



## Risk Insights

### Defibrillators Save Lives but Require Additional Legal and Insurance Considerations

The Red Cross estimates that more than 200,000 Americans will die of sudden cardiac arrest each year, yet almost 50,000 of these deaths could be prevented if an automated external defibrillator (AED) is available for immediate use, along with other emergency medical care. In fact, those in cardiac arrest have a decreased chance of survival by seven to 10 percent for each minute that passes without defibrillation.

An AED is a device, approximately the size of a laptop, which directs a rescuer or bystander via voice prompts to deliver electric shock to a cardiac arrest victim after the machine detects abnormalities in the person's heart rhythm. The current is delivered through the victim's chest via adhesive electrode pads. The goal of using an AED is to help the heart reestablish a rhythm on its own.

Rescue equipment, like an AED, is not just designed for use in medical facilities, schools or airports. In fact, the Occupational Safety and Health Administration (OSHA) issued a statement in 2001 urging employers to make AEDs available in their workplaces. This statement came shortly after the Cardiac Arrest Survival Act (CASA) was put into law, which called for AEDs to be placed in all federal buildings. While having an AED onsite can make the difference between life and death, it's important to understand how to develop a program, along with additional legal and insurance considerations.

### Benefits of Placing an AED in Your Facility

By purchasing an AED for your facility, you can potentially save one of your employee's lives or the life of a customer or client. Cardiac arrest victims are essentially dead because they lose consciousness, have no pulse and stop breathing within a matter of moments. At this time, the heart's contractions become chaotic spasms, so it cannot pump blood to the brain or the rest of the body properly. Yet, by using an AED, a heartbeat can be restarted by establishing a regular heart rhythm.

AEDs are also extremely easy to use for those who are **properly trained** on how to do so (NOTE: Only individuals with proper training should operate an AED to avoid injuring themselves and others).

Not only do CPR and AED training courses provide information on how to effectively use these rescue techniques, they also instruct individuals on how to protect themselves while providing care.

Purchasing an AED may also protect your company from litigation, as not being able to properly respond to emergencies may pose a liability. For instance, Busch Gardens® theme park was found negligent for not having a defibrillator on hand to respond to a cardiac emergency of a 13-year-old child in 1996. Lufthansa Airlines and United Airlines also faced litigation for not providing adequate treatment to passengers suffering from cardiac arrest. If these companies had an AED and an AED training program in place, they may have avoided costly legal battles.

## Developing an AED Program

If you decide to purchase an AED for your facility, you must also create an AED program to ensure that the machine is used properly and effectively. Consider these recommendations when designing your own AED program:

- Establish clear responsibilities for each role in the program.
- Obtain the guidance of a physician to oversee the direction and control of your program. This person will assist you in determining where to place the AED(s), ensure that proper training is given to employees and maintained and can review your program each time an AED is used onsite. The physician can also assist your facility in complying with regulatory requirements and establish a relationship with emergency medical personnel.
- Program must comply with federal and state regulations, including requiring every person who may use an AED to be properly trained in CPR and AED use.
- Devise a written AED program for each location in which an AED is located.
- Share information about your AED program with emergency medical personnel to assure that proper protocol is met.
- Integrate the AED usage program into a broader emergency response action plan.
- The AED should be placed no more than five minutes away from a potential area where cardiac arrest could occur.
- Follow the manufacturer's recommendations regarding servicing, testing and replacement. Keep records of these duties as well.
- Devise an AED quality assurance program including a review of each use of the AED, training records and program evaluations.

## Considerations for an AED Program

- Determine the needs of your facility – How many devices do you need and how long will it take emergency medical personnel to arrive both at your facility and at the emergency site?
- Determine your budget to purchase the equipment, train your employees and maintain the program diligently. What legal ramifications should you consider as well?
- Determine if you will train existing staff or whether you will hire new staff to run the AED program. If

you are using existing staff, you will need to incorporate these safety responsibilities into their job descriptions.

- Consider OSHA requirements such as Bloodborne Pathogens training, quality assurance obligations and vaccination concerns.

## Legal Considerations

Some companies are reluctant to implement an AED program out of fear of litigation. Yet, according to the American Heart Association (AHA), there are currently no known lawsuits against individuals providing CPR or AED care while acting as "Good Samaritans." This is because all 50 states have AED Good Samaritan laws in place to protect regular laypersons that perform emergency acts, and act with good intentions. Visit [www.csg.org](http://www.csg.org) or contact your state's EMS department (generally part of your state's Health Department) for more information on Good Samaritan laws. It is also wise to consult your company's legal representation before beginning a new program such as this.

## Insurance Considerations

Purchasing the appropriate insurance coverage is also imperative when operating an AED program. You should have the following coverage:

- General Liability Insurance – covers bodily injury and property damage for supervisory staff acting on behalf of a company. Employees trained to use AEDs should be considered supervisors to comply with a General Liability policy.
- Workers' Compensation – covers the act (a heart attack) and subsequent treatment (use of an AED).

EHL Insurance is here to help. Contact us today at 360.779.4448 to learn more about how to implement an AED program at your facility and about the risk transfer solutions available.



*"Solutions you can understand"*

*This Risk Insights is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel or an insurance professional for appropriate advice. Photography © Outdoor Office V154 Getty Images, Inc. All rights reserved.*