

Ministry of Health



## **Smoke-Free Ontario Act, 2017**

# How the Act Affects: Hospitals and Hospital Properties

### **The Basics**

The *Smoke-Free Ontario Act, 2017* prohibits the smoking of tobacco, the use of electronic cigarettes (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and recreational) in enclosed workplaces and enclosed public places, as well as other designated places in Ontario, to protect workers and the public from second-hand smoke and vapour.

Smoking refers to the smoking or holding of lighted tobacco or cannabis (medical or recreational).

Vaping refers to inhaling or exhaling vapour from an electronic cigarette or holding an activated electronic cigarette, whether or not the vapour contains nicotine.

### **Public and Private Hospitals and Psychiatric Facilities**

Under the *Smoke-Free Ontario Act, 2017* (SFOA, 2017), public and private hospitals (hospitals) and psychiatric facilities are considered to be enclosed workplaces and enclosed public places, and smoking and vaping is prohibited inside these facilities. For more information, please see the Fact Sheets on Enclosed Public Places and Enclosed Workplaces.

Smoking and vaping is also not permitted on the outdoor grounds and within a nine (9) metre radius surrounding any entrance or exit of a hospital or a psychiatric facility.

The sale of tobacco and vapour products is prohibited in hospitals and psychiatric facilities.

## Responsibilities of Hospitals as Employers/Proprietors

Proprietors (owners, operators, and / or persons in charge) and employers of staff in hospitals and psychiatric facilities must make sure that smoking and vaping laws are complied with. They must:

- Give notice to staff, patients and visitors that smoking and vaping is not allowed in the smoke-free and vape-free areas.
- Post “No Smoking” and “No Vaping”, or a dual “No Smoking and No Vaping” sign at entrances, exits and washrooms of the area, in appropriate locations and in sufficient numbers, to ensure that the public is aware that smoking and vaping is not allowed.
- Ensure that no ashtrays or similar items remain in the smoke-free and vape-free areas.
- Ensure that employees, patients and visitors do not smoke or vape in the
- Ensure that someone who refuses to comply with the smoking and vaping ban does not remain in the smoke-free and vape-free area.

## Use of Tobacco for Traditional Indigenous Cultural or Spiritual Purposes

The proprietor of a hospital or psychiatric facility must, at the request of an Indigenous resident, set aside an indoor area in the facility for the use of tobacco for traditional Indigenous cultural or spiritual purposes.

The restriction on smoking or holding lighted tobacco in the smoke-free areas of a hospital or a psychiatric facility does not apply to tobacco used for traditional Indigenous cultural or spiritual purposes.

## Enforcement

Local public health units will carry out inspections and respond to complaints regarding the sale of tobacco and vapour products, and smoking and vaping in hospitals and psychiatric facilities. Local public health units will also respond to

complaints regarding smoking or vaping on the outdoor smoke-free and vape-free areas of a hospital and psychiatric facility.

## Penalties

### **Failing to comply with prohibition on smoking or vaping**

An individual found to be smoking or vaping in the smoke-free and vape-free area (indoor or outdoor) of a hospital or psychiatric facility may be charged with an offence, and if convicted, could face a maximum fine of \$1,000 (for a first offence) or \$5,000 (for any further offence).

A proprietor or employer of a hospital or psychiatric facility that fails to fulfill their responsibility under the law may be charged with an offence, and if convicted, could face a maximum fine:

#### Signage responsibilities

- For individuals: \$2,000 (for a first offence); \$5,000 (for a second offence); \$10,000 (for a third offence); \$50,000 (four or more offences).
- For corporations: \$5,000 (for a first offence); \$10,000 (for a second offence); \$25,000 (for a third offence); \$75,000 (four or more offences).

#### Other responsibilities

- For individuals: \$1,000 (for a first offence); \$5,000 (two or more offences).
- For corporations: \$100,000 (for a first offence); \$300,000 (two or more offences).

### **Failing to comply with prohibition on selling tobacco or vapour products**

Any individual convicted of selling tobacco or vapour products in a hospital or psychiatric facility could face a maximum fine ranging from \$2,000 to \$50,000, depending on the individual's number of prior convictions.

Any corporation convicted of selling tobacco in a hospital or psychiatric facility could face a maximum fine ranging from \$5,000 to \$75,000, depending on the corporation's number of prior convictions.

### **Failing to accommodate right of Indigenous residents**

Any operator of a hospital that fails to meet an Indigenous resident's request for an indoor area to use tobacco for traditional Indigenous cultural or spiritual purposes may be charged with an offence, and if convicted, could face a maximum fine of \$4,000 (in the case of an individual) or \$10,000 (in the case of a corporation).

This fact sheet is intended as a quick reference only and should not be considered to be legal advice. For more information, please contact your local Public Health Unit.

You may also obtain information by calling toll-free:

- **INFOline** 1-866-532-3161
- **TTY** 1-800-387-5559

Hours of operation: Monday to Friday, 8:30 a.m. - 5:00 p.m. (Eastern Standard Time)

For specific information on smoking and vaping laws in hospitals, contact your local Public Health Unit. To find the public health unit serving your region, please visit their website at:

<http://www.health.gov.on.ca/en/common/system/services/phu/locations.aspx>.

For more information on the *Smoke-Free Ontario Act, 2017*, please visit the Ontario Ministry of Health website: [ontario.ca/smokefree](http://ontario.ca/smokefree).