

## LOCAL LAW NO. 4 FOR 2009

### A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK REQUIRING HEALTH CLUBS AND SPORTS FACILITIES TO HAVE AUTOMATED EXTERNAL DEFIBRILLATORS AND CPR CERTIFIED STAFF PRESENT DURING HOURS OF OPERATION

Introduced: 2/11/08

By Messrs. Carman, Timmins, Horstmyer, Aylward, Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Houghtaling, Infante, Joyce, Ms. Maffia-Tobler, Messrs. Mayo, McCoy, Ms. McKnight, Messrs. Morse, Nichols, Rahm, Reilly, Scavo, Steck, Ward and Ms. Willingham:

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ALBANY AS FOLLOWS:

#### SECTION 1. Legislative Intent and Purpose

- a. This Legislature finds and determines that it is essential to assure residents of Albany County that the county government continues to make every effort to maintain their health and safety.
- b. This Legislature further finds that sudden cardiac arrest is the leading cause of death among young athletes.
- c. This Legislature further finds and determines that it is in the best interest of Albany County citizens to require all health clubs, and sports facilities in Albany County to maintain an automated external defibrillator (AED) at their place of business, and also have present at least one staff member that is certified to administer Cardio Pulmonary Respiration (CPR).

#### SECTION 2. Definitions

- a. The term "Health Club" shall mean: any commercial establishment offering instruction, training or assistance and/or the facilities for the preservation, maintenance, encouragement or development of physical fitness or well-being. "Health club" as defined herein shall include, but not be limited to health spas, health studios, gymnasiums, weight control studios, martial arts and self-defense schools or any other commercial establishment offering a similar course of physical training.

- b. The term “Sport Facility” or “Sport Facilities” shall mean: all outdoor or indoor establishments that receive compensation in exchange for providing a forum for competitive or recreational athletics. “Sport Facilities” as defined herein shall include, but not be limited to golf courses, soccer plexes, sports camps or clubs, or other facilities that offer to the public a venue for competitive or recreational athletics competitions. Any “Sport Facilities” that meet the definition of a “Health Club” shall also be considered a “Health Club” for the purposes of this local law.
- c. For the purposes of this Local Law, the term “Not for profit” facility shall include any “Sports Facility” or “Health Club” facility that is organized for some charitable, civil or other social purpose which does not entail the generation of profits for shareholders. A “Not for profit” facility shall include any “Sports Facility” or “Health Club” that may apply for tax-exempt status at either the federal or state level. Any “Sports Facility” or “Health Club” that channels any amount of funds remaining after payment of operating expenses to any owner, shareholder, executive, or director shall not be considered a “Not for profit” “Sports Facility” or “Health Club” for the purposes of this Local Law.
- d. The term “Automated External Defibrillator” (hereinafter referred to as “AED”) shall mean: a medical device, approved by the United States food and drug administration, that: (i) is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia; (ii) is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient; (iii) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and (iv) then, upon action by an operator, delivers an appropriate electrical impulse to the patient's heart to perform defibrillation.
- e. “Public access defibrillation provider” means a person, firm, organization or other entity possessing or operating an automated external defibrillator pursuant to a collaborative agreement under PHL Article 30.

### SECTION 3. Requirements

- a. Every Health Club defined herein whose membership is five hundred persons or more shall have on the premises at least one automated external defibrillator and shall have in attendance, at all times during business hours, at least one individual performing employment or individual acting as an authorized volunteer who holds a valid certification of completion of a course in the study of the operation of

AEDs and a valid certification of the completion of a course in the training of cardiopulmonary resuscitation provided by a nationally recognized organization or association. All Health Clubs shall comply in all respects with the requirements of PHL Article 30 applicable to such facilities.

- b. Any Sports Facility, as defined herein, at such time that greater than 500 persons are present during the course of any 24-hour period, shall have on the Sports Facility premises or property at least one automated external defibrillator and shall have in attendance, at all times during business hours, at least one individual performing employment or individual acting as an authorized volunteer who holds a valid certification of completion of a course in the study of the operation of AEDs and a valid certification of the completion of a course in the training of cardiopulmonary resuscitation provided by a nationally recognized organization or association. All Sports Facilities shall comply in all respects with the requirements of PHL Article 30.
- c. “Not for profit” Sports Facilities and “Health Clubs”, as defined by Section 2(c) of this Local Law, shall be exempt from the requirements of this Local Law.
- d. All health clubs, sports facilities, their staffs, and authorized volunteers subject to this local law shall be public access defibrillation providers and shall be subject to the requirements and limitations of Article 30 of the NYS Public Health Law.
- e. Pursuant to sections three thousand-a and three thousand-b of the public health law, any public access defibrillation provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an AED which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of the Public Health Law.
- f. All health clubs and sports facilities shall maintain the AED in accordance with Article 30 of the NYS Public Health Law and pursuant to the guidance of the Albany County Department of Health.
- g. Within 180 days of the passage of this Law, all “Health Clubs” and “Sports Facilities” shall file with the Albany County Department of Health a certification that they are in compliance with this Law and shall resubmit certification on a biennial basis.

#### SECTION 4. Penalties and Enforcement

Any person, business, or other entity that violates the provisions of Section 3 shall be subject to a civil penalty not to exceed two hundred dollars for the first violation and not to exceed five hundred dollars for each subsequent violation. The provisions of this Local Law and any rules or regulations promulgated hereunder shall be enforced by the Albany County Department of Health.

#### SECTION 5. Duties of the Department of Health

- a. The Albany County Department of Health (hereinafter referred to as “the Department”) may establish procedures and regulations for the orderly administration of this Local Law. The Department may further promulgate and establish guidelines for the upkeep and maintenance of AEDs. This Law shall not in any way be interpreted to limit the powers of the Albany County Department of Health to enforce these provisions pursuant to powers granted to the Department elsewhere in law.
- b. The Department shall also develop and implement a strategy, plan or policy to inform and educate residents of the County of Albany, and any facility or facilities that may be subject to the requirements of this Local Law, about the provisions contained in this Local Law. Such strategy, plan or policy may include the design and implementation of public service announcements.
- c. At such time when any person, business, or other entity is found to have violated the provisions of Section 3 of this local law, the Albany County Department of Health shall post information describing such violation, and any subsequent violation by any person, business, or other entity, on the department’s official webpage.

#### SECTION 6. No Private Cause of Action

This Law does not create a private right of action against the County of Albany.

#### SECTION 7. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 8. Effective Date

This Local Law shall take effect 180 days after filing with the Secretary of State.

*Referred to Health Committee. 2/11/08*

*Favorable Recommendation - Health Committee. 7/29/09*

*On roll call vote the following voted in favor: Mr. Aylward, Ms. Benedict, Messrs. Beston, Bullock, Carman, Ms. Chapman, Messrs. Clay, Clenahan, Clouse, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Domalewicz, Ethier, Gordon, Higgins, Horstmyer, Houghtaling, Infante, Joyce, Mss. Lockart, Maffia-Tobler, Messrs. Mayo, McCoy, Mendick, Morse, Nichols, Rahm, Reilly, Scavo, Tunny, Ward, Ms. Willingham and Mr. Zeilman – 35.*

*Those opposed: - 0.*

*Local Law was adopted. 8/10/09*