

Health Club Defibrillator Laws

This IPRO report reviews state laws requiring health clubs to have defibrillators on site and examines issues raised with the implementation of these laws. Many states have laws requiring various public areas to have defibrillators available and in some states these laws could apply to health clubs. This report focuses only on laws specific to health clubs.

Definitions

Health Club- A health club is an establishment where people go to exercise and improve physical fitness. It can be a public club, such as a community exercise facility, or a private club requiring membership. For the purposes of this report, health clubs do not include exercise rooms in hotels or motels.

Defibrillator- A defibrillator is an electronic device that administers electric shocks of specific voltages to restore normal heart contractions after life-threatening cardiac arrhythmias or ventricular fibrillation. While there are several different kinds of defibrillators, the type referenced in this report is the automated external defibrillator or AED.

Automated External Defibrillator- An AED is a portable defibrillator that is simple enough for people who are non-medically trained to use. To use an AED, a person places shock pads on the chest of the victim (per instructions from the AED) and then starts the machine. The AED tests the victim to see if defibrillation is necessary. If it is, the AED will guide the user through the process with audio and visual prompts.

Potential Benefits and Concerns

Defibrillators can save the life of someone in sudden cardiac arrest. Proponents argue their implementation in health clubs is necessary because health clubs are considered high-risk areas for cardiac arrest, and “immediate defibrillation [within the first five minutes of cardiac arrest] can improve the chance of survival by 90 percent, while after 12 minutes, survival plummets to 2 percent.”¹

The concerns regarding mandatory implementation of AEDs in health clubs include possible liability for the person using the AED and for the business, the cost of purchasing an AED, and the cost to certify employees in proper use of the device. The cost of an AED ranges between \$1300 to over \$3000, depending on the make and model. Many health clubs provide AED training to employees through the American Red Cross. The cost to take an online CPR/AED class is \$50.00 and generally takes one to three

¹ Willis, Melinda T. "Making Health Clubs Heart Safe." *ABC News*: n. pag. Web. 12 Sept. 2009. <<http://abcnews.go.com/Health/story?id=116965&page=1>>.

hours.² The cost to take a traditional, classroom-style CPR/AED class is \$35.00 and takes four hours. Certification is good for a year.³

States with Health Club AED Laws

Eleven states have laws specifically requiring health clubs to have an AED. These states are: Arkansas, California, Illinois, Indiana, Louisiana, Massachusetts, Michigan, New Jersey, New York, Oregon, and Rhode Island. These laws are discussed below and outlined in Table 1. The laws all specify health clubs must have an AED on site and most include other items, such as:

- How club employees will be protected from civil liability following the use or non-use of an AED- Almost all states have some form of a Good Samaritan law which generally covers citizens trying to help a person in need; the application of this law to AED use is unclear in many states. In an effort to protect people who use an AED to try to help someone, some states have adopted a clause in their law which protects users from civil liability.
- Training requirements for employees- Some AED laws require health clubs to train employees in CPR/AED while others do not include training requirements. States also vary on how many employees must be trained.
- Size requirement for clubs to need an AED- In an effort to limit excessive AED costs for clubs, some states have implemented AED laws only for health clubs with a membership over a certain number or to buildings over a certain size. These thresholds vary between states.
- State provides assistance to purchase the AED- There are many different state-supported programs health clubs can use to mitigate the costs of an AED. These vary state by state and include cost sharing and grants.
- Coverage for 24-hour health clubs- The AED laws for health clubs apply to clubs that stay open 24 hours a day. However, many of these clubs do not have staff present around the clock, so the club operations would conflict with AED laws that stipulate a trained employee must be present. Four states have addressed this problem by not requiring a trained employee be present the entire time the club is open.

² "Adult CPR & AED." *American Red Cross*. 2009. Web. 17 Sept. 2009.

<<https://www.redcrossonlinetraining.org/Distance/Default.aspx?CID=59>>.

³ "Adult CPR/AED." *American Red Cross*. 2009. Web. 17 Sept. 2009. <http://209.18.123.141/class_result.asp?SN=5968&OP=5970&IDCapitulo=08YJ4G56R1>.

Table 1	Protection from Civil Liability	Require Employee CPR/AED Training	Size Requirement	Financial Assistance Provided	Law Covers Unstaffed Clubs
Arkansas	X	X			X
California	X	X			
Illinois	X	X	X		
Indiana	X	X			X
Louisiana	X	X			
Massachusetts	X	X			X
Michigan	X	X		X	
New Jersey		X		X	
New York	X	X	X		
Oregon	X		X		
Rhode Island	X	X			X

Specific elements of each law, along with a link to each state’s health club AED law are outlined below.

Arkansas- The Arkansas Code is currently offline while they update information. The specific Arkansas health club AED law is located at §20-13-1306.

A general Arkansas AED law provides protection from civil liability for users as long as they act as an ordinary person without compensation would have acted.⁴ The Arkansas health club AED law includes a specific clause for 24-hour clubs, stating that clubs without staff present must have a telephone available to contact emergency services and also must post signs with the location and instructions for how to use an AED.⁵

California- http://www.sdcountry.ca.gov/hhsa/programs/phs/documents/EMS-dCAHSCode104113_LawForHealthStudios.pdf

California law states employees who render emergency care are protected from civil liability for the use or non-use of an AED. It also specifies at least one employee per five AED units in the building must be trained to use an AED. To minimize cost burden, California has a phase-in period that does not require health clubs to have an AED available for use until July 1, 2012.

Illinois- <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=093-0910>

Illinois law protects health club owners and AED users and provides protection from civil liability “except [if used with] willful or wanton misconduct”. Any physical fitness facility with membership exceeding 100 members must have one AED on premises and must train employees in CPR/AED use.

4 Arkansas. 82nd General Assembly. House Bill 1006. 1999. Web. 7 Sept. 2009. <<http://www.arkleg.state.ar.us/assembly/1999/R/Acts/Act101.pdf>>.

5 Goldman, Stuart. “Limited Access”. Fitness Business Pro. 1 Jun 2008. 05 Sept 2009. <http://fitnessbusinesspro.com/news/limited_access_aed/index.html>.

Indiana- <http://www.in.gov/legislative/bills/2007/SE/SE0134.1.html>

Indiana law protects all AED users from civil liability resulting from the use or non-use of an AED. A club must have at least one staff person trained in CPR/ AED use and at least one trained employee must be present while the health club is staffed. If the health club is unstaffed (a 24-hour health club) it must have a telephone available to contact emergency services and must have signs posted with the location and instructions for use of an AED.

Louisiana- <http://www.cprinstructor.com/LA-AED.htm>

Louisiana law protects AED trainers, the AED purchaser, the party responsible for the site where the AED is located, and any expected user (such as employees of the health club) from civil liability as long as they did not act with willful misconduct. It also states expected AED users (such as employees) be trained in CPR/AED use.

Massachusetts- <http://www.mass.gov/legis/laws/seslaw06/sl060420.htm>

Massachusetts law protects individuals from civil liability resulting from the use or non-use of an AED as long as they did not act with willful or wanton misconduct. During staffed hours, health clubs must have at least one employee or volunteer trained in AED use.

Michigan- <http://www.legislature.mi.gov/documents/2005-2006/publicact/htm/2006-PA-0023.htm>

Michigan law protects individuals from civil action or damages unless they are found guilty of “gross negligence or willful and wanton misconduct”. The law also requires health clubs must have one person on the premises at all times who is certified in CPR/AED use and clubs must have an AED available on the premises. Separate legislation recommends that the state work with clubs to secure bulk discounts on AEDs.⁶

New Jersey- http://www.njleg.state.nj.us/9899/Bills/a199/34_.htm

New Jersey health club employees must be trained to use the AED device, and persons are not permitted to use the device unless they have completed training. Health clubs are required to keep at least one defibrillator on their premises in an accessible location at all times. To help with funding, \$1,000,000 was appropriated by the state to assist clubs purchase AEDs.

New York- http://law.justia.com/newyork/codes/general-business/gbs0627-a_627-a.html

New York health club employees must be trained to use an AED device, and persons are not permitted to use the device unless they have completed training. At least one trained person must be on-site at all times, and trained persons who use the device are protected from civil liability. All health clubs in the state with membership of over 500 people are required to have an AED available on site.

⁶ State of Michigan. 93rd Legislature. "Section 218." *Senate Bill No. 1085*. N.p., n.d. Web. 17 Sept. 2009. <<http://www.legislature.mi.gov/documents/2005-2006/publicact/htm/2006-PA-0332.htm>>.

Oregon- <http://www.leg.state.or.us/09reg/measures/sb0500.dir/sb0556.en.html>

Oregon law protects Good Samaritans and business owners unless they use AED devices with “gross negligence or reckless, wanton or intentional misconduct.”⁷ Oregon’s health club AED law requires any place of public assembly 50,000 square feet or larger (including health clubs) have at least one AED on the premises.

Rhode Island- <http://www.rilin.state.ri.us/statutes/title5/5-50/5-50-12.HTM>

Rhode Island health clubs and employees are protected from civil liability for use or non-use of an AED, unless the business failed to purchase an AED or the AED was used with “willful or wanton misconduct”. At least one employee per shift must be trained in CPR/AED use and be on duty during hours of operation; however, if the health club operates on a key pass basis (a 24-hour health club) a trained employee is not required to be on-site.

⁷ State of Oregon. 70th Legislature. *Senate Bill No. 313*. N.p., n.d. Web 20 Sept. 2009. <<http://www.leg.state.or.us/99reg/measures/sb0300.dir/sb0313.en.html>>.