

KANE KESSLER, P.C.

**666 Third Avenue
New York, N.Y. 10017
(212)541-6222
Fax (212) 541-9799
Direct dial (212) 519-5154
drothfeld@kanekessler.com**

MEMORANDUM

DATE: December 6, 2016

TO: Hotel Association of New York City, Inc.
Labor Relations Members
General Managers, Human Resources Directors and Controllers

FROM: Kane Kessler, P.C.
Labor and Employment Law Department

RE: Amendment of New York City Fire Safety and Emergency Action Plan Rules

This Memorandum serves to advise you of changes to the New York City Fire Department rules regarding Fire Safety/Emergency Action Plan (“EAP”) Directors and Fire Safety Directors.

New York City law requires certain establishments to have individuals on property at all times who are qualified to serve as Fire Safety/EAP Directors or Fire Safety Directors. These establishments include office buildings, hotels, and other buildings that have voluntarily installed fire alarm systems with two-way voice communication¹. Such establishments are also required to provide at least one (1) Fire Safety Director or, in their absence, a Deputy Fire Safety Director, at all times during regular business hours. For Hotels, this means that a Fire Safety Director or Deputy Fire Safety Director must be on property twenty-four (24) hours per day.

Effective December 1, 2016, New York City shall begin transitioning from the current system of maintaining separate certificates of fitness for Fire Safety/EAP Directors and Fire Safety Directors to instead requiring one certificate of fitness for all covered occupancies; Fire Life Safety Directors (FLS). Beginning March 1, 2020, all businesses that are currently required to be staffed by a Fire Safety/EAP Director or Fire Safety Director are required to be staffed by a person holding a FLS Director certificate of fitness.

¹ Specifically, class B office buildings and class R-1 hotels require a certified fire safety director, and class E office buildings require an emergency action plan.

Transition Rules for those who already hold a Certificate of Fitness

Individuals who currently hold a Fire Safety/EAP Director certificate of fitness and who have been trained in non-fire emergencies must complete an active shooter and medical emergency training course from an accredited training school by the earlier of September 4, 2017 or the date of expiration of the Fire Safety/EAP Director certificate in order to maintain their new FLS certificate.

Individuals who currently hold a Fire Safety Director certificate of fitness and who have not been trained in non-fire emergencies must complete an active shooter and medical emergency training course from an accredited training school by the earlier of September 4, 2017, or the date of expiration of the Fire Safety Director certificate. Fire Safety Directors must thereafter also complete a full course in non-fire emergencies by the earlier of September 3, 2018, or the date of expiration of the Fire Safety Director certificate². Upon completion of the full course, Fire Safety Directors must apply for the new FLS Director certificate of fitness and complete the necessary written examination by the earlier of March 1, 2020, or the date of expiration of the Fire Safety Director certificate.

Fire Safety/EAP Directors and Fire Safety Directors who do not satisfy these requirements will have their certificate of fitness suspended.

Rules for New Applicants

First-time certificate of fitness applicants must comply with the new FLS certificate requirements, including attending and successfully completing an accredited course that includes fire safety and non-fire emergency training, and passing written and practical Fire Department examinations.

In order for a new applicant to be qualified for the purpose of obtaining a FLS certificate, the applicant must have either a) three (3) years of qualifying experience, or b) eighteen (18) months of qualifying experience that includes six (6) months of continuous employment at one work location in one or more of the following fields (in any combination thereof):

- firefighting or other public safety emergency response employment;
- any fire safety-related employment, including code enforcement, fire safety inspection, fire prevention or emergency preparedness;
- the design, installation, operation or maintenance of building fire protection, electrical, plumbing, heating, ventilation, or air conditioning systems, or other building system regulated by the construction codes; or
- equivalent experience acceptable to the Department;

² Fire Safety Directors may also take the full course, which includes training in active shooter and emergency medical situations, by September 4, 2017, rather than take two separate courses.

Costs

The new rules establish an original application fee of \$25, test fee of \$25, and a practical (on-site) examination fee of \$750 for the new FLS Director certificate of fitness. These amounts reflect the consolidation of the existing fees for Fire Safety Director and EAP Director certificates of fitness. The renewal fee of \$5 remains unchanged.

The rules also establish an original application fee of \$2,940 (and a renewal fee of \$420) for an application for accreditation of the new active shooter and medical emergency course.

Registration of Work Locations

FLS Directors must be registered in each location at which s/he will be performing FLS duties. No FLS Director may be registered in more than two (2) locations without approval from FDNY.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Lois M. Traub, Alexander Soric, Jennifer Schmalz, Jaclyn Ruocco, Michael C. Lydakakis or Robert L. Sacks.

cc: Joseph E. Spinnato, Esq.
Vijay Dandapani, Chairman

*This memo is provided for informational purposes only.
It is not intended as legal advice and readers should consult counsel to discuss how these matters relate to their individual circumstances*