

**NEW YORK**  
state department of  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

October 8, 2013

DAL: DAL NH 13-06  
SUBJECT: Outdoor Smoking

Dear Administrator:

On July 31, 2013, Governor Andrew M. Cuomo signed Chapter 179 of the Laws of 2013 amending Article 13-E of the Public Health Law (PHL), also known as the New York State Clean Indoor Air Act. Effective October 29, 2013, the legislation adds § 1399-o-(2)(b) to PHL which prohibits smoking outdoors on the grounds of general hospitals and residential health care facilities, including outdoor areas within 15 feet of the buildings' entrances or exits or within 15 feet from the entrances or exits to the grounds. A copy of the Chapter law is attached.

The legislation allows a residential health care facility to designate a separate outdoor area on the grounds (the area within the facility property lines) where smoking is permitted by patients, visitors and guests, provided that the designated area is not within 30 feet of any building structure (other than a non-residential structure wholly contained within the designated smoking area) including any overhang, canopy, awning, entrance, exit, window, intake or exhaust. Employees are not listed in this provision and may not smoke in any designated outdoor area on the grounds where smoking is permitted by patients, visitors and guests. Section 1399-o (1)(n) of the PHL remains unchanged and allows smoking indoors by patients in separate enclosed rooms of residential health care facilities.

Please update your facility's smoking policies to include reference to these outdoor areas and provide notice to your staff concerning these changes. "No Smoking" signs should be placed in the appropriate areas and individuals observed to be smoking in those areas should be asked to comply.

Maintaining a smoke-free environment is particularly important for health care facilities. People suffering from illnesses and chronic diseases are often the most vulnerable to the harmful effects of secondhand smoke. By implementing this law you are helping to reduce illness, disability and death related to tobacco use and secondhand smoke exposure. A similar law was passed in New York City in 2009 with great success. Many other facilities around New York State have already implemented smoke free outdoor policies. We commend those efforts toward improving the health of those who work, visit and/or receive health care in New York.

Thank you for your commitment to creating a healthier environment for your patients, visitors and employees.

Sincerely,

  
Jackie Pappalardi, Director  
Division of Nursing Home and ICF/IID Surveillance  
Center for Health Care Quality and Surveillance

Attachment



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Bill No.: A01115

Summary  Actions  Votes  Memo  Text (Printer friendly text)

**A01115 Summary:**

BILL NO A01115A

SAME AS SAME AS [S01987-A](#)

SPONSOR Jaffee

COSPNSR Ortiz, Stevenson, Dinowitz, Roberts, Galef, Robinson, Crespo, Cahill, Sepulveda, Lifton

MLTSPNSR Boyland, Heastie, Moya, Thiele, Weisenberg

Amd S1399-o, Pub Health L

Prohibits smoking on the grounds of general hospitals and residential health care facilities.

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**A01115 Text:**

STATE OF NEW YORK

1115--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. JAFFEE, ORTIZ, STEVENSON, DINOWITZ, ROBERTS, GALEF, ROBINSON, CRESPO -- Multi-Sponsored by -- M. of A. BOYLAND, HEASTIE, MOYA, THIELE, WEISENBERG -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to prohibiting smoking on hospital grounds and residential health care facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 2 of section 1399-o of the public health law,
- 2 as added by chapter 389 of the laws of 2011, is amended to read as
- 3 follows:
- 4 2. Smoking shall not be permitted and no person shall smoke in the
- 5 following outdoor areas:
- 6 A. ticketing, boarding or platform areas of railroad stations operated
- 7 by the metropolitan transportation authority or its subsidiaries.
- 8 B. ON THE GROUNDS OF GENERAL HOSPITALS AND RESIDENTIAL HEALTH CARE
- 9 FACILITIES AS DEFINED IN ARTICLE TWENTY-EIGHT OF THIS CHAPTER, WITHIN
- 10 FIFTEEN FEET OF A BUILDING ENTRANCE OR EXIT OR WITHIN FIFTEEN FEET OF
- 11 THE ENTRANCE TO OR EXIT FROM THE GROUNDS OF ANY SUCH GENERAL HOSPITAL OR
- 12 RESIDENTIAL HEALTH CARE FACILITY. THIS SUBDIVISION SHALL NOT PROHIBIT
- 13 SMOKING BY A PATIENT OR A VISITOR OR GUEST OF A PATIENT OF A RESIDENTIAL

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14 HEALTH CARE FACILITY IN A SEPARATE AREA ON THE GROUNDS DESIGNATED AS A  
15 SMOKING AREA BY THE RESIDENTIAL HEALTH CARE FACILITY, PROVIDED SUCH  
16 DESIGNATED SMOKING AREA IS NOT WITHIN THIRTY FEET OF ANY BUILDING STRUC-  
17 TURE (OTHER THAN A NON-RESIDENTIAL STRUCTURE WHOLLY CONTAINED WITHIN THE  
18 DESIGNATED SMOKING AREA), INCLUDING ANY OVERHANG, CANOPY, AWNING,  
19 ENTRANCE, EXIT, WINDOW, INTAKE OR EXHAUST.  
20 S 2. This act shall take effect on the ninetieth day after it shall  
21 have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD02673-04-3

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