# The Joint Committee on General Law

*Senate Bill 186*

**Written Testimony of Joe Moore, Executive Director**
**International Health, Racquet & Sportsclub Association (IHRSA)**

**February 25, 2010**

Members of the Committee, thank you for the opportunity to submit testimony on Senate Bill 186, which would require health clubs to have at least one automated external defibrillator (AED) on the premises and at least one employee trained in the use of an AED present at the facility during staffed business hours.

My name is Joe Moore. I am the Executive Director for the International Health, Racquet & Sportsclub Association (IHRSA), the leader in education, research and advocacy for the health and fitness industry. On behalf of the more than 9,100 health and fitness businesses represented by IHRSA worldwide, 88 of which are located throughout Connecticut, I ask that the following testimony on SB 186 be entered into the record and considered when your Committee hears this bill today.

I would first of all like to thank you for taking the time to address an important issue, the growing trend we are witnessing nationwide requiring many businesses—not just health clubs—to install automated external defibrillators (AEDs) in their facilities. We recognize the good intentions of the sponsors of this bill and the members of this Committee who clearly have the safety of all Connecticut residents and visitors in mind today. However, I am concerned that the current language does not adequately address several key issues. On behalf of health clubs in Connecticut, we respectfully request that you consider the following amendments relating to liability, maintenance, staffing, and compliance time. I sincerely hope that we can work with the members of this Committee to ensure that this language or language similar to it is added in the form of an amendment to SB 186.

Liability Protection

We respectfully request that the following language be added to SB 186:

*Section 21a-223(e) Absent an act or omission constituting gross, willful or wanton negligence, no cause of action shall exist relating to the use or non-use of an automated external defibrillator.*

We greatly appreciate the liability protection currently found in this bill, and believe that our proposed amendment will simply strengthen the effectiveness of this legislation. I should note that our proposed language is similar to language adopted in several other states. This very approach was enacted into law in 2006 in the Commonwealth of Massachusetts.

Clearly, this issue is important to our members because a legislative mandate requiring the placement of a class III medical device in a recreational setting will expose health clubs to potentially crippling lawsuits. Contrary to popular opinion, Good Samaritan Laws are simply not strong enough to provide meaningful liability protection to businesses and/or their employees. We believe the current version of the bill does not

allow an employee to respond to an emergency situation without the fear of litigation. For example, SB 186 would not provide liability protection to an employee who misdiagnoses a member's condition and therefore chooses not to use an AED, nor would it cover an employee who freezes and is unable to use the AED. One foreseeable consequence of the current language is that emergency responders, due to fear of being sued for nonuse of an AED, will always attempt to use a defibrillator, and thereby potentially forego more appropriate treatment.

Maintenance & Oversight

We respectfully request that Section 1 of the bill (Section 21a-223) be amended as follows:

*(a)(2)(A) provide and maintain in a [central] readily accessible location on the premises of the health club, which location shall be made known and available to employees of such clubs, at least on automatic external defibrillators, as defined in section 19a-175...*

This amendment would reflect the fact that a "centrally located" AED may not be the most appropriate place for the AED, depending on the layout of the health club and the location of the typical workstations for expected AED users.

Compliance Date

We respectfully request that the following language be added to SB 186:

*This Act shall take effect as follows and shall amend the following sections:*
*Section 1: No later than one year after the effective date of this section (21a-223).*
*Section 2: No later than one year after the effective date of this section (52-557b(a)).*

We believe the current version of the bill does not provide physical fitness facilities with a reasonable amount of time, at least one year, to comply with the statute. The majority of physical fitness facility owners operate modest, independent facilities and post thin profit margins. Although the cost of installing AEDs has gone down in recent years, for most small facilities there are no insignificant expenses. Moreover, it takes substantial time to train employees on the proper operation of an AED and to establish emergency procedures. Physical fitness facility operators cannot afford the luxury of training all appropriate personnel at one time by closing for an extended time, such as a weekend. Instead, employees would have to be trained intermittently, as permitted by the staffing demands of the business. Subsequent to training, the staff must coordinate a plan to avoid the typical chaos of an emergency and ensure that, in addition to using an AED, medical professionals are alerted of the situation as soon as possible. Without enough time, facilities will be forced to rush through this process, thereby compromising the safety of their members and risking devastating litigation.

We would welcome the opportunity to work with the Committee to amend the legislation to ensure that the state's businesses and their employees have the necessary liability protection, and to serve as a resource to the Committee on this issue. If you have any questions, please contact me at 800-228-4772 or Tim Sullivan, IHRSA's Legislative Analyst, at ts@ihrsa.org.