

# Public Health Committee JOINT FAVORABLE REPORT

**Bill No.:** SB-401

AN ACT CONCERNING THE USE OF AUTOMATIC EXTERNAL

**Title:** DEFIBRILLATORS.

**Vote Date:** 3/26/2018

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/16/2018

**File No.:**

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## **SPONSORS OF BILL:**

Public Health Committee

## **REASONS FOR BILL:**

To protect physicians and other health care professionals who use automated external defibrillators in the scope of their practice or employment against civil liability when the Automatic External Defibrillator [AED] malfunctions.

Under this bill, any Department of Public Health-licensed or -certified health care provider who operates an AED in the ordinary course of his or her practice to render emergency assistance is not civilly liable for any personal injuries that result from the AED's malfunctioning, if the malfunctioning constitutes ordinary negligence.

This bill also updated regulations to add Jeff Ellis and Associates, Inc. to the list of organizations that can certify lifeguards in CPR.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

None

## **NATURE AND SOURCES OF SUPPORT:**

**Perry M. Siegel, Co-Chair Governmental Affairs Committee, Connecticut Athletic Trainers' Association:** Perry M. Siegel, on behalf of the Connecticut Athletic Trainers' Association [CATA], submits testimony in support of SB 401 along with suggestions for amended language. Athletic trainers are often the first line of care for many physically active individuals and are expected to respond to any acute emergency including those requiring

CPR and AED to cardiac stricken individuals. As one of the health care professions that provides acute cardiac care, we request that athletic trainers are added to the list of professions which are considered immune from civil liability in administering CPR and AED.

The Board of Certification, Inc., (the national certifying board for athletic trainers) requires that; “ATs must be able to demonstrate ongoing certification in emergency cardiac care. Emergency cardiac care must include: adult and pediatric CPR, AED, and the use of barrier devices (e.g., pocket mask, bag valve mask).”

The National Athletic Trainers’ Association [NATA] released an official statement stating that an AED program should be part of an athletic trainer’s emergency action plan and strongly encourages athletic trainers to have access to an AED and is common practice in the profession.

The Connecticut Athletic Trainers’ Association strongly supports the amended language for SB 401 and agrees that health care professionals and good samaritans should not be responsible for a malfunction of the AED. The CATA respectfully requests that a person licensed as an athletic trainer under chapter 375a be included in the list of healthcare providers that shall not be liable.

**The Connecticut Hospital Association:** The Connecticut Hospital Association [CHA] submitted testimony in support of SB 401 as it would provide liability protection to physicians and other healthcare professionals who use Automated External Defibrillators [AED] in the scope of their practice or employment when the AED malfunctions.

CHA supports this bill and other policy initiatives that protect healthcare providers who are practicing within their training and scope but, through no fault of their own, employ the use of a defective medical device or instrument.

**Connecticut State Medical Society [CSMS]:** The Connecticut State Medical Society provided testimony in support of SB 401. Senate Bill 401 addresses what we believe was the intent of the original legislation. This bill clarifies that the underlying statute and extends protection from civil damages to licensed medical professionals such as physicians, dentists, registered nurses, and others should they be placed in a situation to use an Automatic External Defibrillator whether such an event occurs in of their practice or as a citizen aiding in an emergency.

**Richard Duenas, President, Connecticut Chiropractic Association:** Richard Duenas, on behalf of the Connecticut Chiropractic Association, submitted testimony in support of SB 401. The Connecticut Chiropractic Association recommends that this bill be revised to include chiropractic physicians. The stated purpose of this bill is to protect physicians and other health care professionals who use AED in the scope of their practice or employment against civil liability when the AED malfunctions. In the unfortunate event where an AED is required and malfunctions, a chiropractic physician should also have protections afforded to other physicians.

Please see the attached testimony for the requested revision to SB 401.

**Bruce Gould MD, Associate Dean for Primary Care, UConn School of Medicine:** Dr. Gould submitted testimony in support of SB 401 and requested the addition of clinicians in their practices to the language of the bill. Dr. Gould requested, through the medical society, that physicians be encouraged to acquire AEDs for their offices. However, it was pointed out by legal counsel that the use of an AED in a medical office would represent a potential liability should the patient not recover and recommended against our program. Presently, a patient has a better chance of surviving their cardiac arrest in a bus station where they have an AED than in their doctor's office where they probably don't. Adjusting the Good Samaritan Law will free clinicians to embrace this technology. Additionally, facilitating the presence of AEDs in medical offices will also facilitate the training of tens of thousands of office staff members in AED use.

**Dr. Larry Newell, Vice President for Education Services and Co-Medical Director, Ellis and Associates, Inc.:** Dr. Newell, on behalf of Ellis and Associates, Inc., submits testimony in support of SB 401 and the request made by Ellis and Associates, Inc. to recognize our national CPR and AED training courses as equivalent to other national training organizations currently written into Connecticut law. Ellis and Associates, Inc. is the second largest provider of lifeguard and aquatic supervisor training in the world and clientele includes aquatic theme parks, park and recreation districts, colleges and universities, community centers, and pool management companies. We have expanded our operations to include stand-alone CPR/AED and First Aid training courses so that our clients could train non-aquatic staff, using the same instructors that deliver our lifeguard curriculum. The current exclusion of our training program has limited our market expansion to meet the requests of current and prospective clients in Connecticut.

Please see the attached testimony for the requested revision to SB 401.

**Mary Jane M. Williams, Chair of Government Relations, Connecticut Nurses Association:** Mary Jane Williams is in support of SB 401 as it is essential that we protect all of our valued health care providers in their practice settings. The role of the nurse in CPR is aimed at responding to a cardiorespiratory failure through resuscitation and stabilization of the patient. Nurses are involved in ongoing, continuing education, as part of their employment in all health care settings. It is a standard requirement that all health care professionals are regularly educated in the practice of Basic Life Support and Advance Life Support. Nurses provide a critical role in the management of cardiac arrests and after in hospital events are first responders. In most cases of cardiac arrest, the best outcomes depend on Basic Life Support, and early use of defibrillation.

**Ines M. Zemaitis, Health Policy Co-Chair, Connecticut Advanced Practice Registered Nurse Society [CTAPRNS]:** Ines Zemaitis, and Connecticut Advanced Practice Registered Nurse Society [CTAPRNS], are in full support of SB 401. Senate Bill 401 promises the protection for our health care professionals who use automated external defibrillators in the scope of their practice and/or employment. I urge the committee to support SB 401, which will protect the profession of APRNs and all health care professions from civil damages while using an AED in their scope of practice as they provide services to the people of Connecticut.

#### **NATURE AND SOURCES OF OPPOSITION:**

**Connecticut Trial Lawyers Association:** The Connecticut Trial Lawyers Association [CTLA] opposes SB401 and respectfully contends that the bill should be defeated. The underlying statute was passed to give individuals who voluntarily and gratuitously render emergency medical attention immunity from liability for ordinary negligence. The underlying purpose was to encourage the use of the devices to save lives by people who do not have a duty to use them by virtue of their job requirements. This proposal would expand the immunity in Connecticut General Statutes 52-557b to doctors in the normal course of their duties, which is contrary to the underlying public policy of the statute's provisions. Doctors, and others, utilizing an AED while on duty are by definition not acting voluntarily or gratuitously, and the proposal is trying to protect the doctor or others from the malfunction of a piece of equipment they are using in the course of treating a patient. No other medical equipment is given this type of special status and the immunity is not necessary as a doctor would not be held liable if it was the fault of the manufacturer that the negligence occurred. The CTLA respectfully contends that the immunity for liability should be reserved for voluntary and gratuitous actions taken by citizens who come to the aid of their fellow injured citizens.

**Reported by: Anne Gallagher**

**03/29/2018**