

## **Employers Must Keep Prevention Plans in Place for Another Month, But May Make Masks Optional in the Office**

Governor Hochul has extended the designation of COVID-19 as an airborne infectious disease through March 17, 2022. This means that employers' prevention plans under the HERO Act will remain in effect for at least another month. Based on the New York State Department of Labor's revisions to the model prevention plan, and the end of the Governor's mask or vaccine mandate, employers may want to consider revising their prevention plans.

As of Thursday, February 10, the Governor lifted the statewide indoor business mask-or-vaccine requirement. Masks must still be worn in some locations (e.g. schools and nursing homes), but the mask protocols became optional for businesses.

Following the Governor's lifting of the "mask-or-vaccine" requirement, the New York State Department of Labor revised the language in the model prevention plan which pertains to masks.

The updated language in the model prevention plan now makes mask-wearing in offices optional. The model states that: "Ic|onsistent with the guidance from the State Department of Health, if indoor areas do not have a mask or vaccine requirement as a condition of entry, appropriate face coverings are *recommended*, but not required." (Emphasis added.) The model also states that it is "recommended that face coverings be worn by unvaccinated individuals, including those with medical exemptions, in accordance with federal CDC guidance." The language reflects that "New York State and the State Department of Health continue to strongly recommend face coverings in all public indoor settings as an added layer of protection, even when not required."

Employers who had adopted the language in the earlier model, which stated that employees "will" wear face coverings, can either choose to revise their prevention plans to make masks optional or keep the more stringent requirements.

## For questions relating to this client alert, please contact:

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On behalf of employers, Randi's counseling experience includes advising a broad range of clients concerning all aspects of the employment relationship to avoid litigation. She advises employers about hiring and termination of employment, policies, and practices, employee misconduct, restrictive covenants, leaves of absence, and compliance with federal, New York state, and New York City laws governing employment. Randi also regularly drafts, reviews, and negotiates employment and executive compensation agreements, restrictive covenants, and separation agreements



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