

SPRINT TO LIFE

Dr. Kramer looked at Adam with a scowl. "This is serious, Adam. You are a prime candidate for a heart attack at age 48. Your blood cholesterol level is 310 mg/dL, you have high blood pressure, you're overweight, and you don't exercise." Adam left Dr. Kramer's office feeling depressed, so he went to see a movie at the Royal Theatre in Courtyard Square. Although he was irritated by the commercials that were run prior to the showing of the movie, he thought that the movie was outstanding. After the movie, Adam dined on sprouts and seaweed at a health food restaurant.

Not thrilled with the prospect of a continued health food diet of sprouts, seaweed, and sawdust, Adam resolved to exercise more. He hoped that exercise would result in his losing weight and the lowering of both his blood pressure and blood cholesterol level.

The morning following his visit to Doctor Kramer, Adam had an intensive discussion with his wife, Joanne, regarding his health and lack of exercise. Joanne had joined the local "Sprint to Life" fitness center the previous year with the expressed intent to "get in shape." Subsequent to her joining Sprint to Life, Joanne had continually encouraged Adam to join her at the spa telling him "since starting my workout program I feel great and I think the exercise would be good for your health." Adam was steadfast in his refusal to join his wife at Sprint to Life telling her that her "constant nagging about his health and exercise did nothing but cause an increase in his blood pressure." However, following this latest discussion regarding Adam's visit to Doctor Kramer, Joanne asked Adam if he would at least accompany her to Sprint to Life that morning to watch her exercise. Adam agreed, saying "I'll just drop you off and pick you up after your session is over."

Adam did just that. He drove Joanne to Sprint to Life, dropped her off and returned to pick her up. Joanne was not waiting outside of Sprint to Life when Adam arrived to pick her up so Adam parked his car and entered Sprint to Life to wait in the lobby until his wife was finished. Adam found a seat in the lobby where he could sit and wait. While waiting for his wife, Adam suddenly collapsed to the floor.

A Sprint to Life employee saw Adam collapse and rushed to his side. He checked Adam for breathing and a pulse. Determining that Adam was not breathing, had no pulse and appeared to be unconscious and unresponsive, the employee directed that Emergency Medical Service (EMS) assistance be called. The Sprint to Life employee then began administering cardiopulmonary resuscitation (CPR). The only medical aid that the employee was able to administer was CPR since Sprint to Life did not have an automated external defibrillator (AED) on the premises. The employee continually administered CPR until two emergency medical technicians (EMTs) arrived 12 minutes after being summoned. After assessing the situation and determining that Adam was still not breathing, had no pulse and was unconscious, one EMT assumed the continued administration of CPR while the second EMT attached electrode pads from an AED that was one item of the EMT's emergency

equipment. Following proper procedures, the EMT administered a first shock, then a second shock, and then a third shock, in accordance with appropriate guidelines. The EMT was unable to discern a pulse. CPR was resumed for one minute. There still being no pulse, an additional set of three quick shocks was administered. Again, no pulse was detected. Adam was transported to the nearest emergency trauma center. While transporting Adam to the trauma center, the EMTs continued with CPR and defibrillation in compliance with appropriate procedures. Upon arrival at the trauma center, Adam's care was transferred to the on-duty physician. Subsequent attempts to revive Adam failed.

An autopsy performed following Adam's death indicated that he did not die from a heart attack but rather from sudden cardiac arrest (SCA). According to medical experts, the only accepted treatment to restore an effective heart rhythm in victims of sudden cardiac arrest is defibrillation using an automatic external defibrillator (AED). Cardiopulmonary resuscitation (CPR) alone is not effective in treating SCA.

Adam's wife, Joanne, is contemplating suing Sprint to Life for negligence.

On behalf of Sprint to Life, Mr. Eddie Chan has hired your firm to provide an analysis of the situation. Initially, Mr. Chan provided your firm with copies of letters exchanged between himself and Robert Bruno. In addition, Mr. Chan provided your firm with some data relating to age at death and blood cholesterol levels.

After reviewing the information provided by Mr. Chan, a meeting was arranged by your firm to discuss this matter further with Mr. Chan. During that meeting Mr. Chan provided additional information including the following: Sprint to Life Mission Statement and Corporate Vision; a magazine article from the "Journal of Medicine & Science in Sports"; a newspaper article from the "Hometown Tribune"; a copy of a Gould Court of Appeals Case (Fogel v. Get 'N Go Markets); a copy of Gould Health & Safety Code, §§ 204-205; and a copy of Gould Evidence Code, § 966.

Required

Your firm has been hired by Sprint to Life to provide an analysis of the situation.

Your answer should include concepts 1, 4, and 5 from statistics, and concepts 2 and 5 from business law.

Sprint to Life
Corporate Headquarters
1425 Ring Avenue
Motion Town, Gould 914725

October 12, 2008

Mr. Eddie Chan
Director of Risk Management
Sprint to Life
100 Cardio Street
Motion Town, Gould 91425

Re: Automatic External Defibrillators

Dear Mr. Chan:

The Board of Directors for Sprint to Life has directed me to write this letter to you. The purpose of this letter is to request that you research several issues relating to Automatic External Defibrillators (AED's).

As you know, the Board has been struggling with the issue of whether to provide AED's at all of Sprint to Life health facilities. Major questions have been raised as to the costs associated with the purchase of these machines. In order to facilitate further discussion by the Board, it is interested in your analysis of the following issues:

1. Costs associated with the AED – purchase cost, maintenance and testing costs, education and training costs, etc.;
2. The reliability of AED's;
3. Potential liability for coming to another's aid – the Good Samaritan issue;
4. Who will be trained to use the AED and what is the availability of the individual – must there be at least one employee on duty at all times who is trained in the use of the AED;
5. How fast must the response be in order to prevent significant neurological damage or death;
6. Is there an increased risk of liability for using an AED; (Would providing AED's create a higher duty on Sprint to Life part by deciding to make an AED available even though not required by law - is there potentially more liability by having an AED and not being perfect with performance and availability than there is in not having one available at all - since currently there is no requirement to have an AED on the premises is it, therefore, most likely that no liability exists in not having one on the premises;
7. Any other issues you believe must be considered by the Board.

Your timely response to this inquiry is appreciated.

Sincerely,

Robert Bruno

Robert Bruno
Chairman of the Board
Sprint to Life

Department of Risk Management
Eddie Chan, Director
Sprint to Life
100 Cardio Street
Motion Town, Gould 91425

November 1, 2008

Mr. Robert Bruno
Chairperson of the Board
Sprint to Life
1425 Ring Avenue
Motion Town, Gould 91425

Re: Automated External Defibrillators

Dear Chairperson Bruno:

In an effort to assist the Board of Directors in deciding whether or not to provide Automated External Defibrillators at all of its health facilities, an analysis of the numerous questions raised by the Board is hereby provided. I apologize for the length of this letter. However, the issues presented are complex and require, at times, lengthy analysis. The seven questions raised in your earlier letter are specifically addressed below.

Costs associated with the Automated External Defibrillator (AED) – purchase cost, maintenance and testing costs, education and training costs.

AED Cost - Originally, when AED units first became available the cost was approximately \$10,000 per unit. However, today, small, lightweight units cost less than \$2,500. The units range in cost from between \$1,000 to \$3,000 per unit. The average cost of an AED unit is approximately \$2,000.

Maintenance/Testing Costs - AEDs are complicated electronic devices and require regular maintenance and testing. AEDs are powered by batteries that have an approximate life span of two to five years depending on the type and capacity of the battery and patterns of usage of the AED. Batteries range in price with an average cost of approximately \$150 per battery. In light of the concerns about AED reliability, it is recommended that each AED unit have a spare battery backup. AED's also require the use of disposable pads that deliver the electric shock to the victim. Generally, disposable pads have a shelf life of approximately 18 months. Each AED unit also requires at least one additional backup set of pads. The pads must be replaced by the expiration date whether or not used. The cost of a single set of disposable pads is, on average, approximately \$65.

Some AED units can perform self-testing functions. Each AED has a maintenance and testing schedule recommended by its manufacturer. It is important that the Board understands that AEDs cannot just be purchased and hung on a wall and be forgotten until the need for the AED's use arises. The cost of routine testing of an AED unit would be negligible and can be included in an employee's daily responsibilities.

Education and Training Costs - Training classes are available from various organizations. Courses generally include cardiopulmonary resuscitation (CPR) and AED training. Courses differ in length from four to six hours. The cost of a training course ranges from \$40 to \$60 per participant. The American Heart Association recommends that those trained in the use of AEDs

receive a refresher course every 6 months and complete retraining every two years. Currently all employees are CPR certified and are retrained every two years. The additional cost of including initial AED training along with CPR certification is approximately \$5 per employee. The cost of a refresher course every six months for every employee would be approximately \$15 per employee. These costs, although approximate, are believed to be reliable estimates.

The reliability of AED's.

It is clear that AED's are of proven clinical benefit when used to defibrillate individuals experiencing sudden cardiac arrest. AED's are electronic devices and as such component failures do occur. It is estimated that in the last three years more than 100,000 AED's have been recalled. In 2006, more than 30,000 AED's were recalled. A complete list detailing the reason for the recalls is available. In addition, data is available relating to the number of AED's subject to FDA recalls; annual AED advisory notices issued by the FDA; the number of AED malfunctions reported to the FDA; and a detailed listing of the specific AED models that have been the subject of recalls and the purpose for the recalls. If the Board desires a thorough analysis of the available data, it is recommended that the Board contact statistical consulting firms.

Although AEDs have a distressing failure rate, the medical community stresses that the number of lives that are saved by having AED's readily available clearly outweighs the risks associated with the number of observed malfunctions.

Potential liability for coming to another's aid – the Good Samaritan issue.

The Good Samaritan statute is a statute that exempts from liability a person who voluntarily renders aid to an injured person but who negligently causes injury while rendering the aid. The Gould state legislature is currently considering adopting a statute that specifically exempts owners of health studios and their boards of directors, managers and employees from civil damages resulting from any act or omission in rendering emergency care using or attempting to use an AED. It is important to note, however, that one is not exempt from liability for civil damages when the actions of the one rendering aid are deemed to be grossly negligent or willful or wanton misconduct.

Who will be trained to use the AED and what is the availability of the individual – must there be at least one employee on duty at all times who is trained in the use of the AED.

The American Heart Association notes that Emergency Medical Response is more effective if multiple certified personnel are present during an incident. Ambulances and paramedics can have variable response times. Conducting CPR as part of the initial response is very rigorous and can cause significant fatigue with just one rescuer. In addition, should there be a need to use an AED at least two certified personnel should be available to render aid, one individual administering CPA and the other individual operating the AED.

How fast must the response be in order to prevent significant neurological damage or death?

According to the American Heart Association, defibrillation within the first minute of sudden cardiac arrest can save the lives of up to 90% of its victims. The sooner the shock is delivered, the better. With each minute of delay until defibrillation, the survival rate drops by 10%. If a sudden cardiac arrest victim is not defibrillated within 10 minutes, his or her chance of survival is less than 2%.

Is there an increased risk of liability for using an AED? (Would providing AED's create a higher duty on Sprint to Life part by deciding to make an AED available even though not required by law - is there potentially more liability by having an AED and not being perfect with performance and availability than there is in not having one available at all - since currently there is no requirement to have an AED on the premises is it, therefore, most likely that no liability exists in not having one on the premises?)

In deciding whether to implement or not to implement a program that affects our members, it is certainly appropriate for the Board of Directors to consider and evaluate the relative risks and benefits that flow from the decision. Presently, there are no known court cases where judgments have been rendered against the user of an AED based upon negligent or improper use of the AED. The few cases that have been filed based upon liability for the negligent operation of AED's have apparently been difficult to win because it was not easy to establish that the operator caused harm to the victim in attempting to resuscitate the victim who, absent the use of the AED, was dead or close to death when the AED was used.

However, the lifesaving benefits of AED's, the cost of the units and program implementation and the lack of treatment alternatives provide strong arguments for concluding that a duty may be owed to members, guests, etc. who may suffer sudden cardiac arrest while present at one of our facilities. It may very well be that the failure to purchase and or use AED's might subject the Corporation to an increased risk of liability in this rapidly evolving area.

For further clarification of the issues relating to legal liability and the decision to provide or not provide AED's at the Corporation's health facilities, it is recommended that the Board contact Ms. Elle Woods, in-house counsel.

Other issues.

There are several other issues that the Board may wish to consider. The decision to purchase AED's must also consider that a comprehensive policy must be developed to deal with all aspects of AED's including an annual review of records of inspection, testing and maintenance; dissemination to employees of information about the AED policy; location and storage of AED's; review of requests for the purchase of AED's, replacement batteries, pads and other supplies; etc. The Board should also consider the probability that a member will suffer sudden cardiac death in light of the population age group of our members. Employee receptivity to AED training must also be considered. Lastly, the Board must consider the extent of exposure to liability on the part of the Corporation if AED's are not provided in each of its facilities.

The information provided herein is based upon extensive research of available materials that deal with AED's. The sources of the information will be gladly furnished to the Board upon request.

Sincerely,

Eddie Chan

Eddie Chan
Director of Risk Management

Sprint to Life

Mission Statement

The Mission of Sprint to Life and Health Spa is to promote the health, well-being and fitness skills of its members by providing the best and most up to date fitness equipment and fitness knowledge for strength training, cardiovascular training, and health and nutrition programs. Through a passionate and first-class Team, we strive to inspire our members to achieve their greatest individual potential.

Core Values

PROVIDING THE HIGHEST QUALITY FITNESS EQUIPMENT AND PROGRAMS

Passion for Fitness

We appreciate the health benefits that derive from being physically fit. We strive to improve each of our members' quality of life.

Standards of Quality

We have high standards and our goal is to provide the highest quality of fitness equipment and programs we possibly can.

SATISFYING AND DELIGHTING OUR MEMBERS

Our Members

Our members are our most important stakeholders. They are the lifeblood of our business. We can satisfy the ends of our other stakeholders only by satisfying our members first.

Extraordinary Member Service

We go the extra mile to satisfy and delight our members. We strive to meet or exceed their expectations on every visit to our facilities. We are aware that by doing so, our members will become advocates for programs. Advocates do more than just use our facilities, they talk about Sprint to Life to their friends and others. We want to serve our members completely, effectively, warmly, and with a smile.

Education

We can generate greater appreciation and loyalty from our members by providing educational programs on fitness and related issues including health, nutrition and the environment.

Meaningful Value

We offer value to our members by providing them with the highest quality of fitness equipment and health programs, caring service at competitive fees. We constantly strive to improve the value of our business to our members.

Inviting and Safe Environment

We create a fitness environment that is inviting fun and safe. We want our gym's to become meeting places where our members meet their friends and make new ones. We want our members to feel and be safe during every visit.

Sprint to Life Corporate Vision

Our corporate vision is:

1. To develop a professional fitness Team. Each member of the Team will be well educated in health and fitness programs and issues; loyal to the team and our gym members; and oriented to achieve personal and gym members' success.
2. To provide a health and fitness service and message to our members and the community. We will strive to provide up-to-date programs based upon the latest research in the industry; pro-active services for our members; and a message of good health and fitness to the community through a professional marketing, advertising and branding strategy.
3. To be a recognized leader in the fitness industry. Based upon sound medical information and technology, we will strive to be at the forefront in promoting health and fitness for our entire community.
4. To provide opportunities for all Team members to further individual career goals. The promotion of internal growth and development of increased responsibilities for the purpose of promoting individual Team members is desirable.
5. To provide a safe environment for Team and gym members. All Team members will be trained in the proper use of all fitness equipment. In addition, all Team members will be trained to provide assistance in the event of any medical emergency.