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## *New York DOL Issues Updated Model Plan and FAQ under HERO Act*

By [Marc E. Bernstein](#) & [Kaveh Dabashi](#)

On September 23, 2021, the New York Department of Labor issued an updated model airborne infectious disease exposure prevention plan, along with additional FAQs.

Under the updated model plan, if all individuals on the employer's premises are fully vaccinated, masks are *recommended*, but not required. However, if one or more individuals on the employer's premises are *not* fully vaccinated, then the model plan requires that all individuals "will" wear masks "in accordance with guidance from [the] State Department of Health or the Centers for Disease Control and Prevention[.]" Under current CDC guidance, in areas of "substantial or high transmission," *all* individuals—regardless of vaccination status—are advised to wear masks in indoor public spaces.

In short, the updated model plan mandates that all individuals wear masks where the employer's premises is in an area of substantial or high transmission, unless everyone is vaccinated, in which case masks are not required, but are recommended.

Further, the updated FAQs clarify that (a) the employer's HERO Act plan should be distributed to independent contractors, as well as traditional employees, (b) employers should add their HERO Act plans to their employee handbooks, if they have one, and (c) the NYDOL will publish HERO Act regulations in the future (with no date certain).

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*If you have any questions concerning these developing issues, please do not hesitate to contact either of the following Paul Hastings New York lawyers:*

Marc E. Bernstein  
1.212.318.6907  
[marcbernstein@paulhastings.com](mailto:marcbernstein@paulhastings.com)

Kaveh Dabashi  
1.212.318.6658  
[kavehdabashi@paulhastings.com](mailto:kavehdabashi@paulhastings.com)

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