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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/07
 LAST UPDATED 03/03/07 HB 639/aHJC

SPONSOR Sandoval

SHORT TITLE Cardiac Arrest Aid Liability SB _____

ANALYST Hanika Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Responses Received From
 Administrative Office of the Courts (AOC)
 Department of Health (DOH)
 NM Medical Board
 Attorney General’s Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment addresses DOH concerns by clarifying definitions as used in the Act; a “good Samaritan” is one who lacks automated external defibrillator training; and, a “trained targeted responder” is a person who has had training in the emergency use of an automated external defibrillator. The amendment further clarifies the authority of Section 24-10C-5 to allow a person to acquire such a device as long as the conditions of Section 24-10C-4 in the use of such are met for the protection of the public.

Synopsis of Original Bill

House Bill 639 amends Section 24-10C-1 to 24-10C-7 NMSA, the Cardiac Arrest Response Act, to provide limited immunity from civil liability to a “good Samaritan”, or a person who provides emergency automated external defibrillator (AED) services to a person in apparent cardiac arrest, provided that the good Samaritan acts in good faith as an ordinary prudent person in the same or similar circumstances and acts without compensation.

FISCAL IMPLICATIONS

No fiscal impact.

SIGNIFICANT ISSUES

DOH reports that good Samaritan legislation refers to statutes that provide immunity from claims of negligence for providing emergency aid to others. Such laws are intended to reduce hesitation to aid others because of liability concerns. All 50 states have good Samaritan laws related to AEDs that vary in scope and conditions.

PERFORMANCE IMPLICATIONS

The AGO reports the bill requires a person acquiring an AED to ensure oversight of the AED program by a physician medical director; the “trained first responder” using the AED must be trained in its use; the AED must be maintained and tested; the person using the device must activate the emergency response medical system as soon as possible and must report its use to the physician medical director; and, the AED program must be registered with the DOH and emergency medical services and 911 agencies must be notified of the AED program. It is unclear whether the bill will grant immunity on a “good Samaritan” using an AED device if those requirements are not met, or if they have not been trained in the operation of the device.

The AGO further reports that Section 24-10-3 NMSA currently provides “*No person who comes to the aid or rescue of another person by providing care or assistance in good faith at or near the scene of an emergency, as defined in Section 24-10-4 NMSA 1978, shall be held liable for any civil damages as a result of any action or omission by that person in providing that care or assistance, except when liable for an act of gross negligence*”. The bill appears to modify that provision with the use of an AED by a “good Samaritan” by also requiring compliance with the Cardiac Arrest Response Act in order for that person to attain immunity from civil liability.

ADMINISTRATIVE IMPLICATIONS

The bill also changes the language of Section 24-10C-4(A), NMSA 1978, to remove “other program requirements” from the language. This removal may limit the department’s administration of the AED program.

TECHNICAL ISSUES

The bill adds “a good Samaritan” to the list of persons with limited immunity protections to cover a person who lacks AED training but who has access to an AED and uses it in good faith in an emergency. The proposed definition of “good Samaritan” in the bill includes no language regarding a lack of AED training.

OTHER SUBSTANTIVE ISSUES

Automatic external defibrillators are becoming more prevalent – no longer just in hospitals, they can now be found in airports, hotels, shopping malls and other public places.

DOH reports that many communities continue to have poor survival rates for sudden cardiac arrest because of long response times of emergency personnel and delays in delivering definitive therapy with defibrillation. In New Mexico, this can be expected to apply to remote rural communities. The concept of public access to defibrillation has been promoted to expand the use of an immediately available defibrillator for minimally trained first-responders such as police officers, firefighters, security guards, and trained laypersons.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A ‘good Samaritan’ will not be added to the list of persons covered by limited immunity protections for providing emergency care with an AED.

AMENDMENTS

DOH suggests the following amendments:

Page 2, line 17, after the word “who” insert “lacks automated external defibrillator training, but who has access to an automated external defibrillator and”.

Page 3, line 1, after “person” insert “trained in the use of an automated external defibrillator under Emergency Cardiovascular Care (CCC) guidelines.” Delete lines 2 and 3.

Page 4, line 14, replace the word “use” with the word “acquire”.

AHO/csd