

ACT 160

H.B. NO. 2598

A Bill for an Act Relating to Automatic External Defibrillators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service[,] engaged in the discharge of one’s

official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including but not limited to, in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation[,] with a licensed physician of this State, if the physician from another state[,] at the time of such consultation[,] is licensed to practice in the state in which the physician resides; provided that:

- (A) The physician from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and
- (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient; and provided further that the laws and regulations relating to contagious diseases are not violated;
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or physician assistant, shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; or
- (5) Prohibit automatic external defibrillation by [any]:
 - (A) Any first responder personnel certified by the department of health to provide automatic external defibrillation when it is rendered under the medical oversight of a physician licensed in this State[.]; or
 - (B) Any person who successfully completes training under an automatic external defibrillator program administered by a physician. An “automatic external defibrillator program” means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automatic external defibrillator.”

SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is amended to read as follows:

“§663-1.5 Exception to liability. (a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person’s acts or omissions, except for such damages as may result from the person’s gross negligence or wanton acts or omissions.

(b) No act or omission of any rescue team or physician working in direct communication with a rescue team operating in conjunction with a hospital or an authorized emergency vehicle of the hospital or the State or county, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team, the physicians, or the owners or operators of such hospital or authorized emergency vehicle, if good faith is exercised.

For the purposes of this section, “rescue team” means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons,

nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency.

This section shall not relieve the owners or operators of the hospital or authorized emergency vehicle of any other duty imposed upon them by law for the designation and training of members of a rescue team or for any provisions regarding maintenance of equipment to be used by the rescue team or any damages resulting from gross negligence or wanton acts or omissions.

(c) Any physician licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician exercises that standard of care expected of similar physicians under similar circumstances.

(d) Any person or other entity who as a public service publishes written general first aid information dealing with emergency first aid treatment, without remuneration or expectation of remuneration for providing this public service, shall not be liable for any civil damages resulting from the written publication of such first aid information except as may result from its gross negligence or wanton acts or omissions.

(e) Any person who successfully completes training under an automatic external defibrillator program administered by a physician and as defined pursuant to section 453-2 shall not be liable for any civil damages resulting from any act or omission while attempting in good faith, without remuneration or expectation of remuneration, to resuscitate a person in immediate danger of loss of life when administering an automatic external defibrillator except as may result from the person's gross negligence or wanton acts or omissions.

No person, including an employer, who establishes an automatic external defibrillator program shall be liable for any civil damages resulting from any act or omission of the persons or employees trained under the program who, in good faith and without remuneration or the expectation of remuneration, attempt to resuscitate a person in immediate danger of loss of life by administering an automatic external defibrillator.

(f) This section shall not relieve any person, physician, or employer of:

- (1) Any other duty imposed by law regarding the designation and training of persons or employees;
- (2) Any other duty imposed by provisions regarding the maintenance of equipment to be used for resuscitation; or
- (3) Liability for any damages resulting from gross negligence, or wanton acts or omissions.

For the purpose of this section, "good faith" is used to include[,] but is not limited to[,] a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 14, 1998.)