

New York AED Laws: New York Agencies Required to Have AED Unit at Public Buildings

Automated External Defibrillation

Title 9

Executive Law

Subtitle G. Office of General Services
Chapter IV. Facility Planning and Operation
Subchapter A. Division of Building Administration

Part 303. Automated External Defibrillation

SECTION 303.0 PURPOSE.

The regulations contained in this part have been promulgated by the Office of General Services (“OGS”) pursuant to Section 140 of the Public Buildings Law, which requires that each Public Building be equipped with on-site cardiac automated external defibrillators. The purpose of this regulation is to provide for the installation and safe operation of a sufficient number of cardiac Automated External Defibrillators in each Public Building and to enable prompt response to human cardiac events that may occur in such Public Buildings.

SECTION 303.1 DEFINITIONS.

(a) As used in this section:

1. Automated External Defibrillator, or AED. A device as defined in Public Health Law (“PHL”) section 3000-b (1) (a).
2. Public Building. A building or portion thereof located within the State of New York that is owned and/or operated by a State Agency, including leased space, for the conduct of governmental services and which houses (i) a staff of state employees; (ii) other intended occupants; or (iii) regular visitors, excluding any building that has limited use or a nominal number of assigned staff as determined by the respective State Agency.
3. State Agency or Agency. All state departments, boards, commissions, offices or institutions. State public authorities and public benefit corporations are excluded from this definition.
4. Collaborative Agreement. A written agreement with an Emergency Health Care Provider (“EHCP”), which shall include a copy of an Agency's written practice protocols and policies and procedures for use of AEDs, as provided for in Public Health Law section 3000-b (2).
5. Emergency Health Care Provider, or EHCP. A physician or a hospital as defined in Public Health Law section 3000-b (1) (b).
6. Regional Emergency Medical Services Council(s), or REMSCO. An organization as defined in Public Health Law section 3003.
7. Commissioner. The Commissioner of the New York State Office of General Services or his/her designee.

8. OGS. The New York State Office of General Services.
9. DOH. The New York State Department of Health.

SECTION 303.2 IMPLEMENTATION.

(a) Each State Agency shall comply with the provisions of Public Health Law section 3000-b.

(b) Each State Agency shall endeavor to provide and maintain on-site at each of its Public Buildings a sufficient number of functional cardiac AED devices, and shall endeavor to provide a sufficient number of trained AED operators for emergencies, in accordance with these regulations, unless conditions exist in a certain structure that prevent a State Agency from reasonably complying with the requirements of these regulations.

(c) Each Agency will be responsible for the phased-in installation of AEDs in its respective facilities. Such phase-in period shall not extend beyond March 31, 2010, absent extraordinary circumstances that warrant a longer phase-in period. Any such extraordinary circumstances resulting in exemption from or noncompliance with these regulations shall be detailed in the Agency's report pursuant to subdivision (h) of this section.

(d) In the event that a specific building space is shared between agencies, then memoranda of understanding ("MOU") may be made between such agencies relative to the development and funding of an AED program for the shared space, as well as the joint administration of all aspects of the AED program.

(e) Notwithstanding any other provision of this Part, if a State Agency is located in building space owned or managed by OGS, OGS will be responsible for installing AEDs in the building and for managing AED maintenance and AED operator training. Otherwise, it shall be the responsibility of the Agency occupying OGS space to comply with all other provisions of this Part, including recruiting Agency personnel as AED operators and coordinators.

(f) In the case of Public Buildings owned and/or managed by an Agency other than OGS, or Public Buildings managed by OGS by virtue of an agreement with another Agency or a private entity, the occupying agencies will be responsible for the installation of AEDs in the building and for the management of AED maintenance and AED operator training.

(g) If an Agency operates a medical facility that provides alternative services for the purpose of addressing emergency defibrillation, that Agency shall file with the Commissioner a written notification explaining how the medical facility addresses emergency defibrillation in a sufficient manner so as to be consistent with the health and safety objectives of these regulations. Agencies operating such an alternative services plan which has been approved by DOH will be deemed to have fulfilled the requirements of sections 303.5, 303.6, 303.7, and 303.8 of these regulations respecting the Public Buildings at which the alternative services plan is effective. Upon receipt of such written notification(s), the Commissioner will provide the Agency with an acknowledgment of receipt, and will also provide a copy of such written notification(s) to DOH...

(h) From the date of adoption of these regulations, each State Agency shall commence the planning process for implementation of an AED program. By April 1, 2006 all state agencies shall file with the Commissioner a written report setting forth the details of the Agency's AED program plan. The report shall include specific reference to the individual requirements set out in these regulations, including, but not limited to, a proposed schedule for

implementation at each Public Building. If an Agency has previously commenced an AED program in its buildings, then that Agency's report should identify those buildings that currently have AEDs and should demonstrate how those buildings comply with the standards promulgated in these regulations. All such reports shall be updated annually, commencing April 1, 2007, and shall detail the status of the Agency's AED program respecting compliance with these regulations. Once full implementation is achieved, such annual reports shall be required only for years in which substantive changes to the Agency's plan or its compliance therewith have developed. Upon receipt of such report(s), the Commissioner will provide the Agency with an acknowledgment of receipt, and will also provide a copy of such report(s) to DOH... A State Agency may commence installation of AEDs prior to submitting its written report to the Commissioner.

(i) If during the process of developing its AED program, a State Agency is unable to fulfill all the requirements of these regulations at its Public Buildings as a result of insufficient staff or other restrictive conditions, a written report explaining the reasons for such circumstances shall be provided to the Commissioner. A State Agency shall include in such report an alternative implementation program designed to provide AED protection at the Public Building(s) referenced in the report or an explanation as to why there is no feasible method of implementing an AED program for the subject Public Building(s). The filing of such an explanatory report shall temporarily suspend an Agency's obligation to fulfill other requirements of this part for such Public Building(s) until the underlying prohibitive condition(s) may be corrected. Upon receipt of such report(s), the Commissioner will provide the Agency with an acknowledgment of receipt, and will also provide a copy of such report(s) to DOH.

SECTION 303.3 LOCATION OF AEDs.

(a) Subject to the phased-in implementation of AEDs, each State Agency shall endeavor to have sufficient AEDs available at each of its Public Buildings to ensure ready access for use during emergencies.

1. Each State Agency's phased-in implementation plan shall commence by prioritizing AED placement in those Public Buildings that house the largest number of state employees, other intended occupants or estimated regular visitors, or which the State Agency reasonably deems to merit priority treatment due to the high risk nature of the population served or the activities conducted at the Public Building.
2. When prioritizing AED placement as described in paragraph "1" above, those Public Buildings where there is a greater level of physical activity or in which a higher occupant density is likely shall be given priority for AED placement over Public Building(s) that have a lower level of physical activity or lower likely levels of occupant density.
3. Public Buildings housing a staff, other intended occupants or regular visitors of one hundred (100) people or more shall be considered priority structures for the implementation of an AED program.

(b) After a State Agency has prioritized its Public Buildings for purposes of implementing an AED program, the Agency shall determine the quantity and placement of AEDs. In implementing the physical placement of the AEDs, consideration shall be given to the size and physical layout of the Public Building, including but not limited to the following factors:

1. placement of AEDs in centralized locations based upon the response system an Agency has established in its PAD plan, or mobile deployment of AEDs (e.g.,

placement of AEDs in emergency vehicles), such that a trained operator could optimally respond to the site of a cardiac event with an AED at or about an Agency's Public Building(s) in a period of not more than three (3) minutes;

2. locations of stairways and elevators;
3. number of floors in the facility;
4. security features that limit access or restrict freedom of movement to certain areas of a building;
5. conspicuous location for AED access and retrieval; and
6. protection of the AED against accidental physical damage, tampering or theft.

(c) AEDs should not be located in locked rooms or where access is restricted, unless the AED is meant to be an additional device or is secondary to the AEDs installed for regular daily access. Notwithstanding the foregoing, where placement of an AED may be problematic due to security or other safety considerations, or where the combined logistics of building design, risk level and operator availability reasonably indicates a secure AED placement, the State Agency may consider alternate installations that are as consistent as possible with these rules and regulations.

(d) An Agency shall consider AED options for children in those state facilities that are regularly open to the public, e.g., museums, convention centers, recreational/sport facilities. Appropriate AED equipment options should be acquired and made available for resuscitating children in accordance with AED manufacturer's recommendations.

SECTION 303.4 OPERATORS.

(a) State officers and employees charged with management of Public Buildings should endeavor to recruit volunteers or, in appropriate circumstances, assign employees, in compliance with applicable collective bargaining agreements and relevant Labor Law provisions, as part of their official job duties to operate AEDs, such that there are optimally not less than two (2) operators per each AED or, in multiple floor buildings, two (2) operators per floor, whichever is greater, which operators are trained in the operation and use of an AED and whose regular workstations are located in proximity of AEDs such that they may be able to comply with the response time described in section 303.3(b)(1) of these regulations.

(b) Operator training shall include a combination of both CPR and AED training. An AED operator is required to successfully complete a CPR/AED training class at intervals necessary to maintain certification.

(c) Agencies shall select and pay for a training provider approved by DOH for purposes of training employees to both administer CPR and use AEDs, consistent with the provisions of Public Health Law section 3000-b (3) (a). The successful completion of an approved CPR/AED training course shall be a prerequisite to being considered by an Agency for designation as an authorized AED operator.

(d) Agencies may determine where and how an operator receives his/her CPR/AED training, if such training is scheduled during the employee's regular workday. An operator that receives his/her CPR/AED training outside of the employee's regular workday will be eligible for reimbursement for the cost of the training so long as the provider is approved by DOH and the operator receives prior approval from the Agency.

(e) All activities pursuant to this Part 303 of all operators, coordinators, and administrators, and any designees thereof, whether such persons are acting as volunteers or by virtue of their assigned work responsibilities, shall be considered to be within the scope of the subject State employees' employment with the State of New York. The activities contemplated in this subdivision include all those contained in this Part, including but not limited to the location, operation, maintenance and testing of AED equipment, as well as the administrative and ministerial functions, and any other activity implied or reasonably necessary to the effective provision, operation and administration of a Public Access Defibrillation program. Pursuant to the provisions of section 17 of the Public Officers Law, operators, coordinators, and administrators who are volunteers and not State employees shall be eligible for defense and indemnification by the State in their activities pursuant to this Part 303 upon their express authorization by the respective State Agency to participate in the volunteer component of this State sponsored Public Access Defibrillation program.

SECTION 303.5 AED ADMINISTRATION.

(a) Each State Agency shall designate an AED administrator for its respective agency-wide AED program. The AED administrator shall be an Agency employee who is primarily responsible for administering and monitoring the Agency's AED program, which shall include oversight of the AED coordinators to insure that each coordinator fulfills his/her responsibilities as set forth in this section. The AED administrator shall maintain a copy of the Agency's written AED plan.

(b) Each State Agency shall designate an AED coordinator for each of its public buildings or for portions of buildings it occupies. The AED coordinator shall be an Agency employee who is the primary liaison between the Agency's AED program and the EHCP.

1. The AED coordinator is responsible for: (i) maintaining the equipment and supplies; (ii) organizing training and re-training programs; (iii) maintaining a list of trained designated AED operators, or monitoring such tasks if performed by the AED vendor or other third party; (iv) forwarding incident data to the EHCP for medical director review; and (v) holding post-incident debriefing sessions for any responder(s) involved, if necessary.
2. The AED coordinator shall hold an annual AED drill with the AED operators.
3. The AED coordinator may be responsible for more than one building, and in circumstances determined by an Agency to be appropriate, the AED coordinator may be responsible for buildings on a regional or geographic basis.
4. The AED coordinator may also serve as an AED operator.

SECTION 303.6 AED EQUIPMENT.

(a) Prior to purchasing AEDs and related equipment, and based upon the provisions of its AED program plan, each State Agency should determine the appropriate number of AEDs and should recruit or assign sufficient AED operators for each of its Public Buildings. Purchase of AED units shall be made pursuant to the State Finance Law or other applicable governing law.

(b) Each AED shall be a device approved by the Food and Drug Administration for adult use and/or for pediatric use, as appropriate for the population reasonably anticipated to be served by such device, and shall be installed and used according to the manufacturers instructions with due attention provided to operating procedures, maintenance and

expiration date(s). AEDs are federally regulated medical devices, and can only be purchased with a physician's prescription. Such physician's prescription should be obtained from the Agency's EHCP.

(c) Each Agency shall have the AEDs placed in their assigned locations within each of the Agency's facilities and shall ensure that trained AED operators for each facility are informed as to the locations of the AEDs. Manufacturers' directions should be followed for all AED installations and use.

(d) All AED coordinators, or their designees, shall use their reasonable best efforts to provide that all AEDs in their facilities shall be maintained and inspected according to Agency policy, manufacturers' and applicable federal and state government standards.

(e) All AED coordinators, or their designees, shall use their reasonable best efforts to perform or otherwise arrange for an inspection, on a regular basis not less frequently than recommended by the AED manufacturer, to check the AED supplies, accessories and spares for expiration dates and damage, and test the functionality of each AED. Such inspection should include the AED exterior and the connector.

SECTION 303.7 MEDICAL SUPPORT.

(a) A State Agency possessing or operating an AED is required to have a collaborative agreement with an Emergency Health Care Provider as defined in Public Health Law section 3000-b (2).

(b) For each Public Building being considered for AED placement, an Agency shall:

1. Identify its local REMSCO. A list of REMSCOs located in the State of New York is maintained by DOH.
2. Identify a physician or hospital knowledgeable and experienced in emergency cardiac care to serve as the EHCP and to participate in a collaborative agreement with the State Agency.
3. Develop a written collaborative agreement with the EHCP, which shall include a copy of written practice protocols for use of the AEDs, together with written policies and procedures which together: provide training requirements for AED operators; direct the immediate calling of 911 in event of each emergency cardiac event; provide ready identification of AED unit locations; provide for regular maintenance and testing procedures of the AED unit(s) which procedures meet or exceed manufacturers recommendations; detail documentation requirements pertaining to AED usage; and define participation in a regionally approved quality improvement program as required by sections 3000-b (3) (e) and 3004-a (1) of the Public Health Law.
4. Consistent with the requirements of Public Health Law section 3000-b (2), file with DOH and appropriate REMSCO a copy of the notice of intent to provide public access defibrillation ("PAD"), and a signed copy of the Collaborative Agreement with the EHCP. The EHCP and the Agency's AED administrator must sign the notice of intent and the collaborative agreement. An Agency should file a new collaborative agreement with the DOH and appropriate REMSCO if the EHCP changes. The Agency should endeavor to secure written confirmation from the REMSCO of its receipt of the Agency's PAD plan. A copy of the PAD plan shall be maintained by the Agency's AED administrator. Copies of all such notices, agreements, and confirmations shall also be

provided to the Commissioner and the chairs of the subject Agency's labor and management and health and safety committees. Upon receipt of such notices, agreements, and confirmations, the Commissioner will provide the Agency with an acknowledgment of receipt.

5. Refrain from operating AEDs until the Agency's PAD plan has been formally approved by a REMSCO; and
6. Provide written notice to 911 or the community equivalent emergency vehicle dispatch center of the availability of AED service at the Agency's facility.

SECTION 303.8 RESPONSIBILITIES.

(a) Upon responding to an emergency cardiac event, an AED operator shall:

1. Document each AED use on a patient, including all incident data. All such documentation shall be submitted to the Agency's AED coordinator immediately following the AED use.
2. Following each use, deliver the AED unit to the Agency's AED coordinator or inform that person of its location.

(b) Upon receiving notice of an emergency cardiac event or AED use, an AED coordinator shall:

1. Pursuant to the provisions of Public Health Law section 3000-b (3) (d), immediately report such AED use to the appropriate local emergency medical services system, emergency communications center or emergency vehicle dispatch center, as appropriate, and promptly notify the EHCP and appropriate AED administrator.
2. Ensure that the AED data is downloaded to the designated computer system. For assistance with the data information retrieval, the AED vendor/manufacturer's name and telephone number should be available.
3. Ensure that AED incident data are transmitted to the EHCP for evaluation within 24 hours of the cardiac event.
4. Ensure that the Public Access Defibrillation Quality Improvement Report is completed by the Agency's EHCP or AED user and transmitted to the appropriate REMSCO within five (5) business days of AED use.
5. Use his/her best efforts to check the AED and replace any used supplies as soon as possible following the cardiac event so the AED may be promptly returned to service.
6. Perform a battery insertion test on the AED to ensure proper operation of the AED prior to its return to service.

(c) AED coordinators shall also be responsible to:

1. Ensure that quarterly reports are submitted to the appropriate REMSCO and the Agency's labor and management and health and safety committees, provided that should such reports contain any personal information such information will be redacted prior to submission to said labor management and health and safety committees; and
2. Perform a battery insertion test on an AED following any battery change.

SECTION 303.9 AED REPLACEMENT SCHEDULE.

After the initial AED installation, a replacement schedule which considers the useful life of

the AED units shall be developed by the State Agency. The replacement schedule should be updated periodically.