

1999 DRAFTING REQUEST

Bill

Received: 12/18/98

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **DuWayne Johnsrud (608) 266-3534**

By/Representing: **Sarah (aide)**

This file may be shown to any legislator: **YES**

Drafter: **kenneda**

May Contact: **Maureen Cassidy 221-8866**

Alt. Drafters:

Subject: **Health - emergency med services**

Extra Copies: **TAY**

Pre Topic:

No specific pre topic given

Topic:

Use of automated external defibrillators

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|---------------------|----------------------|---------------------|----------------|--------------------------|-----------------------------|-----------------|
| /P1 | kenneda 02/18/99 | wjackson 02/18/99 | lpaasch 02/18/99 | _____ | lrb_docadmin 02/18/99 | | S&L |
| /1 | kenneda 03/15/99 | wjackson 03/15/99 | martykr 03/15/99 | _____ | lrb_docadmin 03/15/99 | lrb_docadminS&L 03/17/99 | |

FE Sent For:

03-22-99

<END>

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1 3/15 WJ
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 JMS

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|--------------|----------------|-----------------|--------------|----------------------------|------------------|-----------------|-----------------|
| /? | kenneda | | 2-18LP. | 2-18LP. hmk | | | S&L |

FE Sent For:

<END>



DuWayne Johnsrud

State Representative

Date: 12/17

To: Deborah Kennedy

From: Sarah Deborah

Telephone: 266-3534

Thanks, Deborah.

If you have questions, please

let me know.

B I L L
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft: Rep. Johnsonrud

Date: 12-17-98 Person submitting request (name, phone number): Rep. Johnsonrud

Persons to contact for questions about this draft (names, phone numbers): Sarah Decora
266-3534

Describe the problem, including any helpful examples.

How do you want to solve the problem?

see enclosed

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not retyped) copy. _____

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67): _____

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: _____

Model Public Access Defibrillation Legislation

House Act No. ____

Senate Act No. ____

AN ACT to the <STATE> Code Annotated,
Section ____ Title ____ and Chapter ____
relating to limited immunity for the use of automated external defibrillators

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THIS STATE:

SECTION 1. State Code Annotated, Section ____ Title ____ and Chapter ____ is amended by adding new sections 2 through 4 as a new, appropriately designated part.

SECTION 2. It is the intent of the Legislature that an automated external defibrillator may be used for the purpose of saving the life of another person in cardiac arrest when used in accordance with provisions of Section 4.

SECTION 3. As used in this ACT, "AED" or "defibrillator" means an automated external defibrillator.

SECTION 4. In order to ensure public health and safety:

(1) A person or entity who acquires an AED shall ensure that:

(A) ~~expected AED users receive American Heart Association training in CPR and AED use, or an equivalent nationally recognized course in CPR and AED use.~~ *a course approved by administrative rule by the department*

(B) the defibrillator is maintained and tested according to the manufacturer's operational guidelines. *medical direction from a ?*

(C) ~~there is involvement of licensed physician or medical authority to the site's program~~ *to ensure compliance with requirements for training, notification, and maintenance.* *?*

(D) any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activated the emergency medical services system as soon as possible, and reports any clinical use of the AED to the licensed physician or medical authority.

(2) Any person or entity who acquires an AED ~~or entity who acquires an AED~~ shall notify an agent of the ~~emergency communications or vehicle dispatch center of the existence, location, and type of AED.~~ *local EMS agency responsible for emergency response to the location*

SECTION 5. The State Code Annotated Section ____ Title ____ and Chapter ____ is amended by adding the following language as new subsections (a), (b), (c), and (d):

- (a) Any person or entity, who in good faith and without compensation, renders emergency care or treatment by the use of an AED shall be immune from civil liability for any personal injury 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.
- (b) The immunity from civil liability for any personal injury under (a) of this subsection includes the licensed physician or medical authority who is involved with AED site placement, the person or entity who provides the CPR and AED site placement, the person or entity who provides the CPR and AED training, and the person or entity responsible for the site where the AED is located. This immunity applies if the requirements of Section 4 are fulfilled.
- (c) The immunity from civil liability under (a) of this subsection does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering such emergency care.
- (d) The requirements of Section 4 shall not apply to any individual using an AED in an emergency setting if that individual is acting as a good Samaritan under State Code ____.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

*resulting from
use of the
semiautomatic
defibrillator*

Revisions to AHA Model AED Legislation
(12/15/98)

*From Maurice Cassidy:
Ab - Refer only to
semi-automatic*

Section 3

Combine current defibrillator definitions for automatic and semi-automatic to parallel the AHA definition (this will allow the statutes to reflect the most current technology).

Section 4

(1)(a) Delete "the American Heart Association or by another nationally recognized course in CPR and AED use." Insert "a course approved by administrative rule by the department (DHFS).

(c) Delete "involvement of" and insert "medical direction from"; delete "or medical authority of"

(2) Delete and revise as follows: "Any person or entity who acquires an AED shall notify an agent of the local EMS agency responsible for emergency response to the location."

Add a section to state that re-certification in a CPR/AED course (approved by the department) is required every two years.

Section 5

- (a) Delete this section. Add AED use to the current WI Good Samaritan law.
- (b) After "negligence" insert "resulting from use of an AED"

Questions for Maureen Cassidy:

① Do not draft intent statements

① What is meant by instruction to "combine current definitions for automatic and semi-automatic to parallel the AHA definition"

② What is the "AHA definition"? That in the model legislation?

③ If it is the def. in the model legislation, the definition is meaningless, since we don't use acronyms

(AED means automated external defibrillator)

Use def. of semi-automatic

④ What is intent of bill w/ respect to current law at 146.50 (6g)?

(One way to ensure training wd be to prohibit use unless certified)

Do not to affect current law

⑤ What does "clinical use" in SEC 4 (1)(D) mean?

?

④ Instructions say "re-certification in a CPR/AED course approved by the department is required every 2 years - do they mean recertification under S. 146.50 (6g)?

No certification is intended - merely approval by DHS of the course



(By 2/22, if possible - in edit 2/18)

State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1382/P1

DAK.....

D.NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- Gen Cat
- 1 **AN ACT**; relating to: limitations on and requirements for use of semiautomatic
2 defibrillators by individuals other than emergency medical technicians and
3 first responders - defibrillation and providing civil immunity for the use.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and family services (DHFS) certifies emergency medical technicians and first responders - defibrillation to perform defibrillation (administering an electrical impulse to an individual's heart to stop a disturbance in its normal rhythm) by use of automatic, semiautomatic or manual defibrillators. Standards for the certification are prescribed by DHFS by rule. In addition, emergency medical technicians and persons who have completed requirements for certification as first responders - defibrillation by DHFS are authorized to use automatic or semiautomatic defibrillators under limitations prescribed by DHFS by rule. A county, city, town, village or hospital, or a combination of any of these, or an ambulance service provider, under a plan approved by DHFS, may conduct an emergency medical services program that uses emergency medical technicians - paramedics for the delivery of emergency medical care to sick, disabled or injured individuals at the scene of an emergency and during transport to a hospital.

This bill requires a person who is not an ambulance service provider, emergency medical technician or first responder - defibrillation but who possesses a semiautomatic defibrillator to ensure all of the following:

1. That individuals who are not emergency medical technicians or first responders - defibrillation but who could reasonably be expected to use the

semiautomatic defibrillator to provide emergency care and treatment to a person who appears to be in cardiac arrest receive training in the use every 24 months under a course that DHFS approves under standards prescribed by rule.

2. That the defibrillator is maintained and tested under the manufacturer's guidelines.

3. That a physician provides overall medical direction with respect to training and defibrillator maintenance requirements.

4. That any individual who renders emergency care or treatment by using the defibrillator on a person who appears to be in cardiac arrest contacts the nearest emergency services program as soon as possible and reports the use to the physician who provides overall medical direction.

In addition, the bill requires that the person who possesses a semiautomatic defibrillator notify the nearest emergency medical services program of the defibrillator's location and type.

The bill authorizes a person, other than an emergency medical technician or first responder – defibrillation, to operate a semiautomatic defibrillator in rendering emergency care or treatment to a person who appears to be in cardiac arrest and immunifies from civil liability such a person, the physician who provides overall medical direction, the possessor of the semiautomatic defibrillator, the training provider and the person who owns or manages the premises on which the defibrillator is located. The immunity does not extend to acts or omissions that constitute gross negligence or wanton or intentional misconduct.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 146.50 (8g) of the statutes is created to read:

2 146.50 (8g) SPECIAL USE OF SEMIAUTOMATIC DEFIBRILLATORS. (a) In this
3 subsection:

4 1. "Cardiac arrest" means the sudden cessation of cardiac function and the
5 disappearance of arterial blood pressure that connote ventricular fibrillation or
6 pulseless ventricular tachycardia.

7 2. "Pulseless ventricular tachycardia" means a disturbance in the normal
8 rhythm of the heart that is characterized by rapid electrical activity of the heart with
9 no cardiac output.

1 (b) A person other than an ambulance service provider, emergency medical
2 technician or a first responder – defibrillation who possesses a semiautomatic
3 defibrillator shall ensure all of the following concerning the defibrillator:

4 1. That an individual who is not an emergency medical technician or a first
5 responder – defibrillation but who could reasonably be expected to use the
6 semiautomatic defibrillator in rendering emergency care or treatment to a person
7 who appears to be in cardiac arrest receives training in the use every 24 months
8 under a course that is approved by the department under par. (e).

9 2. That the semiautomatic defibrillator is maintained and tested in accordance
10 with any operational guidelines of the manufacturer.

11 3. That a physician provides any individual or entity specified in par. (b) (intro.)
12 with overall medical direction with respect to training and defibrillator maintenance
13 requirements.

14 4. That any individual specified in subd. 1. who renders emergency care or
15 treatment by using the semiautomatic defibrillator on an individual who appears to
16 be in cardiac arrest contacts the nearest emergency medical services program under
17 s. 146.55 (2) as soon as possible after the use and reports the use to the physician
18 specified under subd. 3.

19 (c) A person who possesses a semiautomatic defibrillator shall notify the
20 nearest emergency medical services program under s. 146.55 (2) of the defibrillator's
21 location and type.

22 (d) Notwithstanding subs. (6g) (b) and (8) (e), an individual who meets the
23 requirements of par. (b) 1. may under the limitations of this subsection operate a
24 semiautomatic defibrillator that meets the requirements of par. (b) 2.

1 (e) The department shall review training courses for the use of a semiautomatic
2 defibrillator and may approve those training courses that satisfy standards for
3 approval that are specified by the department by rule.

4 SECTION 2. 146.50 (13) (b) of the statutes is amended to read:

5 146.50 (13) (b) The department shall promulgate rules under subs. ~~(13)(a)~~ ^(8g) (e) (8)

6 (b), (c) and (e) and (8m).

(8g)
~~(13)(a)~~
(e) (8)

History: 1973 c. 321; 1975 c. 39 ss. 645 to 647d, 732 (2); 1975 c. 224; 1977 c. 29, 167; 1979 c. 321; 1981 c. 73, 380; 1981 c. 391 s. 211; 1983 a. 189; 1985 a. 120, 135; 1987 a. 70, 399; 1989 a. 31; 1989 a. 102 ss. 20, 21, 36 to 59; 1991 a. 39, 238; 1993 a. 27, 29, 105, 183, 251, 399; 1997 a. 79, 191, 237.

7 SECTION 3. 895.48 (4) of the statutes is created to read:

8 895.48 (4) (a) Any of the following who meets the applicable requirements of
9 s. 146.50 (8g) and who acts within the applicable limitations of s. 146.50 (8g) is
10 immune from civil liability for the acts or omissions of an individual who renders
11 emergency care by use of a semiautomatic defibrillator under s. 146.50 (8g) to an
12 individual who appears to be in cardiac arrest:

- 13 1. The individual who renders the care.
- 14 2. The physician specified in s. 146.50 (8g) (b) 3.
- 15 3. The person who possesses the semiautomatic defibrillator, as specified in s.
- 16 146.50 (8g) (b) (intro.).
- 17 4. The provider of training required under s. 146.50 (8g) (b) 1.
- 18 5. The person who owns or manages the premises on which the semiautomatic
- 19 defibrillator is located.

20 (b) The immunity specified in par. (a) does not extend to a person whose act or
21 omission resulting from the use of the semiautomatic defibrillator constitutes gross
22 negligence or involves wanton or intentional misconduct.

23 (c) The provisions of this subsection may not be construed to ^{imply} ~~infer~~ that an
24 individual to whom s. 146.50 (8g) does not apply and who, in good faith, renders

1 emergency care by use of a semiautomatic defibrillator is ineligible for immunity
2 from civil liability under sub. (1).

3 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1382/P1dn
DAK.....

To Representative Johnsrud:

I am providing you this bill in preliminary form, because the drafted version differs in several ways from the material proposed and because certain questions remain for resolution. The following are issues that arose in the course of drafting:

1. In essence, the civil immunity provided in the draft to persons who use semiautomatic defibrillators rests on completion ^{by those persons} of training. The training, in turn, must be under a course that is approved by the department of health and family services (DHFS) as satisfying standards specified by DHFS by rule. Thus, the immunity cannot apply until DHFS has promulgated rules that establish the standards and the person has taken training that satisfies those standards. Therefore, it seems best that the draft have a delayed effective date to give DHFS time to promulgate the rules. I would recommend January 1 or April 1, 2000. You might also wish to require DHFS to submit proposed rules to the Legislative Council by a date that is several months before the effective date, to ensure that the rules are promulgated by the effective date. Lastly, you may wish to provide DHFS with emergency rule-making powers without the necessity of making a finding of emergency, to promulgate emergency rules prior to the permanent rules.

2. I did not draft the statement of legislative intent proposed. It is LRB policy not to draft such statements other than to sustain a possibly-unconstitutional provision or for recodification bills, neither of which circumstance is presented in this draft.

3. I substituted "person" for the term "person or entity" proposed, s. 146.50 (8g) (b) (intro.) and (c); the definition of "person" in s. 990.01 (26), stats., which applies, is broad enough to cover "entity". I also substituted "possesses" for "acquires" in ss. 146.50 (8g) (b) (intro.) and (c) and 895.48 (4) (a) 3. so as to avoid the ^{application} ~~inference~~ that the bill only applies to persons who obtain semiautomatic defibrillators after the bill's enactment; I have presumed that you wanted the bill to apply to any person who has a semiautomatic defibrillator at the time that the bill is enacted. Lastly, I substituted "person who appears to be in cardiac arrest" for "person who is in cardiac arrest" to avoid the ^{application} ~~inference~~ that the person using the defibrillator was making a medical diagnosis (which might constitute the unauthorized practice of medicine). Are these substitutions acceptable?

4. I am uncertain if I've captured your intent with respect to s. 146.50 (8g) (b) 3. The language proposed was "There is medical direction from a licensed physician to the

site's program to ensure compliance with requirements for training, notification and maintenance. I was unsure what a "site", its "program" and "notification" all related to because they had no antecedents. Please carefully review the drafted language. (It is unnecessary to use "licensed" with respect to "physician", because the term is so defined in s. 146.50 (1) (m), stats.) I think it odd that a physician would provide medical direction with respect to maintenance requirements, and, with respect to training, the training standards are prescribed by rule and the possessor of the defibrillator is required to ensure that the training is conducted; therefore, I'm not sure that this provision has any utility or makes sense.

use
brackets →

5. Please carefully review s. 895.48 (4). The proposed language for the civil immunity provisions contained several problems, which I have tried to correct. The instructions were to delete the first of four proposed provisions concerning the immunity and "add [defibrillator] use to the current WI Good Samaritan law". Current law, at s. 895.48 (1), stats., provides immunity from civil liability for acts or omissions in good faith in rendering emergency care; the exception to the immunity is for health care employes or professionals who render the care for compensation, within the scope of their usual and customary employment or practice at a hospital, accident scene, enroute to a hospital or at a physician's office. In contrast, the proposed exception to the immunity in the bill is "if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering such emergency care". The difficulty lies in the fact that these terms conflict with and overlap each other to some extent. Thus, would a person who acts in good faith but who is grossly negligent or acts with wanton misconduct be liable? Would a person who is not acting in good faith but is not negligent be liable? After considering the issue, I deleted "good faith" from s. 895.48 (4) (a). The provision, then, mirrors the treatment in s. 895.482, stats. An alternative would be to retain "good faith" and "willful misconduct" but to delete "gross negligence" and "wanton misconduct". Please let me know if you prefer the alternative.

use
brackets →

6. For s. 895.48 (4) (a) 5., the language proposed (the person or entity responsible for the site where the [defibrillator] is located) is vague. Please review my alternative.

Fix quotes

I will be happy to meet with you or provide any other assistance for this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1382/P1dn

DAK:wj:lp

February 18, 1999

To Representative Johnsrud:

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1. In essence, the civil immunity provided in the draft to persons who use semiautomatic defibrillators rests on completion of training by those persons. The training, in turn, must be under a course that is approved by the department of health and family services (DHFS) as satisfying standards specified by DHFS by rule. Thus, the immunity cannot apply until DHFS has promulgated rules that establish the standards and the person has taken training that satisfies those standards. Therefore, it seems best that the draft have a delayed effective date to give DHFS time to promulgate the rules. I would recommend January 1 or April 1, 2000. You might also wish to require DHFS to submit proposed rules to the Legislative Council by a date that is several months before the effective date, to ensure that the rules are promulgated by the effective date. Lastly, you may wish to provide DHFS with emergency rule-making powers without the necessity of making a finding of emergency, to promulgate emergency rules prior to the permanent rules.

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6. For s. 895.48 (4) (a) 5., the language proposed ("the person or entity responsible for the site where the [defibrillator] is located") is vague. Please review my alternative.

I will be happy to meet with you or provide any other assistance for this draft.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137

AED Preliminary Draft
Recommended Changes
3/3/99

Received
3/9/99
D.A.K.

Question #1

✓ Recommendation: The department has indicated that rules are not necessary to approve this curriculum. Therefore, delete all references to rule-making for the department. Law should be effective upon being published.

✗ Page 3, line 11, after "department", delete "under par. (e)." - Why?

✓ Page 4, line 6, after "department", insert "." and delete "by rule"

✓ Page 4, delete lines 7-9.

✗ Page 4, insert "this bill becomes effective upon enactment and publication of the law." (or something to that effect) ?? Where ?? No; unnecessary

✓ Question #2

ok as presented

✓ Question #3

ok as presented

Question #4

Recommendation: The intent was that the medical direction be provided for the training program, not for the individual user. As a result, all references to the physician medical director can be deleted, except for the reference to the training program (page 3, line 6 as revised below)

see
my
language

Page 3, line 5, after "-defibrillation" delete through line 6, insert "may use an AED if they have received training in a course overseen by a physician medical director and approved by the department."

in any
situation
?

? necessary?

Page 3, delete lines 7-21.

Note: The written notification of the presence of the AED, addresses the intent of creating a connection with the local EMS providers as to where AEDs are placed/present in a community.

Page 3, line 22, after "shall", delete "notify" and insert "provide written notification to"
Page 3, line 23, after "s.146.55(2)", insert "." and delete through line 24.

Under 146.50 (8g), create a definition for notification such that:

"written notification shall include the following information: the location of the defibrillator on premises; the intended usage area of the defibrillator and the type of defibrillator." Not necessary to do definition - added to 146.50 (8g)(c)

Question #5 and #6

Recommendation: The intent is to provide Good Samaritan protection for those who use and provide AEDs. Therefore, the immunity language can be simplified tremendously by modifying the current Good Samaritan statute as follows:

s. 895.48 (1) is amended as follows:

"For purposes of this section, 'emergency care or treatment' includes providing emergency medical care or treatment by using or providing an AED."

Page 4 and 5, delete Section 3 of the bill.

I don't think the language of 895.48 (1) necessarily covers a sit. where an employee receives training + is expected to render care on the job

Other provisions/recommendations:

Page 3, line 10, after "training", delete "in the use every 24 months" - may be a problem

Also - using without any training? (thought that was the pt. of the bill.)

DJ

3/11/99 From Maureen Cassidy and Terry Hottensoth

① Agreed not to delete reference to "par. (e)" in 146.80 (8g) (b)

② Agreed unnecessary to draft bill's eff. date

③ Agreed to put limitation on rendering emergency care + to person who appears to be in cardiac arrest

④ Decided to keep reqmt in -1382/PI re maintenance + testing of defibrillator - put into requirement of person who possesses one

⑤ Agreed to DAK language re notification, rather than definition.

⑥ Decided, w/ respect to Good Samaritan immunity to create 895.48(4) which immunizes use or provision for use of a defibrillator in good faith, except for gross negligence and ~~immunity~~ ^{except from} immunity health care professionals

Problems w/ bill now

1. Current law authorizes defibrill. use by certified persons (146.50(6g) + (8)(b))

Implication is that other use is unauthorized

The bill notwithstanding those provisions to authorize use of a semiautomatic defib. by person who renders emergency care to person who appears to be in cardi. arrest, if trained under course approved by DHS

But

Immun. provision extends to any use of a defib. - ∴ a person could be not in compliance w/ 146.50(6g), (8)(b) and (8g) (created in the bill) + yet totally immunified

∴ Negates reason for (6g) + ((8b) + (8g))

as they apply to volunteer first responders

Request to notify should except asp. ent. fr-d's

3/15/99 From Maureen Cassidy: Change (b) of
3/11/99 decisions: Provide immunity only to persons
who have had training (plus person who provides defib.)

3/15/99 From Maureen Cassidy:

① Provide immunity to:

Individual who renders care

Physic. who is med director

Person who provides defib. for use

Training provider

Require acts in good faith

Make exceptions for gross negligence + for health
care professional

TODAY or TUES, if possible - In edit 3/15

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT ~~to amend~~ 146.50 (13) (b); and **to create** 146.50 (8g) and 895.48 (4) of the

2 statutes; **relating to:** limitations on and requirements for use of

3 semiautomatic defibrillators by individuals other than emergency medical

4 technicians and first responders - defibrillation ~~and~~ providing civil immunity

5 for the use ^{and requiring the department of health and family services to review training courses for the use}

Analysis by the Legislative Reference Bureau

qualified applicants

Under current law, the department of health and family services (DHFS) certifies ~~emergency medical technicians and first responders - defibrillation~~ to perform defibrillation (administering an electrical impulse to an individual's heart to stop a disturbance in its normal rhythm) by use of automatic, semiautomatic or manual defibrillators. Standards for the certification are prescribed by DHFS by rule. In addition, emergency medical technicians and persons who have completed requirements for certification as first responders - defibrillation by DHFS are authorized to use automatic or semiautomatic defibrillators under limitations prescribed by DHFS by rule. A county, city, town, village or hospital, or a combination of any of these, or an ambulance service provider, under a plan approved by DHFS, may conduct an emergency medical services program that uses emergency medical technicians - paramedics for the delivery of emergency medical care to sick, disabled or injured individuals at the scene of an emergency and during transport to a hospital.

This bill requires a person who is not an ambulance service provider, emergency medical technician or first responder - defibrillation but who possesses a semiautomatic defibrillator to ensure all of the following:

1. That individuals who are not emergency medical technicians or first responders - defibrillation but who could reasonably be expected to use the semiautomatic defibrillator to provide emergency care and treatment to a person who appears to be in cardiac arrest receive training in the use every 24 months under a course that DHFS approves under standards prescribed by rule.

~~2. That the defibrillator is maintained and tested under the manufacturer's guidelines.~~

3. That a physician provides overall medical direction with respect to training and defibrillator maintenance requirements.

4. That any individual who renders emergency care or treatment by using the defibrillator on a person who appears to be in cardiac arrest contacts the nearest emergency services program as soon as possible and reports the use to the physician who provides overall medical direction.

In addition, the bill requires that ~~the~~ ^(a) person who possesses a semiautomatic defibrillator notify the nearest emergency medical services program of the defibrillator's location and type. *and ensure*

The bill authorizes a person, other than an emergency medical technician or first responder - defibrillation, to operate a semiautomatic defibrillator in rendering emergency care or treatment to a person who appears to be in cardiac arrest and immunifies from civil liability such a person, the physician who provides overall medical direction, the possessor of the semiautomatic defibrillator, the training provider ~~and the person who owns or manages the premises on which the defibrillator is located.~~ The immunity does not extend to acts or omissions that constitute gross negligence or ~~wanton or intentional misconduct.~~

INSERT
ANAL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 146.50 (8g) of the statutes is created to read:

2 146.50 (8g) SPECIAL USE OF SEMIAUTOMATIC DEFIBRILLATORS. (a) In this
3 subsection:

4 1. "Cardiac arrest" means the sudden cessation of cardiac function and the
5 disappearance of arterial blood pressure that connote ventricular fibrillation or
6 pulseless ventricular tachycardia.

1 2. "Pulseless ventricular tachycardia" means a disturbance in the normal
2 rhythm of the heart that is characterized by rapid electrical activity of the heart with
3 no cardiac output. *(Notwithstanding subs. (6g)(b) and (8)(e), a*

4 (b) ~~A~~ person other than an ~~ambulance service provider~~, emergency medical
5 technician or a first responder - defibrillation who ~~possesses a semiautomatic~~
6 ~~defibrillator shall ensure all of the following concerning the defibrillator:~~

7 1. ~~That an individual who is not an emergency medical technician or a first~~
8 ~~responder defibrillation but who could reasonably be expected to~~ use ~~the~~ *may*
9 *a* semiautomatic defibrillator in rendering emergency care or treatment to ~~a person~~ *an individual*
10 who appears to be in cardiac arrest ~~receives~~ *if the person has received* training ~~in the use~~ *every 24 months*
11 ~~under~~ *in* a course that is approved by the department under par. ~~(c)~~ *for which a physician serves as medical director and*

12 2. That the semiautomatic defibrillator is maintained and tested in accordance
13 with any operational guidelines of the manufacturer.

14 3. That a physician provides any individual or entity specified in par. (b) (intro.)
15 with overall medical direction with respect to training and defibrillator maintenance
16 requirements.

17 4. That any individual specified in subd. 1. who renders emergency care or
18 treatment by using the semiautomatic defibrillator on an individual who appears to
19 be in cardiac arrest contacts the nearest emergency medical services program under
20 s. 146.55 (2) as soon as possible after the use and reports the use to the physician
21 specified under subd. 3. *provides* *for use under par. (b)*

22 (c) A person who ~~possesses~~ a semiautomatic defibrillator shall ~~notify~~ the
23 nearest emergency medical services program under s. 146.55 (2) ~~of the defibrillator's~~
24 location and type. *do all of the following:*
1. Provide written notification to

INSERT 3-24 ↓

1 (d) Notwithstanding subs. (6g) (b) and (8) (e), an individual who meets the
2 requirements of par. (b)-1. may under the limitations of this subsection operate a
3 semiautomatic defibrillator that meets the requirements of par. (b) 2.

4 (d) (e) The department shall review training courses for the use of a semiautomatic
5 defibrillator ^{under this subsection} and may approve those training courses that satisfy standards for
6 approval that are specified by the department ~~by rule~~.

7 SECTION 2. 146.50 (13) (b) of the statutes is amended to read:
8 146.50 (13) (b) The department shall promulgate rules under subs. (8) (b), (c)
9 and (e), ~~(8g) (e) and (8m)~~.

10 SECTION 3. 895.48 (4) of the statutes is created to read:

11 895.48 (4) (a) Any of the following who meets the applicable requirements of
12 s. 146.50 (8g) and who acts within the applicable limitations of s. 146.50 (8g) is
13 immune from civil liability for the acts or omissions of an individual who renders
14 emergency care by use of a semiautomatic defibrillator under s. 146.50 (8g) to an
15 individual who appears to be in cardiac arrest:

- 16 1. The individual who renders the care. ^{person}
- 17 2. The physician specified in s. 146.50 (8g) (b) ^{provides for use}.
- 18 3. The person who ~~possesses~~ the semiautomatic defibrillator, as specified in s.
19 146.50 (8g) ~~(b) (2) (A) (i)~~ ^{(c) ✓}.
- 20 4. The provider of training required under s. 146.50 (8g) (b) ~~1~~.
- 21 5. The person who owns or manages the premises on which the semiautomatic
22 defibrillator is located. ^{on the provision for use}

23 (b) The immunity specified in par. (a) does not extend to a person whose act or
24 omission resulting from the use of the semiautomatic defibrillator constitutes gross
25 negligence ~~or involves wanton or intentional misconduct~~.

any of the following:
1. A

1 (c) The provisions of this subsection may not be construed to imply that an
2 individual to whom s. 146.50 (8g) does not apply and who, in good faith, renders
3 emergency care by use of a semiautomatic defibrillator is ineligible for immunity
4 from civil liability under sub. (1).

INSERT
5-4

5

(END)

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1382/lins
DAK:wlj:lp

INSERT ANAL

Currently, under the "Good Samaritan law", a person who in good faith renders emergency care at the scene of an emergency or accident is immune from civil liability for his or her acts or omissions in rendering the emergency care. This immunity does not apply to employes who are trained in health care or who are health care professionals in rendering emergency care for compensation and within the scope of their usual and customary employment or practice at or enroute to a hospital, at a physician's office or at the scene of an emergency or accident.

This bill authorizes use of a semiautomatic defibrillator in rendering emergency care or treatment to an individual who appears to be in cardiac arrest, by a person other than an ambulance service provider, emergency medical technician or a first responder, defibrillation, if the person has received training in a course for which a physician serves as medical director and that is approved by DHFS. The bill requires a person who provides a semiautomatic defibrillator for use to provide written notification to the nearest emergency medical services program as to the type of defibrillator, its location on the person's premises and its intended usage area and to ensure that the semiautomatic defibrillator is maintained and tested in accordance with any operational guidelines of the manufacturer.

The bill provides immunity from civil liability for the acts or omissions of a person, other than an ambulance service provider, emergency medical technician or first responder, defibrillation, who has received training in a course approved by DHFS, in rendering in good faith emergency care, by use of a semiautomatic defibrillator, to an individual who appears to be in cardiac arrest. The bill also provides immunity from civil liability for the physician who serves as medical director for the training course, the person who makes available the semiautomatic defibrillator for use and the provider of the required training. The immunity does not extend to a person whose act or omission in using the semiautomatic defibrillator or in making it available constitutes gross negligence. The immunity also does not extend to a health care professional (other than the medical director for the training course) who renders emergency care for compensation and within the scope of his or her usual and customary employment or practice at or enroute to a hospital, at a physician's office or at the scene of an emergency or accident.

Lastly, the bill requires DHFS to review training courses for the use of a semiautomatic defibrillator and authorizes DHFS to approve those courses that satisfy DHFS' standards for approval.

INSERT 3-24

1 ^{120#} The notification shall include information as to the type of the semiautomatic
2 defibrillator, the location of the defibrillator on the premises of the person and the
3 intended usage area for the defibrillator.

4 ~~4~~ 2. Ensure that the semiautomatic defibrillator is maintained and tested in
5 accordance with any operational guidelines of the manufacturer.

INSERT 5-4

6 2. Other than a physician, as specified under par. (a) 2.,[✓] a health care
7 professional who renders emergency care for compensation and within the scope of
8 his or her usual and customary employment or practice at a hospital or other
9 institution equipped with hospital facilities, at the scene of an emergency or accident,
10 enroute to a hospital or other institution equipped with hospital facilities or at a
11 physician's office.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/15/99

To: Representative Johnsrud

Relating to LRB drafting number: LRB-1382

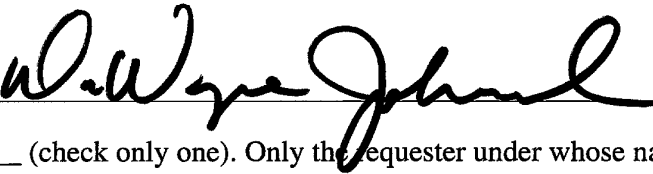
Topic

Use of automated external defibrillators

Subject(s)

Health - emergency med services

1. **JACKET** the draft for introduction



in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Debra A. Kennedy, Managing Attorney
Telephone: (608) 266-0137