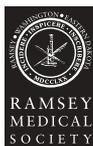


# Minnesota's New Conceal-Carry Act:

What Every  
Medical Facility  
Needs to Know  
by May 28, 2003



## **Introduction**

On April 28, 2003, Governor Tim Pawlenty signed into law the Minnesota Citizens' Personal Protection Act of 2003 ("Act" or the "Conceal-Carry Act"). The Act, which goes into effect on May 28, 2003, permits individuals to conceal and carry firearms so long as they obtain a permit to carry from an appropriate county sheriff. An individual typically will be granted a permit if he/she is trained in firearm safety; is 21 years of age or older and a citizen (or permanent resident) of the United States; completes a conceal and carry application; is not prohibited from carrying a concealed gun; and is not on the criminal gang investigative data system.

The Conceal-Carry Act affects all private businesses, including clinics, hospitals, and other health care facilities (collectively, "medical facilities") across Minnesota. Indeed, absent affirmative steps by each medical facility to prohibit persons, including employees, from possessing or concealing firearms on the facility's premises, individuals who obtain a permit will have the unrestricted right to possess and conceal firearms on that facility's premises beginning on May 28, 2003.

This article provides a general overview of the requirements of the new Conceal-Carry Act and addresses how public and private medical facilities may restrict the possession and concealment of firearms on their

premises by their employees and other individuals. In addition, it summarizes the sanctions/penalties applicable to individuals who violate firearm policies.

## **Public vs. Private Medical Facilities**

### **Private Medical Facilities**

The Conceal-Carry Act permits "private establishments" to prohibit persons from bringing firearms into an establishment's building. A "private establishment" is essentially any building that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose. A private establishment would, therefore, include private medical facilities such as for-profit and private nonprofit clinics and hospitals that own their facilities or lease their facilities from a public or non-public entity.

The Act allows private medical facilities, acting in their capacity as employer, to implement a policy prohibiting their employees from possessing and concealing firearms while "acting in the course and scope of employment." This means that a private medical facility may prohibit the carrying and concealment of firearms by its employees both on its premises and away from the premises so long as the employees are performing employment-related functions. However, the Act expressly prohibits a private establishment from restricting an employee's ability to possess or conceal a firearm in a "parking

facility or parking area.” Thus, employees may possess and conceal firearms in their cars when they are on their employer’s parking property. The Act allows employers to impose “employment related civil sanctions . . . for a violation” of the employer’s firearms policy.

If a private medical facility wishes to prohibit other persons, such as vendors, patients, and visitors, as well as employees, from bringing firearms into its building, the facility must post a sign within four feet laterally of each entrance of its building with the following language: “[Insert Name] BANS GUNS IN THESE PREMISES.” The bottom of the sign must be four to six feet from the floor. The lettering must be in black arial typeface that is at least one-and-one-half inches in height. The background of the sign must be bright contrast with the typeface, and must also be 187 square inches in area.

If an individual disregards the sign and enters the facility with a concealed firearm, the facility must personally inform the individual of the facility’s gun ban and demand that the individual comply with the policy. If the individual does not comply after these steps are taken, the individual will be guilty of a petty misdemeanor trespass violation for remaining on the facility’s premises and would be subject to a \$25 fine.

An argument could be made that private establishments may effectively restrict employees from carrying guns

into the workplace by enacting a policy in lieu of the posting described above. However, to ensure that the prohibition applies to non-employees entering the premises as well, the safer course is to post a notice and enact a policy prohibiting employees from carrying weapons in the course and scope of their employment.

### **Public Medical Facilities**

The Conceal-Carry Act does not appear to afford public establishments the same ability to prohibit the possession and concealment of firearms on their premises as it does private establishments. The Act also does not provide a special prohibition of firearms and weapons for medical facilities as it does for schools, for example. Accordingly, unlike a private medical facility, a public medical facility may only prohibit its employees from possessing or concealing firearms on its premises or in the scope of employment by enacting a policy. The Act does not allow a public entity to prohibit individuals who are not employees and who properly possess a permit to carry, possess, or conceal a firearm on the public entity’s premises.

If a public medical facility wishes to ban the carrying and concealment of firearms on its property, it should first determine whether it is a private establishment for purposes of the statute. For example, a for-profit or a private nonprofit clinic that leases property from a government entity most likely still qualifies as a private

medical facility, despite the fact that the lease arrangement may suggest otherwise. According to floor debate comments by Senator Pariseau, chief author of the Act, a private business that leases a facility from a public entity, such as a public stadium, can demand a posting of a gun-ban sign for its event. A private clinic that leases a building from a public entity could, therefore, preclude employees and outside individuals from carrying firearms on the facility's premises. A public medical facility, on the other hand, may only prohibit its employees from possessing and concealing firearms, not outside individuals, including patients.

### **Sample Employment Policy**

[INSERT NAME] strictly prohibits the possession or concealment of firearms by its employees on [INSERT NAME]'s premises and elsewhere while the employee is acting within the course and scope of employment. Any employee or other person who possesses or conceals a firearm on [INSERT NAME]'s premises shall be asked to leave the premises. Refusal to comply with [INSERT NAME]'s request to leave could result in criminal sanctions, including a petty misdemeanor trespass charge. Additionally, a [INSERT NAME] employee who violates this policy shall be subject to disciplinary action up to and including termination.

### **Conclusion**

If a medical facility wishes to prevent or at least limit the extent to which individuals can carry firearms onto the premises, both private and public medical facilities should enact a policy prohibiting their employees from carrying firearms both on the premises or anywhere if they are acting within the scope of their job. In addition, private medical facilities should post signs as described above to restrict facility vendors, patients, and visitors from entering the premises with a concealed firearm.

*Disclaimer: This information is provided as a general educational resource and is not intended and should not be construed as legal advice specific to any situation.*

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