

The Joint Committee on General Law
House Bill 6266

Written Testimony of Joe Moore, CEO/President
International Health, Racquet & Sportsclub Association (IHRSA)

February 24, 2011

Members of the Committee, thank you for the opportunity to submit testimony on House Bill 6266, 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 CEO/President for the International Health, Racquet & Sportsclub Association (IHRSA), the leader in education, research and advocacy for the fitness industry. On behalf of the more than 9,000 health club businesses represented by IHRSA worldwide, 88 of which are located throughout Connecticut, I ask that the following testimony on HB 6266 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 HB 6266.

Liability Protection

We respectfully request that the following language be added to HB 6266:

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 appreciate the liability protection currently found within § 52-557b of Connecticut's General Statute ("Good Samaritan Law"), 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. In fact, nine of the eleven states that currently require an AED to be placed in health clubs provide explicit liability protection for the use and non-use of an AED.

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, HB 6266 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 due to the duress of the situation 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.

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, IHRSAs Senior Legislative Analyst, at ts@ihrsa.org.