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**HOUSE BILL 375**

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

**INTRODUCED BY**

**Edward C. Sandoval**

**AN ACT**

**RELATING TO AUTOMATED EXTERNAL DEFIBRILLATORS; ENACTING THE  
CARDIAC ARREST RESPONSE ACT; PROVIDING CERTAIN REQUIREMENTS  
FOR ENTITIES ESTABLISHING A DEFIBRILLATION PROGRAM; REQUIRING  
CERTAIN TRAINING FOR DESIGNATED USERS OF A DEFIBRILLATOR;  
REQUIRING REGISTRATION OF A DEFIBRILLATION PROGRAM WITH THE  
DEPARTMENT OF HEALTH; REQUIRING ACTIVATION OF THE EMERGENCY  
MEDICAL SERVICES SYSTEM IN AN EMERGENCY SITUATION WHERE A  
DEFIBRILLATOR IS USED; PROVIDING IMMUNITY FROM LIABILITY FOR  
CERTAIN PERSONS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 7 of this act may be cited as the "Cardiac Arrest  
Response Act".**

**Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE. --**

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A. The legislature finds that:

(1) each year more than three hundred fifty thousand Americans die from out-of-hospital sudden cardiac arrest;

(2) the American heart association estimates that more than twenty thousand deaths could be prevented each year if early defibrillation were more widely available. In cardiac arrest the first several minutes are the most crucial time in which performing defibrillation can significantly improve chances for survival;

(3) the reality is that even in the best emergency medical services systems, emergency medical technicians or first responders may not always be able to arrive during that critical window of time; and

(4) virtually all communities in New Mexico have invested in 911 emergency response systems, emergency medical personnel and ambulance vehicles. However, many of them do not have enough defibrillators in their community.

B. It is the purpose of the Cardiac Arrest Response Act to encourage greater acquisition, deployment and use of automated external defibrillators in communities across the state.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the Cardiac Arrest Response Act:

A. "automated external defibrillator and

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1 semi-automatic external defibrillation (AED)" means a medical  
2 device heart monitor and defibrillator that:

3 (1) has received approval of its pre-market  
4 modification filed pursuant to 21 U.S.C. 21(k), from the  
5 United States food and drug administration;

6 (2) is capable of recognizing cardiac arrest  
7 that will respond to defibrillation, ventricular fibrillation  
8 or rapid ventricular tachycardia, and is capable of  
9 determining whether defibrillation should be performed; and

10 (3) upon determining that defibrillation  
11 should be performed, automatically charges and is capable of  
12 delivering an electrical impulse to an individual's heart;

13 B. "AED program" means a program of trained  
14 targeted responders operating under the supervision of a  
15 physician medical director and is registered with the  
16 department;

17 C. "defibrillation" means the administration of a  
18 controlled electrical charge to the heart to restore a viable  
19 cardiac rhythm;

20 D. "department" means the department of health;

21 E. "physician" means a doctor of medicine or  
22 doctor of osteopathy who is licensed or otherwise authorized  
23 to practice medicine or osteopathic medicine in New Mexico;  
24 and

25 F. "trained targeted responder" means a person who

1 has completed an authorized AED training program and who uses  
2 an AED.

3 Section 4. [NEW MATERIAL] PROTECTION OF PUBLIC  
4 SAFETY. --A person who acquires an AED shall ensure that:

5 A. a physician medical director oversees all  
6 aspects of the defibrillation program, including training,  
7 emergency medical services coordination, protocol approval,  
8 AED deployment strategies and other program requirements, and  
9 that the physician medical director provides overall quality  
10 assurance and reviews each case in which the AED is used by  
11 the program;

12 B. the trained targeted responder receives  
13 appropriate training in cardiopulmonary resuscitation and in  
14 the use of an AED by a nationally recognized course in  
15 cardiopulmonary response and AED use approved by the  
16 department or other training programs authorized by the  
17 department;

18 C. the defibrillator is maintained and tested  
19 according to the manufacturer's guidelines;

20 D. any person who renders emergency care or  
21 treatment on a person in cardiac arrest by using an AED  
22 activates the emergency medical system as soon as possible,  
23 and reports any clinical use of the AED to the physician  
24 medical director;

25 E. the AED program is registered with the

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1 department; and

2 F. the local emergency medical services and local  
3 911 agencies have been notified of the AED program.

4 Section 5. [NEW MATERIAL] AUTHORITY. -- Any person may use  
5 an AED if the person has met all the requirements of Section 4  
6 of the Cardiac Arrest Response Act. Nothing in this section  
7 limits the right of an individual to practice a health  
8 profession that the individual is otherwise authorized to  
9 practice under the laws of New Mexico.

10 Section 6. [NEW MATERIAL] EXEMPTION. -- Nothing in the  
11 Cardiac Arrest Response Act precludes a physician from  
12 prescribing an AED to a patient for use by the patient's  
13 caregiver on an individual patient and the use does not  
14 require the individual to function in an approved program.

15 Section 7. [NEW MATERIAL] LIMITED IMMUNITY  
16 PROTECTIONS. --

17 A. A physician medical director of an AED program,  
18 a person who provides training in cardiopulmonary  
19 resuscitation and the use of an AED and a person responsible  
20 for a defibrillation program are immune from civil liability  
21 for any personal injury or death that results from any act or  
22 failure to act that does not amount to willful or wanton  
23 misconduct or gross negligence provided there is compliance  
24 with the requirements of the Cardiac Arrest Response Act.

25 B. An owner of the property or facility where an

1 AED is located is immune from civil liability for any personal  
2 injury or death that results from any act or failure to act  
3 that does not amount to willful or wanton misconduct or gross  
4 negligence; provided there is compliance with the requirements  
5 of the Cardiac Arrest Response Act.

6 C. An AED trained targeted responder is immune  
7 from civil liability for any personal injury or death that  
8 results from any act or failure to act if:

9 (1) the trained targeted responder acts as an  
10 ordinary, reasonable prudent person would act under the same  
11 or similar circumstances;

12 (2) the trained targeted responder's act or  
13 failure to act does not amount to willful or wanton misconduct  
14 or gross negligence; and

15 (3) there is compliance with the requirements  
16 of the Cardiac Arrest Response Act.

17 Section 8. Section 24-10B-4 NMSA 1978 (being Laws 1983,  
18 Chapter 190, Section 4, as amended) is amended to read:

19 "24-10B-4. BUREAU--DUTIES.--The bureau is designated as  
20 the lead agency for the emergency medical services system and  
21 shall establish and maintain a program for regional planning  
22 and development, improvement, expansion and direction of  
23 emergency medical services throughout the state, including:

24 A. design, development, implementation and  
25 coordination of communications systems to join the personnel,

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1 facilities and equipment of a given region or system that will  
2 allow for medical control of pre-hospital or interfacility  
3 care;

4 B. provision of technical assistance to the [~~state~~  
5 ~~corporation-commission~~] public regulation commission for  
6 further development and implementation of standards for  
7 certification of ambulance services, vehicles and equipment;

8 C. development of requirements for the collection  
9 of data and statistics to evaluate the availability, operation  
10 and quality of providers in the state;

11 D. adoption of regulations for medical direction  
12 of a provider or emergency medical services system upon the  
13 recommendation of the medical direction committee, including:

14 (1) development of model guidelines for  
15 medical direction of all components of an emergency medical  
16 services system;

17 (2) a process for notifying the bureau of the  
18 withdrawal of medical control by a physician from a provider;  
19 and

20 (3) specific requirements for medical  
21 direction of intermediate and advanced life support personnel  
22 and basic life support personnel with special skills approval;

23 E. maintenance of a list of approved emergency  
24 medical services training programs, the graduates of which  
25 shall be the only New Mexico emergency medical services

1 students eligible to apply for emergency medical technician  
2 licensure or certified emergency medical services first  
3 responder certification;

4 F. approval of continuing education programs for  
5 emergency medical services personnel;

6 G. adoption of regulations pertaining to the  
7 training and certification of emergency medical dispatchers  
8 and their instructors;

9 H. adoption of regulations based upon the  
10 recommendations of the trauma advisory committee, for  
11 implementation and monitoring of a statewide, comprehensive  
12 trauma care system, including:

13 (1) minimum standards for designation or  
14 retention of designation as a trauma center or a participating  
15 trauma facility;

16 (2) pre-hospital care management guidelines  
17 for the triage and transportation of traumatized persons;

18 (3) establishment for interfacility transfer  
19 criteria and transfer agreements;

20 (4) standards for collection of data relating  
21 to trauma system operation, patient outcome and trauma  
22 prevention; and

23 (5) creation of a state trauma care plan;

24 I. adoption of regulations, based upon the  
25 recommendations of the air transport advisory committee, for

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1 the certification of air ambulance services;

2 J. adoption of regulations pertaining to  
3 authorization of providers to honor advance directives to  
4 withhold or terminate care in certain pre-hospital or  
5 interfacility circumstances, as guided by local medical  
6 protocols;

7 K. development of guidelines, with consultation  
8 from the state fire marshal, pertaining to the operation of  
9 medical-rescue services within the emergency medical services  
10 system; [~~and~~]

11 L. operation of a critical incident stress  
12 debriefing program for emergency responders utilizing  
13 specifically trained volunteers who shall be considered public  
14 employees for the purposes of the Tort Claims Act when called  
15 upon to perform a debriefing; and

16 M adoption of rules to establish a cardiac arrest  
17 targeted response program pursuant to the Cardiac Arrest  
18 Response Act, including registration of automated external  
19 defibrillator programs, maintenance of equipment, data  
20 collection, approval of automated external defibrillator  
21 training programs and a schedule of automated external  
22 defibrillator program registration fees. "

23 Section 9. EFFECTIVE DATE. -- The effective date of the  
24 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 February 16, 1999  
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8 Mr. Speaker:  
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred  
12

13 HOUSE BILL 375  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. On page 5, lines 15 through 25 and on page 6, lines  
18 1 through 16, strike Section 7 in its entirety and insert in  
19 lieu thereof the following new section:

20  
21 "Section 7. LIMITED IMMUNITY PROTECTIONS.--The  
22 following persons or entities who render emergency care or  
23 treatment by the use of an AED under the provisions of the  
24 Cardiac Arrest Response Act shall not be subject to civil  
25 liability provided they have acted with reasonable care and  
in compliance with the requirements of that act:

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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A. a physician who provides supervisory services pursuant to the Cardiac Arrest Response Act;

B. a person or entity that provides training in cardiopulmonary resuscitation and use of automated external defibrillation;

C. a person or entity that acquires an AED pursuant to the Cardiac Arrest Response Act;

D. the owner of the property or facility where the AED is located; and

E. the trained targeted responder.".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

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Debbie A. Rodella, Chairwoman

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HBIC/HB 375

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
5 (Chief Clerk) (Chief Clerk)

7 Date \_\_\_\_\_

9 The roll call vote was 9 For 0 Against

10 Yes: 9

11 Excused: Sanchez

12 Absent: Kissner, Mohorovic

14 127315.1

15 J: \99BillSWP\h0375

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1 **FORTY- FOURTH LEGISLATURE**  
2 **FIRST SESSION, 1999**

3  
4 **February 26, 1999**

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7 **Mr. Speaker:**

8  
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 375, as amended**

11  
12 **has had it under consideration and reports same with**  
13 **recommendation that it DO PASS.**

14  
15 **Respectfully submitted,**

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**R. David Pederson, Chairman**

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FORTY-FOURTH LEGISLATURE  
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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

J: \99BillSWP\h0375

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

March 1, 1999

HOUSE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 375, as amended

Amendment sponsored by Representative Edward C. Sandoval

1. On page 3, line 4, strike "21 U. S. C. 21(k)" and insert in lieu thereof "21 U. S. C. 360(k)".

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

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HF1 / HB 375

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Edward C. Sandoval

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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