

August 12, 2005

TO: District Superintendents
SISC Member Districts

FROM: Catherine Wilson Jones
Director, Risk Management Services

SUBJECT: Automated External Defibrillators (AEDs)



Recently, SISC has received an increase in the number of inquires regarding the acquisition and placement of automated external defibrillators (AEDs) at district sites. There is no doubt that the use of an AED can be lifesaving; however, there is still much concern regarding the potential liability to an entity that has such units. Although our “official position” has been fairly neutral regarding AEDs, that neutrality is contingent on a careful and through contemplation of the potential adverse liability that can be created for the district by having AEDs.

Governor Schwarzenegger signed AB 254 on July 25, 2005, thereby amending the Health and Safety Code and the Civil Code relating to acquisition and liability of AEDs. The bill limits the liability of a person or entity from civil damages resulting from any acts or omissions arising out of rendering emergency care with an AED. This protection is contingent upon compliance with Health and Safety Code Section 1797.196. A complete reprint of the section is as attached:

Although liability is limited, there are several requirements that must be addressed in order for an entity to be protected. Furthermore, there are a myriad of issues in addition to the legal requirements for the district to contemplate prior to making a decision to acquire AEDs for their district. For example:

- Who will be trained to use the AED, and what is the availability of those individuals?
- What if staff is not receptive to being “designated” to use the AED?
- Will an AED be available at each of the district’s sites? If not, why?
- Will an AED be available at sports activities? What will be the protocol if more than one activity is scheduled for the same time?
- Will the AED travel with the sports team?
- Will the AED be used on students, staff, and/or the public?

One of the difficult issues surrounding the acquisition of AEDs is the undeniable benefit if one is available should someone actually need it. However, having an AED also comes with some potential liability because the district has potentially created a higher duty for itself by deciding to make an AED available even though it is not required. At this point, there is potentially much more liability by having an AED and not being perfect with performance and availability than there is in not having one. This is because currently there are no requirements to have an AED; therefore, there is no liability in not having one.

Each district needs to consider how to fully comply with all the points listed above as well as the points in the attached legislation. Once that issue has been addressed, the district can move forward with confidence that AEDs will be a potential benefit rather than a liability. If the district is unable to thoroughly address all of the above issues, it is SISC's recommendation that the district not acquire AEDs.

I hope this information is helpful in determining if AEDs should be made available at your district's sites. Please contact Tim Beard or me if you have any questions or need further assistance.

CWJ:sh
Attachment

AB254, Emergency medical services: automatic external defibrillators. July 25, 2005

Section 1797.196 of the Health and Safety Code, as amended by Section 181 of Chapter 62 of the Statutes of 2003, is amended to read:

(a) For purposes of this section, “AED” or “defibrillator” means an automated or automatic external defibrillator.

(b) In order to ensure public safety, any person or entity that acquires an AED is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care under subdivision (b) of Section 1714.21 of the Civil Code, if that person or entity does all of the following:

- (1) Complies with all regulations governing the placement of an AED.
- (2) Ensures all of the following:
 - (A) That the AED is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, the American Heart Association, and the American Red Cross, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.
 - (B) That the AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the preceding 30 days. Records of these checks shall be maintained.
 - (C) That any person who renders emergency care or treatment on a person in cardiac arrest by using an AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the licensed physician and to the local EMS agency.
 - (D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. After the first five AED units are acquired, for each additional five AED units acquired, one employee shall be trained beginning with the first AED unit acquired. Acquirers of AED units shall have trained employees who should be available to respond to an emergency that may involve the use of an AED unit during normal operating hours.
 - (E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.
- (3) When an AED is placed in a building, building owners shall ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.
- (4) When an AED is placed in a building, no less than once a year, building owners shall notify their tenants as to the location of AED units in the building.

(5) When an AED is placed in a public or private K-12 school, the principal shall ensure that the school administrators and staff annually receive a brochure, approved as to contents and style by the American Heart Association or the American Red Cross, that describes the proper use of an AED. The principal shall also ensure that similar information is posted next to every AED. The principal shall, at least annually, notify school employees as to the location of all AED units on the campus. The principal shall designate the trained employees who shall be available to respond to an emergency that may involve the use of an AED during normal operating hours. As used in this paragraph, "normal operating hours" means during the hours of classroom instruction and any school-sponsored activity occurring on school grounds.

(c) Any person or entity that supplies an AED shall do all of the following:

- (1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.
- (2) Provide to the acquirer of the AED all information governing the use, installation, operation, training, and maintenance of the AED.

(d) A violation of this provision is not subject to penalties pursuant to Section 17998.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 may be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.