



PHILLIPS LYTLE LLP CLIENT ALERT FOR BNHRA MEMBERS LABOR & EMPLOYMENT



FEBRUARY 2022

New York State Employers Freed From Mask Mandate

On February 10, 2022, New York State Governor Kathy Hochul lifted the statewide indoor mask-or-vaccine mandate that had been in effect since December 13, 2021. This mandate required that all persons entering a business's premises wear a mask, unless all persons were vaccinated against COVID-19. As a result of this new action, most businesses no longer have to ensure that all of their employees and patrons are masked to enter their premises if any are unvaccinated. However, masks must continue to be worn in hospitals, nursing homes, adult care facilities, correctional and detention facilities, homeless and domestic violence shelters, schools and on public transportation. In making her announcement, the Governor noted that counties, cities and businesses will be able to opt into the mask-or-vaccine requirement if they so choose.

In addition to the Governor's mandate, New York State businesses were required to enforce a mask requirement under the New York Health and Essential Rights Act (NY HERO Act). On February 10, 2022, the New York State Department of Labor (DOL) revised its [NY HERO Act Model Airborne Infectious Disease Exposure Prevention Plan \(Model Plan\)](#)¹ to make masks optional, thereby aligning it with the lifting of the Governor's mandate by adding the following statement:

Effective February 10, 2022: Employees will wear appropriate face coverings in accordance with guidance from State Department of Health or the Centers for Disease Control and Prevention, as applicable. **Consistent 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.** It is also recommended that face coverings be worn by

unvaccinated individuals, including those with medical exemptions, in accordance with federal CDC guidance. Further, the State's masking requirements continue to be in effect for pre-K to grade 12 schools, public transit, homeless shelters, domestic violence shelters, correctional facilities, nursing homes, health care, child care, group homes, and other sensitive settings in accordance with CDC guidelines. 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.

(emphasis added)

Although there is no longer a statewide mask mandate in effect, employers should review and comply with any local COVID-19 requirements.

Additional Assistance

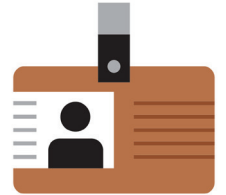
For further assistance, please contact any of the attorneys on our [Labor & Employment Practice Team](#) or the [Phillips Lytle attorney with whom you have a relationship](#). ■

¹ https://dol.ny.gov/system/files/documents/2022/02/mock-p765_ny-hero-act_model-airborne-exposure-prevention-plan_02-10-22_0.pdf



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 **Phillips Lytle LLP**

Albany Omni Plaza 30 South Pearl Street Albany, NY 12207-1537 (518) 472-1224

Buffalo One Canalside 125 Main Street Buffalo, NY 14203-2887 (716) 847-8400

Chautauqua 201 West Third Street Suite 205 Jamestown, NY 14701-4907 (716) 664-3906

Garden City 1205 Franklin Avenue Plaza Suite 390 Garden City, NY 11530-1629 (516) 742-5201

New York City 620 Eighth Ave 38th Floor New York, NY 10018-1442 (212) 759-4888

Rochester 28 East Main Street Suite 1400 Rochester, NY 14614-1935 (585) 238-2000

Washington, DC 1101 Pennsylvania Avenue NW Suite 300 Washington, DC 20004-2514 (202) 617-2700

Canada The Communitech Hub 151 Charles Street West Suite 100 The Tannery Kitchener, Ontario N2G 1H6 Canada (519) 570-4800