

## RESOLUTION 10-08-2014

### DIGEST

#### Health: Accessibility Requirement for Automatic External Defibrillators

Amends Health and Safety Code section 1797.196 to require that automatic external defibrillators (AEDs) be stored in readily accessible and highly visible locations.

### RESOLUTIONS COMMITTEE RECOMMENDATION DISAPPROVE

#### History:

No similar resolutions found.

#### Reasons:

This resolution amends Health and Safety Code section 1797.196 to require that automatic external defibrillators (AEDs) be stored in readily accessible and highly visible locations. This resolution should be disapproved because of its potential over-reach affecting private citizens, and their intended personal rather than public use of AEDs, and because the resolution replaces the existing AED placement and annual tenant and school personnel notification with confusing and uncertain language mandating AED placement at “readily accessible and highly visible locations,” a problematic alternative to the present statutory provisions.

The resolution proposes striking the existing requirement that building owners annually provide tenants with American Heart Association and American Red Cross-approved material regarding the proper use and location of the AEDs. Under the current statute, instructions are also to be posted next to any installed AED. Similar language applies to schools. Deleting these provisions is neither wise nor necessary, and seems to go against the purpose of the resolution. The alternate language proposed, lacks certainty, clarity and specificity, and universal consensus about what constitutes a readily accessible location which is highly visible. This creates the potential for confusion in an emergency, disagreement, and unwarranted litigation and liability. It may also create mischief, when most schools wisely keep the AED in the administrator or nurse’s office, rather than risk student vandalism or misuse in a common area, say hallway, entrance, yard, cafeteria, etc.

The statute seeks to regulate and provide immunity for AEDs maintained and held out for purposes of public access and use, in schools, or in buildings for the benefit of tenants. Yet, many people buy, maintain and locate AEDs, at their own expense, for their own use, and for use by certain known, trained individuals. The breadth of the change seems to cover AEDs placed in any building. This may create unintended standards and liability for someone who may decide, when not legally obliged to do so, to purchase and store an AED for personal use, rather than for public use. The purpose of the statute is to encourage, not punish, individuals and entities to acquire and maintain AEDs on premises for public safety. The proposed change would introduce confusion and potential legal liability by extending the scope of the statute’s reach and standards to any building owner, including a private home, irrespective of the purpose and intent of the owner in acquiring and keeping the AED.

### TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to amend Health & Safety Code section 1797.196 to read as follows:

(b)

~~(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.~~

~~(3)~~ (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. each AED unit shall be stored in a location that is readily accessible and highly visible to the tenants.

~~(4)~~ (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 content 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. Each K-12 school AED unit shall be stored in a location that is readily accessible and highly visible to the school staff members 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.

[subdivisions (a)-(b)(2) and (c)-(f) remain unchanged]

(Proposed new language underlined; language to be deleted stricken.)

**PROPONENT:** Bar Association of San Francisco

## **STATEMENT OF REASONS**

The Problem: Existing Law requires that when certain entities, such as a building owner provides, or a K-12 school, provide an Automated External Defibrillator (AED) unit, then the building owner or the school principal shall perform two unnecessary tasks. Specifically, they shall: (1) annually provide a brochure on the use of an AED to the potential AED users and ensure that an informational brochure is posted next to every AED unit in the building or on campus, and (2) annually notify the building tenants or the school employees as to the location of all AED units.

The Solution: This resolution amends the Health and Safety Code section for these entities by removing these unnecessary requirements. This Resolution also adds requirements that these entities store their AED units in locations where they are “readily accessible and highly visible” for use.

Within the US, when an AED unit is turned on, then it automatically provides audio instructions in English. Some AED units also provide visual prompts. It is not necessary to provide a written brochure with instructions for proper AED use because during a cardiac emergency, there is simply no time to read an instruction manual. Any lay rescuer, trained or not trained, can use an AED unit on a sudden cardiac arrest victim. (See Civil Code § 1714.21.)

Further, when an AED unit is in a building with tenants, and it is stored in a place that is “readily accessible and easily visible,” then there is no need for the building owner to notify the tenants about where the AED is located. This is because the tenants should be able to see the unit on a

daily basis. Likewise, when an AED unit in a K-12 school is stored in a place that is “readily accessible and easily visible during normal operating hours,” then there is no need for the Principal to notify the school staff members about where the AED is located because they too should be able to see the unit on a daily basis.

AED units should be stored in places where they are obvious, just like how California requires fire extinguishers to be stored in obvious places. (*See* C.C.R., Title 8, § 6151.) Unfortunately, there have been instances when an AED unit was needed and was located nearby, but was not used because the responders did not know that the unit was available or where it was being stored. *See* Rotolo v. San Jose Sports and Entertainment, 151 Cal.App.4th 307 (6th Dist. 2007) (where the sudden cardiac victim died).

If the AED unit is stored out in a location that is readily accessible, then the tenants of the building and the staff members of the K-12 school will immediately know where to find the unit it when there is a cardiac emergency, and the victim’s chances of survival will increase.

#### **LEGISLATIVE HISTORY**

Not known.

#### **IMPACT STATEMENT**

The proposed resolution does not affect any other law, statute or rule.

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