

**ASSOCIATION'S CIVIL LIABILITY WITH RESPECT  
TO THE USE OF CPR EQUIPMENT IN ITS COMMUNITY**

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Section 768.1325, F.S. entitled "Cardiac Arrest Survival Act; Immunity from Civil Liability" (the "Act") provides for limited association liability in connection with the use of an Automated External Defibrillator ("AED") on the victim of a perceived medical emergency. The Act defines a "perceived medical emergency" to be where the circumstances in which the behavior of an individual leads a reasonable person to believe that the individual is experiencing a life threatening medical condition that requires an immediate medical response regarding the heart or other cardio pulmonary functioning.

The Act also provides that cooperatives, and condominium and homeowners' associations, are immune from civil liability for making the AED available for use provided, however, that the Association must properly maintain and test the device. The Association is not required to provide training of the device if the AED is equipped with audible, visual or written instructions on its use *or* the Association's agent is not reasonably expected to use the device. If the Association intends to have someone administer the AED, then it is recommended that training be provided to that agent.

Note that the Act does not provide immunity to someone who was involved in a harm caused by the AED that was willful or criminal misconduct, gross negligence, reckless disregard or misconduct, or a conscience, flagrant indifference to the right or safety of the victim who is harmed. Licensed or certified health professionals and entities are also not provided immunity under the Act when acting within their scope of license or certification. It is important to note that an Association is not required to place an AED in any particular building or location on its premises.

Further, an insurer may not require an Association, if an Association acquires an AED, to purchase medical malpractice liability coverage as a condition of issuing any other coverage carried by an Association. The insurer may not exclude damages resulting from the use of the AED from coverage under a general liability policy issued to an Association.

There are also Federal laws with respect to the use of AEDs and the immunity from civil liability under the provisions of the United States Code entitled "Cardiac Arrest Survival Act of 2000, as amended". Note that the Federal law closely tracks the Act and is not detailed here for that reason.

The use of AEDs has actually been widely recommended and is supported by the State Department of Health in its campaign to educate AED acquirers of the immunity from civil liability pursuant to State law. An Association may desire to make inquiry regarding AED training from both the American Heart Association and the American Red Cross as to training resources.

There have been recent cases in the media involving private facilities (such as amusement parks and health clubs) who were found liable for not having an AED present. Given the State's proactive measures to insulate acquirers of AEDs from liability, it is clear that AED acquisition and use are encouraged.

Associations should always confer with its association attorney for clear guidance on its course of action with respect to relevant laws and its governing documents.