



## PHILLIPS LYTLE LLP CLIENT ALERT

### LABOR & EMPLOYMENT

OCTOBER 2021



## *NY HERO Act Update: New York State Updates Model Prevention Plan Regarding Face Coverings and Physical Distancing*

The New York State Department of Labor has updated its New York Health and Essential Rights Act (“NY HERO Act”) Model Airborne Infectious Disease Exposure Prevention Plan (“Model Plan”) with new face covering and physical distancing requirements. The Model Plan now has one face covering requirement for workplaces “where all individuals on premises, including but not limited to employees, are fully vaccinated” and another for workplaces where all individuals on premises are not vaccinated. In workplaces where all individuals on premises are vaccinated, face coverings are recommended, but not required. In all other workplaces, employees must “wear appropriate face coverings in accordance with guidance from State Department of Health or the Centers for Disease Control and Prevention, as applicable.” The Model Plan also states that “[w]hen in use, face coverings must cover the nose and mouth, and fit snugly, but comfortably, against the face.” Individuals are considered fully vaccinated two weeks after receiving the second dose of a two-dose vaccine or two weeks after receiving a single-dose vaccine.

The Model Plan’s physical distancing provision also now states that “[p]hysical distancing will be used, to the extent feasible, as advised by guidance from State Department of Health or the Centers for Disease Control and Prevention, as applicable.”

Employers should review their NY HERO Act plans and consider whether to revise them in light of the above changes.

The [Model Plan](#) and the [NY HERO Act Airborne Infectious Disease Exposure Prevention Standard](#) are available at the New York State Department of Labor website.

### **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. ■*



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