

# Additional Information

## PAD Program

### Legal Issues



Fighting Heart Disease and Stroke

## State Laws Supporting Public Access Defibrillation

There have been no known lawsuits against lay rescuers providing CPR as Good Samaritans, nor any against AED users. However, the perceived potential for a suit against a lay rescuer using an AED has in some cases been a deterrent for companies or organizations considering establishing a public access defibrillation (PAD) program.

It's recommended that you check the laws in your state to determine any specific elements that may apply to your situation. Laws can often be researched via state Web sites. See [www.csg.org](http://www.csg.org) for a list of states' Web sites. The state EMS Department (usually part of the State Health Department) can also provide information.

The Cardiac Arrest Survival Act (CASA) was part of the Public Health Improvement Act signed into law in November 2000. The law directs placing automated external defibrillators (AEDs) in federal buildings and provides nationwide Good Samaritan protection that exempts from liability anyone who renders emergency treatment with a defibrillator to save someone's life.

Below is a thumbnail sketch of the two primary areas of CASA.

### 1. Extending Good Samaritan Protections:

CASA provides limited immunity to persons using the AED and the acquirer of the AED. It does not include limited immunity for the prescribing physician and the trainer.

- The limited immunity provision in CASA is a "gap filling" measure and does not supercede any existing state law that provides immunity for categories of people using AEDs.
- The limited immunity provision for the AED acquirer will benefit approximately 11 states and the District of Columbia. (It applies to

these states because their current state law does not provide limited immunity for the acquirer.)

- The limited immunity provision for the user of the AED will benefit Maine and the District of Columbia. (Maine and D.C. do not have legislation that offers limited immunity to the user of the AED.)
- The limited immunity provided in CASA extends to private, public and federal settings.

- ### 2. Placement of AEDs in Federal Buildings:
- CASA calls for placement of AEDs in federal buildings. This is not a mandate, but rather a strong recommendation. CASA also calls for the development of implementation procedures and guidelines for AEDs in federal buildings.

## Assessing Your Legal Risk

When considering the establishment of a PAD program, it's important for a company or organization to consult its own legal advisors. However, the following information should be taken into account:

- Cardiac arrest victims are essentially already dead. They lose consciousness, have no pulse and stop breathing in a matter of only a few moments. Most often the heart's rhythmic contractions become ineffective, chaotic spasms so the heart can't pump blood to the brain and the rest of the body. The only thing that can change this condition is defibrillation. Using an AED can only help, not harm.
- Modern AEDs are safe and easy to use. The internal computer uses a system of analysis algorithms to determine whether to shock. The AED will make the correct "shock" decision 90 out of 100 times and a correct "no shock indicated" decision more than 95 out of 100 times. This level of accuracy is greater than that of trained emergency medical professionals.

- To successfully sue an AED user or purchaser, four essential elements must be proven. These include duty, breach of duty, causation of injury and legally recognized damages. (Lazar, RA. Defibrillators Enter the Business Marketplace. *Occupational Health & Safety*. August, 1997). Common carriers (such as airlines, cruise ships, etc.), innkeepers, hotel and motel operators and commercial establishments open to the public do have special responsibilities defined by law to provide a minimum of care and summon medical assistance.
- Training targeted rescuers in the AHA's Heartsaver AED course provides the essential knowledge of how to do CPR and use an AED. The course also has instruction on minimizing risks to the user and victim in unusual cases (such as when the victim is lying in a pool of water, has an implantable defibrillator or is on a metal surface).
- Most AED manufacturers offer some type of insurance to purchasers of their devices.

For companies and organizations considering having AEDs on site, a good offense may be the best defense. Implementing a public access defibrillation program that includes training lay rescuers in CPR and AED use, physician oversight, integrating with the EMS system and maintaining the AEDs according to the manufacturer's specifications establishes an intent to provide a safe and effective response to cardiac emergency.

## A Changing Trend

As awareness of the new generation of AEDs grows, companies and organizations may face greater threat of liability if they aren't properly prepared to respond in a timely manner to a cardiac emergency. This trend can be seen in three cases in which lawsuits were filed against companies that weren't prepared. In 1996 Busch Gardens was found negligent for not being prepared and equipped (including not having a defibrillator) to respond to the cardiac arrest of a 13-year-old guest. Lufthansa Airlines was also found negligent because it failed to provide appropriate treatment to a passenger who suffered a cardiac arrest. A similar lawsuit against United Airlines is now pending.

