

July 21, 2021

NEW YORK STATE HERO ACT MANDATES EMPLOYER ACTION

All New York State employers are required to take certain actions in compliance with the New York Health and Essential Rights (HERO) Act, intended to reduce the risk of infection in the event of a **future** serious airborne respiratory disease outbreak. The New York State Department of Labor has issued standards and model protocols (or plans) for exposure prevention. The model plans are very similar to the recently discontinued COVID-19 guidelines. ***Although the plan must be put in place this summer, the plan will be activated only if and when the New York State Commissioner of Health designates a particular airborne respiratory disease as a serious public health risk. Note that COVID-19 has not been so designated.***

- **By August 5, 2021:** All employers must adopt the model protocol applicable to their industry, or create one that is at least as protective as the model. For most nonprofits, the general model protocol will be applicable: <https://dol.ny.gov/system/files/documents/2021/07/model-airborne-infectious-disease-exposure-prevention-plan-p765.pdf>
 - Employers can adopt the model plan now to meet the deadline, and revise it later if need be.
 - Industry-specific model plans can be found here: [agriculture](#), [construction](#), [delivery services](#), [domestic workers](#), [emergency response](#), [food services](#), [manufacturing and industry](#), [personal services](#), [private education](#), [private transportation](#), and [retail](#).
- **By September 7, 2021:** All employers must provide the plan to employees, broadly defined to include all full time, part time, temporary, and seasonal employees and independent contractors.
- **By November 1, 2021:** Employers with at least 10 employees must permit employees to form a workplace safety committee to address safety concerns and policies, not limited to airborne infectious disease. The Department of Labor will be issuing guidelines about the formation of these committees.
- **No employer may retaliate against an employee for invoking their rights or making a complaint under this act.**

Lawyers Alliance is grateful to the Seyfarth Shaw LLP law firm for allowing us to link to their [legal alert](#), which contains more detailed information about the new law, to our clients and friends.

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Judith Moldover at jmoldover@lawyersalliance.org or visit our website at www.lawyersalliance.org for further information. To become a client, visit www.lawyersalliance.org/becoming-a-client.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.