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Government Relations

Statement of David Boomer
on behalf of the
International Health, Racquet & Sportsclub Association
before the Judiciary Committee—Senate Bill 687
March 14, 2008

Senator McDonald, Rep. Lawlor and members of the committee:

My name is David Boomer. I am a government relations consultant with *The Kowalski Group, LLC*. The firm represents the International Health, Racquet & Sportsclub Association, which has member facilities in Connecticut and throughout the world. I am offering comments on Senate Bill 687, *An Act Concerning Automatic External Defibrillators*. I would like to make three points on the legislation.

- ***Health Clubs are not opposed to AEDs***

IHRSA agrees that automatic external defibrillators are wonderful devices. They save lives. Health clubs have not opposed them—in fact, a number of clubs in the state have already installed them with the AEDs available for use if needed. Our only concern has related to liability issues.

- ***SB 687 provides some of the liability protections needed***

We very much appreciate the fact that Senate bill 687 provides immunity to the facility management (“entity”) as well as staff if an AED is used. The bill, however, does not provide this same protection in the event an incident occurs and the AED is *not* used. We believe this could leave health clubs open to crippling lawsuits. The bill as currently drafted flatly prohibits liability protection in non-use situations (lines 110-112).

- ***The committee should adopt the Massachusetts model law***

IHRSA would like to propose that the committee adopt the approach enacted into law by the Commonwealth of Massachusetts in 2006. Their law provides liability protection for health clubs regardless of whether the AED is, or is not, used. This law, which is attached to my testimony, received the endorsement of the American Heart Association and IHRSA.

I would like to request that you strike the non-use prohibition language in lines 110-112 and replace that with the text of the Section 3 of the Massachusetts law: *Absent a showing of gross*

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negligence or willful or wanton misconduct, no cause of action against a health club or its employees may arise in connection with the use or non-use of a defibrillator.

In conclusion, you are considering the creation of a significant new precedent in requiring AEDs to be placed in a specific category of commercial venues. This is a very important bill since it will set the precedent for any future additions that might be made to the mandate. As SB 687 works its way through the remaining weeks of the 2008 session, IHRSA believes it is possible to enact a law that provides better access to AEDs while also providing reasonable liability protection to health clubs at the same time.

Thank you again for permitting me to testify on SB 687. I would be happy to answer any questions you might have.

COMMONWEALTH OF MASSACHUSETTS, 2006
AUTHOR: JOINT COMMITTEE ON PUBLIC HEALTH
SB2681

CHAPTER 420

AN ACT REQUIRING AUTOMATIC EXTERNAL DEFIBRILLATOR DEVICES IN
HEALTH CLUBS.

Be it enacted by the Senate and House of Representatives in
General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 78 of chapter 93 of the General Laws, as
appearing in the 2004 Official Edition, is hereby amended by striking
out, in line 1, the words "section seventy-nine to eighty-eight" and
inserting in place thereof the following words:- sections 78A to 88.

SECTION 2. Said chapter 93 is hereby further amended by inserting
after section 78, as so appearing, the following section:-

Section 78A. A health club shall have on the premises at least 1
AED, as defined in section 12V½ of chapter 112, and shall have in
attendance during staffed business hours at least 1 employee or
authorized volunteer as an AED provider, as defined in said section
12V½ of said chapter 112.

SECTION 3. Section 86 of said chapter 93, as so appearing, is
hereby amended by adding the following paragraph:-

Absent a showing of gross negligence or willful or wanton
misconduct, no cause of action against a health club or its employees
may arise in connection with the use or non-use of a defibrillator.

SECTION 4. Chapter 112 of the General Laws is hereby amended by
striking out section 12V, as so appearing, and inserting in place
thereof the following section:-

Section 12V. Any person, whose usual and regular duties do not
include the provision of emergency medical care, and who, in good
faith, attempts to render emergency care including, but not limited to,
cardiopulmonary resuscitation or defibrillation, and does so without
compensation, shall not be liable for acts or omissions, other than
gross negligence or willful or wanton misconduct, resulting from the
attempt to render such emergency care.

SECTION 5. Sections 1 and 2 of this act shall not apply to a
health club, as defined by section 78 of chapter 93 of the General
Laws, if that health club employs 5 or fewer full-time equivalent
employees, until 2 years after the effective date of this act. Sections
1 and 2 of this act shall not apply to a health club, as so defined by
said section 78 of said chapter 93, if that health club employs more
than 5 full-time equivalent employees, until 1 year after the effective
date of this act. For the purposes of this section, the term "full-time
equivalent employee" shall equal 40 labor hours per week.

01/03/07 APPROVED