

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1040

By: Rice

AS INTRODUCED

An Act relating to torts; amending 76 O.S. 2001, Section 5A, which relates to automated external defibrillators; removing requirement to be a qualified person; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 76 O.S. 2001, Section 5A, is amended to read as follows:

Section 5A. A. ~~1.~~ 1. A Any person ~~who is qualified pursuant to this subsection and~~ who, in good faith and without expectation of compensation, renders emergency care or treatment outside of a medical facility by the use of an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct.

~~2. A person is qualified pursuant to this subsection upon successful completion of appropriate training in the use of automated external defibrillators and cardiopulmonary resuscitation. Appropriate training shall consist of a course of at least four (4) hours of training in the use of automated external defibrillators and cardiopulmonary resuscitation. Providers and instructors of these courses shall be approved pursuant to rules adopted by and shall be subject to approval or disapproval in the discretion of the Commissioner of Health. These rules may include appropriate periodic retraining at intervals established by the Commissioner by rule.~~

B. ~~1.~~ A ~~qualified~~ person or entity which owns, leases, possesses, or otherwise controls an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct.

~~2.~~ A person or entity is ~~qualified pursuant to this subsection,~~ if ~~the~~ such person or entity:

~~a.~~ ~~requires users of its automated external defibrillator to be qualified pursuant to subsection A of this section, and~~

~~b.~~ maintains and tests its automated external defibrillator according to the manufacturer's instructions.

C. For purposes of this section:

1. "Automated external defibrillator" means a medical device consisting of a heart monitor and defibrillator which:

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

b. 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, and

c. upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart; and

2. "Entity" means public and private organizations including, but not limited to, the State of Oklahoma and its agencies and political subdivisions, a proprietorship, partnership, limited liability company, corporation, or other legal entity, whether or not operated for profit.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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