

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1269
Judiciary II Committee Substitute Adopted 5/30/00
Third Edition Engrossed 6/14/00
House Committee Substitute Favorable 6/22/00

Short Title: Limit Liability/Defibrillator.

(Public)

Sponsors:

Referred to:

May 17, 2000

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) 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) For purposes of this section:

- 1 (1) 'Automated external defibrillator' means a device, heart monitor, and
2 defibrillator that meets all of the following requirements:
3 a. The device has received approval from the United States Food
4 and Drug Administration of its premarket notification filed
5 pursuant to 21 U.S.C. § 360(k), as amended.
6 b. The device is capable of recognizing the presence or absence of
7 ventricular fibrillation or rapid ventricular tachycardia and is
8 capable of determining, without intervention by an operator,
9 whether defibrillation should be performed.
10 c. Upon determining that defibrillation should be performed, the
11 device automatically charges and requests delivery of, or
12 delivers, an electrical impulse to an individual's heart.
13 (2) 'Person' means an individual, corporation, limited liability company,
14 partnership, association, unit of government, or other legal entity.
15 (3) 'Training' means a nationally recognized course or training program in
16 cardiopulmonary resuscitation (CPR) and automated external
17 defibrillator use including the programs approved and provided by the:
18 a. American Heart Association.
19 b. American Red Cross.
20 (c) The use of an automated external defibrillator when used to attempt to save or
21 to save a life shall constitute 'first-aid or emergency health care treatment' under G.S. 90-
22 21.14(a).
23 (d) The person who provides the cardiopulmonary resuscitation and automated
24 external defibrillator training to a person using an automated external defibrillator, the
25 person responsible for the site where the automated external defibrillator is located when
26 the person has provided for a program of training, and a North Carolina licensed
27 physician writing a prescription without compensation for an automated external
28 defibrillator whether or not required by any federal or state law, shall be immune from
29 civil liability arising from the use of an automated external defibrillator used in
30 accordance with subsection (c) of this section.
31 (e) The immunity from civil liability otherwise existing under law shall not be
32 diminished by the provisions of this section.
33 (f) Nothing in this section requires the purchase, placement, or use of automated
34 external defibrillators by any person, entity, or agency of State, county, or local
35 government. Nothing in this section applies to a product's liability claim against a
36 manufacturer or seller as defined in G.S. 99B-1.
37 (g) In order to enhance public health and safety, a seller of an automated external
38 defibrillator shall notify the North Carolina Department of Health and Human Services,
39 Division of Facilities Services, Office of Emergency Medical Services of the existence,
40 location, and type of automated external defibrillator."

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

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

1 ...
2 (17) The use of an automated external defibrillator as provided in G.S. 90-
3 21.15."
4 Section 3. This act becomes effective October 1, 2000, and applies to causes
5 of action arising on or after that date.