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## New York HERO Act COVID-19 Designation Ends

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On March 17, 2022, the New York Department of Health [announced](#) that the designation of COVID-19 as an airborne infectious disease that presents a serious risk of harm to the public health under the HERO Act has ended. Accordingly, private sector employers subject to the HERO Act are no longer required to implement their HERO Act plans.

However, employers must continue to *maintain* their HERO Act plans, albeit in dormant status, pending any future designation of COVID-19 (or other airborne infectious disease) by the New York Department of Health. Maintaining the plan means that the employer must (1) create a plan (if it has not already done so); (2) provide the plan to employees within 30 days after creating it; (3) provide the plan to new hires; (4) post the plan in each work site in a visible location; and (5) update the plan as needed (e.g., incorporate any amendments to the [Model Plan](#)).

Employers should also be mindful of the HERO Act's document retention requirement, which mandates that "[t]o the extent that communications between the employer and employee regarding a potential risk of exposure are in writing, they shall be maintained by the employer for two years after the conclusion of the designation of a high risk disease from the Commissioner of Health[.]" This two-year document retention obligation now extends to March 18, 2024.

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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 lawyers:*

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