

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Bohac, Castro, Leibowitz, Naishtat

H.B. No. 392

A BILL TO BE ENTITLED

AN ACT

relating to the availability and use of automated external defibrillators in nursing homes and related institutions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 242, Health and Safety Code, is amended by adding Section 242.159 to read as follows:

Sec. 242.159. AUTOMATED EXTERNAL DEFIBRILLATORS. (a) An institution shall have available for use at the institution an automated external defibrillator, as defined by Section 779.001, and shall comply with the training, use, and notification requirements of Chapter 779.

(b) An institution may not use an automated external defibrillator to treat a resident of the institution who has issued or executed an out-of-hospital do-not-resuscitate order under Subchapter C, Chapter 166.

(c) Each institution shall at all times have at least one employee present at the institution who is trained in the proper use of an automated external defibrillator.

SECTION 2. This Act takes effect September 1, 2009.

ADOPTED

MAY 14 2009

*Leroy Spaw*  
Secretary of the Senate

By: Denell

H.B. No. 392

Substitute the following for H.B. No. 392:

By: Denell

C.S.H.B. No. 392

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the availability and use of automated external  
3 defibrillators in nursing homes and related institutions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter F, Chapter 242, Health and Safety  
6 Code, is amended by adding Section 242.159 to read as follows:

7 Sec. 242.159. AUTOMATED EXTERNAL DEFIBRILLATORS. (a) An  
8 institution shall have available for use at the institution an  
9 automated external defibrillator, as defined by Section 779.001,  
10 and shall comply with the training, use, and notification  
11 requirements of Chapter 779.

12 (b) An institution that does not have funds available for  
13 purposes of Subsection (a) may solicit gifts, grants, or donations  
14 to purchase or maintain an automated external defibrillator for use  
15 at the institution.

16 (c) An institution may not use an automated external  
17 defibrillator to treat a resident of the institution who has issued  
18 or executed an out-of-hospital do-not-resuscitate order under  
19 Subchapter C, Chapter 166.

20 (d) Notwithstanding Section 74.151(b), Civil Practice and  
21 Remedies Code, Section 74.151(a), Civil Practice and Remedies Code,  
22 applies to administration of emergency care using an automated  
23 external defibrillator by an employee or volunteer at an  
24 institution.

1        (e) An institution shall employ at least one person who is  
2 trained in the proper use of an automated external defibrillator.

3        (e-1) An institution is not required to comply with  
4 Subsections (a) and (e) until September 1, 2012. This subsection  
5 expires January 1, 2013.

6        SECTION 2. This Act takes effect September 1, 2009.

3  
2

# ADOPTED

MAY 14 2009

FLOOR AMENDMENT NO. 1

*Lotay Spaul*  
Secretary of the Senate

BY:

*Denell*

1 Amend C.S.H.B. No. 392 (senate committee printing) in SECTION  
2 1 of the bill, by striking Section 242.159(c), Health and Safety  
3 Code (page 1, lines 24 through 27), and substituting the following:

4 (c) The use of an automated external defibrillator must be  
5 consistent with a resident's advance directive executed or issued  
6 under Subchapter C, Chapter 166.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 14, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB392** by Bohac (Relating to the availability and use of automated external defibrillators in nursing homes and related institutions.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 242, Health & Safety Code (nursing home licensing statute) by adding section 242.159 that would require each licensed nursing home to have an automated external defibrillator (as defined in section 779.001, Health & Safety Code) available for use in accordance with the training, use, and notification requirements of Chapter 779, Health & Safety Code. Each institution would have at least one employee present who is trained in the proper use of an automated external defibrillator.

The Department of Aging and Disability Services indicated that no costs for equipment acquisition would be incurred by the agency. Any additional work resulting from the passage of the bill could be reasonably absorbed within current resources; however, any costs incurred by providers pursuant to implementation of the provisions of the bill would be a Medicaid-eligible expenditure and as such could provide the basis for a request for a rate increase.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, SD, CL, ML, LR



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 8, 2009**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB392** by Bohac (Relating to the availability and use of automated external defibrillators in nursing homes and related institutions.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 242, Health & Safety Code (nursing home licensing statute) by adding section 242.159 that would require each licensed nursing home to have an automated external defibrillator (as defined in section 779.001, Health & Safety Code) available for use in accordance with the training, use, and notification requirements of Chapter 779, Health & Safety Code. Each institution would have at least one employee present who is trained in the proper use of an automated external defibrillator.

The Department of Aging and Disability Services indicated that no costs for equipment acquisition would be incurred by the agency. Any additional work resulting from the passage of the bill could be reasonably absorbed within current resources; however, any costs incurred by providers pursuant to implementation of the provisions of the bill would be a Medicaid-eligible expenditure and as such could provide the basis for a request for a rate increase.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, CL, ML, LR





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 6, 2009**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB392** by Bohac (Relating to the availability and use of automated external defibrillators in nursing homes and related institutions.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 242, Health & Safety Code (nursing home licensing statute) by adding section 242.159 that would require each licensed nursing home to have an automated external defibrillator (as defined in section 779.001, Health & Safety Code) available for use in accordance with the training, use, and notification requirements of Chapter 779, Health & Safety Code. Each institution would have at least one employee present who is trained in the proper use of an automated external defibrillator.

The Department of Aging and Disability Services indicated that no costs for equipment acquisition would be incurred by the agency. Any additional work resulting from the passage of the bill could be reasonably absorbed within current resources; however, any costs incurred by providers pursuant to implementation of the provisions of the bill would be a Medicaid-eligible expenditure and as such could provide the basis for a request for a rate increase.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, CL, ML, LR



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 14, 2009**

**TO:** Honorable Patrick M. Rose, Chair, House Committee on Human Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB392** by Bohac (Relating to the availability and use of automated external defibrillators in nursing homes and related institutions.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 242, Health & Safety Code (nursing home licensing statute) by adding section 242.159 that would require each licensed nursing home to have an automated external defibrillator (as defined in section 779.001, Health & Safety Code) available for use in accordance with the training, use, and notification requirements of Chapter 779, Health & Safety Code.

The Department of Aging and Disability Services indicated that no costs for equipment acquisition would be incurred by the agency. Any additional work resulting from the passage of the bill could be reasonably absorbed within current resources; however, any costs incurred by providers pursuant to implementation of the provisions of the bill would be a Medicaid-eligible expenditure and as such could provide the basis for a request for a rate increase.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, CL, ML, LR

4

1011



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 27, 2009**

**TO:** Honorable Patrick M. Rose, Chair, House Committee on Human Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB392** by Bohac (Relating to automated external defibrillators in nursing homes and related institutions.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 242, Health & Safety Code (nursing home licensing statute) by adding section 242.159 that would require each licensed nursing home to have an automated external defibrillator (as defined in section 779.001, Health & Safety Code) available for use in accordance with the training, use, and notification requirements of Chapter 779, Health & Safety Code.

The Department of Aging and Disability Services indicated that no costs for equipment acquisition would be incurred by the agency. Any additional work resulting from the passage of the bill could be reasonably absorbed within current resources; however, any costs incurred by providers pursuant to implementation of the provisions of the bill would be a Medicaid-eligible expenditure and as such could provide the basis for a request for a rate increase.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, CL, ML, LR

