

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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Senate Bill 1269
Judiciary II Committee Substitute Adopted 5/30/00

Short Title: Limit Liability/Defibrillator.

(Public)

Sponsors:

Referred to:

May 17, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT LIABILITY WHEN A PERSON USES AN AUTOMATED
3 EXTERNAL DEFIBRILLATOR TO RENDER EMERGENCY HEALTH CARE
4 TREATMENT TO ATTEMPT TO SAVE THE LIFE OF A PERSON WHO IS IN
5 OR WHO APPEARS TO BE IN CARDIAC ARREST.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 1B of Chapter 90 of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 90-21.15. Emergency treatment using automated external defibrillator;**
10 **immunity.**

11 (a) Intent. – It is the intent of the General Assembly that, when used in accordance
12 with this section, an automated external defibrillator may be used during an emergency
13 for the purpose of attempting to save the life of another person who is in or who appears
14 to be in cardiac arrest.

15 (b) Definitions. – For purposes of this section:

16 (1) 'Automated external defibrillator' means a device, heart monitor, and
17 defibrillator that meets all of the following requirements:

- 1 a. The device has received approval from the United States Food
2 and Drug Administration of its premarket notification filed
3 pursuant to 21 U.S.C. § 360(k), as amended.
- 4 b. The device is capable of recognizing the presence or absence of
5 ventricular fibrillation or rapid ventricular tachycardia and is
6 capable of determining, without intervention by an operator,
7 whether defibrillation should be performed.
- 8 c. Upon determining that defibrillation should be performed, the
9 device automatically charges and requests delivery of, or
10 delivers, an electrical impulse to an individual's heart.
- 11 (2) ' Training' means successful completion of a nationally recognized
12 course or training program in cardiopulmonary resuscitation (CPR) and
13 automated external defibrillator use including the programs approved
14 and provided by the:
- 15 a. American Heart Association.
16 b. American Red Cross.
- 17 (c) Immunity. – The use of an automated external defibrillator when used to
18 attempt to save or to save a life is 'first-aid or emergency health care treatment' as defined
19 in G.S. 90-21.14(a).
- 20 (d) Scope of Immunity. –
- 21 (1) In addition to the person actually using the automated external
22 defibrillator, the immunity from civil liability under subsection (d) of
23 this section includes (i) the person or entity who provides the CPR and
24 automated external defibrillator training, (ii) the person or entity
25 responsible for the site where the automated external defibrillator is
26 located provided there is a program of training, and (iii) a North
27 Carolina licensed physician writing a prescription for an automated
28 external defibrillator whether or not required by any federal or state law
29 for no compensation.
- 30 (2) No immunity from civil liability is granted, under this section, to any
31 emergency health care provider who receives compensation for
32 rendering cardiac defibrillation to patients as a regular part of that
33 provider's services to patients.
- 34 (e) Other Immunities. – This section does not diminish the qualified immunity
35 from civil liability for volunteers provided by G.S. 1-539.10, for persons rendering aid at
36 the scene of an accident provided by G.S. 20-166, for members of a volunteer fire
37 department or rescue squad provided by G.S. 58-82-5, or any other existing grant of
38 immunity.
- 39 (f) Use Not 'Practice of Medicine'. – The use of an automated external defibrillator
40 is not the 'practice of medicine' as defined in G.S. 90-18(b).
- 41 (g) No Purchase, Placement, or Use Requirement. – Nothing in this section
42 requires the purchase, placement, or use of automated external defibrillators by any
43 person, entity, or agency of State, county, or local government."

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

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

4 ...

5 (17) The use of an automated external defibrillator as provided in G.S. 90-
6 21.15(g)."

7 Section 3. This act becomes effective October 1, 2000, and applies to causes
8 of action arising on or after that date.