

Good Samaritan Law, automatic external defibrillator

Number: INFORMAL

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The Honorable Everett A. Kelly
Representative, District 42
323 The Capitol
Tallahassee, Florida 32399-1300

Dear Representative Kelly:

A constituent has contacted you regarding the Good Samaritan Law and the possible liability for using an automatic external defibrillator should a property owners association purchase such a machine. You have requested my comments on this matter.

Section 768.13, Florida Statutes, the "Good Samaritan Act," provides immunity from civil liability to any person, including those licensed to practice medicine, who gratuitously and in good faith render emergency care or treatment, without the objection of the injured victim or victims. In order to qualify for immunity when providing such care, the person must act as an ordinary reasonable prudent person would have acted under the same or similar circumstances.

In 1997, the Legislature deregulated the use of an automatic external defibrillator (AED) by repealing section 401.291, Florida Statutes (1995),^[1] and by specifying a legislative intent that an AED may be used by any person for the purpose of saving the life of another person in cardiac arrest. Section 401.2915, Florida Statutes, provides:

"It is the intent of the Legislature that an automatic external defibrillator may be used by any person for the purpose of saving the life of another person in cardiac arrest. In order to ensure public health and safety:

- (1) All persons who have access to or use an automatic external defibrillator must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an automatic external defibrillator;
- (2) Any person or entity in possession of an automatic external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the automatic external defibrillator; and
- (3) Any person who uses an automatic external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the automatic external defibrillator."

Thus, section 401.2915, Florida Statutes, while authorizing the public to obtain such machines, requires that a person who uses or has access to an AED complete certain training requirements.^[2]

In the same bill enacting 401.2915, Florida Statutes, the Legislature also amended the Good Samaritan law to provide immunity from civil liability to any person who renders emergency care or treatment through the use of or provision of an AED. Section 768.13(4), Florida Statutes, provides:

"Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment by the use of or provision of an automatic external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances."

Thus, the Good Samaritan Act already provides immunity for persons using an AED in providing emergency care under the conditions set forth in the statute. However, should the property owners association acquire an AED, it should ensure that those persons with access to the machine have obtained the minimum training as required by section 401.2915, Florida Statutes.

I trust that the above informal comments may be of assistance.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] Section 401.291, Fla. Stat. (1995), repealed by Ch. 97-34, Laws of Florida, provided for the use of an automatic or semiautomatic defibrillator by any individual who met the requirements of the section, who was a member of a locally coordinated response team authorized to respond to a request for emergency assistance for the purpose of providing an assessment of the need for and appropriate use of an automatic or semiautomatic defibrillator, and who had successfully completed an appropriate training course as approved by the local emergency medical services medical director.

[2] See s. 401.2915(1), Florida Statutes, stating that minimum training requirements include successful completion of an appropriate training course in cardiopulmonary resuscitation or a basic first aid course that includes cardiopulmonary resuscitation, and demonstrated proficiency in the use of an AED.