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New York ends HERO Act designation of COVID-19

New York's Health and Essential Rights (HERO) Act required private employers to adopt workplace exposure prevention plans to curb the workplace spread of COVID-19 and other airborne infectious diseases. Activation of those plans was required by the New York State Health Commissioner's designation of COVID-19 as a serious public health risk. The designation expired on March 17, ending employer obligations to activate their HERO Act exposure prevention plans.

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Background

Last year, New York enacted the Health and Essential Rights (HERO) Act imposing new workplace health and safety obligations on private employers. Among other things, the HERO Act required New York employers to adopt a prevention plan to curb the workplace spread of COVID-19 and other airborne infectious diseases. However, it did not require plans to be activated unless and until an airborne infectious disease was officially designated as a serious public health risk. (See our [May 18, 2021 FYI](#).)

On September 6, 2021, the New York State Health Commissioner designated COVID-19 as a "highly contagious communicable disease that presents a serious risk of harm to the public health," requiring employers to activate their HERO Act exposure prevention plans until September 30, 2021. Through a series of extensions, the Health Commissioner continued the designation and corresponding activation requirement until March 17, 2022. (See, for example, our [January 19, 2022 FYI](#).)

Designation of COVID-19 as a serious public health risk expires

On March 18, the Health Commissioner [confirmed](#) that the HERO Act designation of COVID-19 as an airborne infectious disease that presents a serious risk of harm to the public health ended on March 17. Thus, private employers are no longer required to implement their COVID-related

workforce safety plans or to take actions such as daily health screenings. However, most New York City employers are still subject to the local vaccine requirement for their employees.

While the HERO Act designation of an airborne infectious disease is no longer in effect, New York employers have continuing obligations under the Act. They must still maintain a HERO Act workplace exposure plan, satisfy employee notice and workplace posting obligations, and update the plan as needed. Employers with 10 or more employees must also permit employees to establish and administer a joint labor-management workplace safety committee.

In closing

The HERO Act designation of COVID-19 has expired, ending employer obligations to activate their COVID-related workplace exposure prevention plans. However, employers should confirm that they have taken steps to ensure compliance with ongoing obligations under other provisions of the Act.

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