ACTIVATE YOUR NEW YORK STATE HERO ACT MANDATED SAFETY PLAN NOW!

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 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 each employer’s plan was to be put in place in August, the plan was to 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. On September 6, Governor Kathy Hochul announced that COVID-19 has been designated as a serious public health risk. This triggers the need for all employers to implement their plan, including distributing the plan to all employees, holding training sessions, and posting the plan in a conspicuous place or online if operating virtually. Although the Governor gave no further details, it is recommended that employers implement their plans immediately.

- **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.

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