
BOND INFORMATION MEMO

Labor and Employment Law

September 2013

New York Bans Smoking on Hospital and Residential Health Care Facility Grounds (and Slightly Beyond)

Beginning on October 29, 2013, an amendment to New York State's smoking law prohibits smoking anywhere on the grounds of a general hospital or residential health care facility. The amendment also prohibits smoking in areas within 15 feet of any building entrance or exit, and within 15 feet of any entrance to or exit from the grounds of a general hospital or residential health care facility. Although there is a narrow exception for patients of residential health care facilities and their visitors or guests, there is no exception for employees of general hospitals or residential health care facilities. Therefore, general hospitals and residential health care facilities should take immediate steps to notify their employees of the new smoking restrictions and ensure that their employees comply with those restrictions effective October 29, 2013.

The amendment, signed into law by Governor Cuomo on July 31, 2013, modifies New York Public Health Law Section 1399-o, Subdivision 2, which governs smoking in outdoor areas. As a result of the amendment, general hospitals and residential health care facilities must prohibit their employees from smoking on their grounds and within 15 feet of all entrances to or exits from their grounds. However, depending on how the law is eventually interpreted, smoking might be permitted in employees' private vehicles parked on the grounds of general hospitals and residential health care facilities due to a "private automobile" exception in a pre-existing, unmodified provision of the smoking law. The Department of Health has not yet issued guidance on this issue, or on the new law generally.

Prior to the amendment, the only outdoor areas subject to the law were certain outdoor areas of schools and railroad stations. The smoking law's restrictions on smoking in indoor areas (including indoor areas of general hospitals and residential health care facilities) are contained in a separate section and are not modified by the amendment.

As noted above, the law contains an exception for patients of residential health care facilities and their visitors or guests. This narrow exception permits these individuals to smoke in a designated smoking area that is at least 30 feet away from any building structure (other than a non-residential structure wholly contained in the designated smoking area). This exception does not apply to patients of general hospitals and their visitors or guests.

To learn more, contact Daniel M. Bernstein at (518) 533-3000 or dbernstein@bsk.com.

CONNECT WITH US ON LINKEDIN: SEARCH FOR BOND, SCHOENECK & KING, PLLC

FOLLOW US ON TWITTER: SEARCH FOR BONDLAWFIRM



Bond publications are for clients and friends of the firm and are not a substitute for professional counseling or advice. For information about our firm, practice areas and attorneys, visit our website, www.bsk.com.
Attorney Advertising • © 2013 Bond, Schoeneck & King, PLLC



Commitment • Service • Value • Our Bond