

Memo

To: Eric Denk, Clerk, Broome County Legislature
From: JOSEPH J. SLUZAR, Broome County Attorney
Date: 7/28/2009
Re: Automated External Defibrillators

Broome County has received various inquiries about the AED local law, particularly from golf course operators. Many of these questions have been directed to your office. Hopefully the following memo will provide answers to some of these questions. Copies of the memo can be distributed or put on the Clerk's web page.

In September, 2007, the Broome County Legislature adopted Local Law 5-2007 which amended the County Sanitary Code to add a new Article IX which was subsequently amended by Local Law 4-2008. Article IX of the Sanitary Code (Section 168-47(B)) requires golf courses to have an AED on site and an employee trained in CPR and AED's. It further requires a posting in the clubhouse and all golf carts that an AED is available and the location of the AED including the phone number for the pro shop or building where the AED is located.

Since a golf course is now required to have an AED and a trained person on site the golf course must comply with the provisions of §3000-b of the New York Public Health Law. Basically, this means that the golf course must have an agreement with an emergency health care provider (doctor or hospital). The agreement should provide for policies and procedures pertaining to the training of persons who will use the equipment and the use of the AED. The Broome County Office of Emergency Services and/or the Broome County Department of Health can provide assistance in working out the agreement and complying with the requirements.

The following FAQ's (and answers) may provide guidance and assistance:

1. Are golf courses in Broome County "Public Access Defibrillation Agencies" as defined in §3000-b of the New York Public Health Law? **Yes.**
2. If the owner or operator of the golf course is the only one certified to use an AED would the golf course be in compliance? **Yes.**
3. What happens if the owner or operator who is the only person certified to use an AED has to leave the premises? **The better practice is make arrangements with a person certified to use an AED to provide coverage. However, the Broome County local law does not require a golf course to have someone trained and certified on site at all times.**

4. Is a person trained and certified to use an AED exempt from liability (good samaritan statutes)? **Yes and No. The certified user if he or she is not paid to provide AED service is exempt from liability unless he or she is grossly negligent. Public Health Law §3013. For example if a person is hired by the golf course for the sole purpose of providing AED service they probably are not exempt under the statute. However, if an employee volunteers to provide the service in addition to his or her regular duties and is not paid extra to do this then that person probably does have the protections of Public Health Law §3013.**
5. Is the entity that owns the golf course exempt from liability in connection with providing an AED and person trained in its use? **The entity (individual, partnership, corporation, etc.) providing the AED is exempt from liability in connection with the use of the AED device owned by the entity but is not exempt from its own negligence. (Public Health Law §3000-a(2)).**
6. If a person who is not trained and certified in the use of an AED attempts to use it in the event of an emergency when there is no one certified available exempt from liability under the good samaritan statutes? (Public Health Law §3000-a(1)). **Although the statute does not specifically mention use of an AED it appears that such use is covered under the statute. Again, the exemption does not apply in cases of gross negligence.**
7. Are employees of the golf course who are not trained and certified to use an AED required to use it in the event of an emergency when there is no one present who is trained? **No.**
8. May the golf course loan the AED to a golfer who has a cardiac condition and requests to take the AED with him while he plays his or her round of golf? **If there are at least two AED machines available at the course the answer is yes. However, if there is only one the operator should not allow this. The golf course has given notice to its golfers that the machine is located in a specific location. Moving the location (i.e. loaning the machine) could subject the course to liability. Usually a person with a serious cardiac condition will be treated for the condition by their own physician and have, if indicated, a pacemaker or other such device.**

Questions have come up regarding the “case report form”. This report is used to create a statewide database for use in determining the effectiveness of the AED program and ways to provide better emergency service. If the person who used the AED in an emergency is not able or refuses to provide the information requested on the case report form the operator of the golf course should fill out the form to the extent the information is available.