct or gross negligence provided there is compliance with the requirements of the Cardiac Arrest Response Act.

B. An owner of the property or facility where an department; and the local emergency medical services and local911 agencies have been notified of the AED program.

C. An AED trained targeted responder is immune from civil liability for any personal injury or death that results from any act or failure to act if:

(1) the trained targeted responder acts as an ordinary, reasonable prudent person would act under the same or similar circumstances;

(2) the trained targeted responder's act or failure to act does not amount to willful or wanton misconduct or gross negligence; and

(3) there is compliance with the requirements of the Cardiac Arrest Response Act.

Section 8. Section 24-10B-4 NMSA 1978 (being Laws 1983, Chapter 190, Section 4, as amended) is amended to read:

24-10B-4. BUREAU--DUTIES.--The bureau is designated as the lead agency for the emergency medical services system and shall establish and maintain a program for regional planning and development, improvement, expansion and direction of emergency medical services throughout the state, including:

- A. design, development, implementation and coordination of communications systems to join the personnel, facilities and equipment of a given region or system that will allow for medical control of pre-hospital or interfacility care;
- B. provision of technical assistance to the [state corporation commission] public regulation commission for further development and implementation of standards for certification of ambulance services, vehicles and equipment;
- C. development of requirements for the collection of data and statistics to evaluate the availability, operation and quality of providers in the state;

D. adoption of regulations for medical direction of a provider or emergency medical services system upon the recommendation of the medical direction committee, including:

- (1) development of model guidelines for medical direction of all components of an emergency medical services system;
- (2) a process for notifying the bureau of the withdrawal of medical control by a physician from a provider; and
- (3) specific requirements for medical direction of intermediate and advanced life support personnel and basic life support personnel with special skills approval;

E. maintenance of a list of approved emergency medical services training programs, the graduates of which shall be the only New Mexico emergency medical services students eligible to apply for emergency medical technician licensure or certified emergency medical services first responder certification;

F. approval of continuing education programs for emergency medical services personnel;

G. adoption of regulations pertaining to the training and certification of emergency medical dispatchers and their instructors;

H. adoption of regulations based upon the recommendations of the trauma advisory committee, for implementation and monitoring of a statewide, comprehensive trauma care system, including:

- (1) minimum standards for designation or retention of designation as a trauma center or a participating trauma facility;
- (2) pre-hospital care management guidelines for the triage and transportation of traumatized persons;
- (3) establishment for interfacility transfer criteria and transfer agreements;
- (4) standards for collection of data relating to trauma system operation, patient outcome and trauma prevention; and
- (5) creation of a state trauma care plan;

I. adoption of regulations, based upon the certification of air ambulance services;

J. adoption of regulations pertaining to authorization of providers to honor advance directives to withhold or terminate care in certain pre-hospital or interfacility circumstances, as guided by local medical protocols;

K. development of guidelines, with consultation from the state fire marshal, pertaining to the operation of medical-rescue services within the emergency medical services system; [and]

L. operation of a critical incident stress debriefing program for emergency responders utilizing specifically trained volunteers who shall be considered public employees for the purposes of the Tort Claims Act when called upon to perform a debriefing; and

M. adoption of rules to establish a cardiac arrest targeted response program pursuant to the Cardiac Arrest Response Act, including registration of automated external defibrillator programs, maintenance of equipment, data collection, approval of automated external defibrillator training programs and a schedule of automated external defibrillator program registration fees.

Section 9. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1999.