

DEPARTMENT OF HEALTH AND MENTAL HYGIENE
COMMISSIONER OF HEALTH

NOTICE OF PUBLIC HEARING

NOTICE OF INTENTION TO PROMULGATE RULE IMPLEMENTING SECTION 17-188 OF
THE ADMINISTRATIVE CODE REQUIRING THE PLACEMENT OF AUTOMATED
EXTERNAL DEFIBRILLATORS AT CERTAIN PUBLIC PLACES

IN COMPLIANCE WITH SECTION 1043(b) and 389(b) OF THE NEW YORK CITY CHARTER (the "Charter") and pursuant to Title 17, Chapter 1, Section 17-188(f) of the New York City Administrative Code, notice is hereby given of the intention to adopt the following rule implementing Section 17-188 of the New York City Administrative Code requiring the placement of automated external defibrillators at certain public places.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE (the "Department") WILL HOLD A PUBLIC HEARING ON THE PROPOSED RULE ON AUGUST 22, 2005 FROM 2PM TO 4PM IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NY 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE DEPARTMENT, 125 WORTH STREET, CN- 31, NEW YORK, NY 10013 OR BY TELEPHONE AT (212) 788-5010 BY AUGUST 19, 2005. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE DEPARTMENT, 125 WORTH STREET, CN-31, NEW YORK, NY 10013; (212) 788-5010 BY AUGUST 8, 2005.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 2PM. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE DEPARTMENT, BY MAILING TO 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, OR BY E-MAIL TO RESOLUTIONCOMMENTS@HEALTH.NYC.GOV ON OR BEFORE AUGUST 22, 2005.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE DEPARTMENT AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY.

STATUTORY AUTHORITY

This rule is promulgated pursuant to New York City Charter Sections 389(b) and 1043(b) and Section 17-188(f) of the New York City Administrative Code. Section 1043(a) of the Charter provides that each “agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law”. Section 389(b) similarly provides that the “heads of mayoral agencies shall have the powers to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law. Section 17-188(f) of Chapter 1 of Title 17 of the Administrative Code authorizes the Commissioner of the Department of Health and Mental Hygiene to “promulgate such rules as may be necessary for the purpose of implementing the provisions of this section, including, but not limited to, rules regarding the quantity and location of automated external defibrillators to be placed in a particular public place or general category of public place; the form of notice in which the availability of automated external defibrillators in a public place shall be made known to the public and any accompanying fee; and any information on the use of automated external defibrillators that must accompany and be kept with each automated external defibrillator....”

STATEMENT OF BASIS AND PURPOSE

This proposed rule is required to be promulgated pursuant to Section 17-188 of the Administrative Code, specifically subsections (b), (c), (f) and (j) thereof, and is necessary for that law’s proper implementation and enforcement. The general purpose of Section 17-188 of the Administrative Code is to make “automated external defibrillators” available in the “publicly accessible areas” of certain “public places” in order to encourage persons to “voluntarily and without expectation of monetary compensation” provide first aid or emergency treatment using an automated external defibrillator that has been made available pursuant to this section, to a person who is unconscious, ill or injured....”. Section 24-01 of a new Chapter 24 of Title 24 of the Rules of the City of New York provides the meaning of specific words and terms used in this rule and in Section 17-188 of the Code and further provides that the meaning of other words and terms used in the rule are as specified in Section 17-188 of the Code. Section 24-02 provides that those required to make automated external defibrillators available pursuant to Section 17-188 must in implementing this rule also comply with the requirements of Section 3000-b of

the New York State Public Health Law in connection with their acquisition, possession and operation of automated external defibrillators. Section 24-03 provides necessary guidance as to the appropriate location and quantities of automated external defibrillators that must be maintained pursuant to the new law. According to Section 24-03(a), the owner or operator of a public place, as defined in Section 17-188(a)(3) of the Code and limited by Section 17-188(e) of the Code, must “place at least one automated external defibrillator(s) in a prominent location in that public place.” Subsection (b) of this section provides that the automated external defibrillator(s) is to be “located or placed so that this equipment can be obtained in a timely manner”. Section 24-04 entitled Required Notice: Signage Information, provides the information that is required to appear on the wall sign informing the public as to the availability of an automated external defibrillator at that location and specifies where that wall sign should be placed. It also identifies information that must be included on a second sign and provides that this second sign may be placed either on a wall or on the face of the storage container in which the automated external defibrillator is contained. Section 24-05 specifies what must be contained in a required written Site-Specific Response Plan and provides that the Plan must be made available to the Department upon its request.

THE PROPOSED RULE IS AS FOLLOWS:

Note: Matter underlined is new

COMMISSIONER OF HEALTH AND MENTAL HYGIENE RULE IMPLEMENTING
SECTION 17-188 OF THE ADMINISTRATIVE CODE REQUIRING PLACEMENT OF
AUTOMATED EXTERNAL DEFIBRILLATORS AT CERTAIN PUBLIC PLACES

Chapter 24

AUTOMATED EXTERNAL DEFIBRILLATORS IN CERTAIN PUBLIC PLACES

Section 24-01(a). Definitions.

Words and terms used in this rule, other than those specified in subsection (b) of this section, shall have the same meaning as specified in §17-188 of the New York City Administrative Code.

(b) When used in this rule, the following words or terms shall have the following meaning:

- (1) Department. “Department” means the New York City Department of Health and Mental Hygiene.
- (2) Code. Code means the Administrative Code of the City of New York.
- (3) Publicly Accessible Areas. Publicly accessible areas of buildings operated by the Division of Facilities Management and Construction of the Department of Citywide Administrative Services means the areas within a “public place”, as that term is defined in §17-188(a)(3) of the Code, to which persons other than employees are regularly invited or permitted on most business days and which do not require an appointment or special authorization or permission in order to gain admission. Floors, office space and hallways used primarily by employees do not constitute “publicly accessible areas”.
- (4) Membership. Membership, as used in §17-188(a)(vii) of the Code, means a group or collection of persons who make flat periodic payments entitling them to unlimited use at no additional cost of the health clubs and facilities specified in §17-188(a)(3)(vii) of the Code.
- (5) Prominent Location. Prominent location shall mean any central location in a public place where the automated external defibrillators can be located and are readily available at all times for use by persons trained in their operation.
- (6) Public access defibrillation provider. Public access defibrillation provider means a person, firm, organization or other entity having control of a public place and possessing or operating an automated external defibrillator pursuant to a collaborative agreement, as that term is defined in §3000-b of the New York State Public Health Law.
- (7) Trained Responder(s). Employees/volunteers recruited by or, if necessary, designated by the owner/management of those public places specified in §17-188(a)(3) of the Code, to operate automated external defibrillators. Such employees shall have received appropriate training in the use and operation of automated external defibrillators, as evidenced by the successful completion of a combination cardio-pulmonary resuscitation/automated external defibrillator (CPR/AED) training class.
- (8) On A Regular Basis. As used in § 17-188(a)(3)(iv) of the Code, refers to those senior centers offering services to senior citizens for a minimum of forty hours per week with lunch served at least five days per week.

Section 24-02. Compliance with State Law

Any automated external defibrillator required pursuant to §17-188 of the Code shall be acquired, possessed and operated in accordance with the requirements of §3000-b of the New York State Public Health Law.

Section 24-03. Quantity and Location of Automated External Defibrillators

- (a) The owner or operator of a public place, as defined in §17-188(a)(3) of the Code and limited by §17-188(e), shall place at least one automated external defibrillator(s) in a prominent location in that public place. In those public places maintained by the Division of Facilities Management and Construction of the Department of Citywide Administrative Services, this placement shall be within a “publicly accessible area”, as defined in §24-01(b)(3).
- (b) Automated external defibrillator(s) shall be located or placed so that this equipment can be obtained in a timely manner. For those buildings operated by the Division of Facilities Management and Construction of the Department of Citywide Administrative Services having publicly accessible areas located more than five (5) floors apart, no such publicly accessible area shall be more than five floors from where an automated external defibrillator is located.
- (c) Storage conditions for the automated external defibrillators shall be in compliance with the manufacturer’s specifications.

Section 24-04. Required Notice: Signage Information

(a) The owner or operator of a public place shall provide written notice to all persons using a public place, as that term is defined in §17-188(a)(3) of the Code, in the form of a clear and conspicuous wall sign placed at a height between five and seven feet above the floor and which is also in close proximity to the automated external defibrillator unit storage location.

(b) The sign shall contain the following language in lettering and representation (symbol) in the size indicated:

- DEFIBRILLATOR (minimum height - two (2) inches)
- Automated External Defibrillator (minimum height - three quarters (3/4) inch)
- Heart and lightening bolt logo (minimum height - two (2) inches)

(c) A second wall sign either similarly placed as the one required in subsection (a) of this section or located on the storage cabinet containing the automated external defibrillator must contain the following information in the size indicated:

- In event of emergency call 911 (minimum height -one and one-half (1.5) inches)
- **and**
- Contact this facility’s trained responder(s) at: (Give contact information for trained responder(s) (minimum height - one (1) inch)

(d) In addition to the signs required in subsections (a) and (b) of this section, a wall sign containing the information specified in subsection (c) of this section shall be placed in a prominent location on all publicly accessible floors of a public place. Such sign shall also state that more information on CPR/AED training may be obtained by calling 311.

(e) Exception. (i) The wall signs required by subsections (c) and (d) of this section shall not be required in nursing homes.

(ii) This section shall not apply to automated external defibrillators located outdoors or on vehicles with a capacity for four or fewer people.

(f) Signs in conformity with the requirements specified in §24-03 (b) and (c) shall be made available by the Department, at no cost to the owner or operator of a public place required to have an automated external defibrillator. An owner or operator shall use either the sign provided by the Department or its own sign provided that the sign used meets the requirements specified in this section.

(g) All automated external defibrillators shall be stored with clear concise written or pictorial instructions for their use.

Section 24-05 Site-Specific Response Plan

(a) The owner or operator of a public place, as defined in §17-188 of the Code, must have a site response and maintenance plan as part of the written practice protocols included in the collaborative agreement required by §3000-b of New York State Public Health Law. This plan must be made available to the Department upon its request.

(b) The Site-Specific Plan must specify the following:

1. A list of the trained responders, the specific training they received, how they can be contacted, the locations of the trained responders at the site .
2. The provider of the AED/CPR training received by each trained responder, the date that training was received as well as the due dates for training recertification of each trained responder.
3. The specific location(s) of the automated external defibrillator(s) at the public place. The automated external defibrillator(s) shall be in a location(s) accessible to the trained responder(s).

4. The party responsible for verifying that the automated external defibrillator(s) is in operable condition and for ensuring that the equipment is maintained in conformity with the manufacturer's recommendations.
5. The placement and exact location of the signs required by §24-04(a), (b) and (c) along with the information on how to contact the site's trained responder(s).
6. Instructions on how to identify an on-site medical emergency and a listing of procedures to be followed to notify trained responders of the existence of that emergency.
7. Procedures to be followed to notify the emergency medical services system as to the existence of an on-site medical emergency.
8. How the trained responder(s) at a site will be dispatched to the location of the medical emergency.
9. The procedures to be followed by the trained responder(s) at the location upon their response to the location of a medical emergency.
10. Procedures to be followed by trained responders upon their transfer of care of an emergency to the emergency medical services system.
11. Instructions on how to document each use of an automated external defibrillator and immediately report such usage in accordance with Public Health Law §3000-b.

(c) The number of trained responders in each public place shall be commensurate with the size and configuration of the facility to permit rapid response during regular business hours.

defibrillator final revised July 14