



New York State  
Psychiatric Association

# THE E-BULLETIN

NEW YORK STATE PSYCHIATRIC ASSOCIATION

Bringing New York State Psychiatrists Together



July 30, 2021

## **NEW COVID-19 SAFETY REQUIREMENTS FOR EMPLOYERS**

### **I. New York State HERO Act**

On May 5, 2021, Governor Cuomo signed into law the New York Health and Essential Rights (HERO) Act. The HERO Act mandates new workplace health and safety protections in response to the COVID-19 pandemic that are intended to protect employees against exposure and disease during a future outbreak of an airborne infectious disease.

In compliance with the statute, the New York State Department of Labor (DOL) and Department of Health (DOH) have developed an Airborne Infectious Disease Exposure Prevention Standard and a Model Airborne Infectious Disease Exposure Prevention Plan. A Prevention Plan must be adopted by all employers in New York State **no later than August 5, 2021**.

The HERO Act defines the term employer as “any person, entity, business, corporation, partnership, limited liability company, or association employing, hiring or paying for the labor of any individual in any occupation, industry, trade, business or service.” Further, the Act defines employee as “any person providing labor or services for remuneration for a private entity or business within the state, without regard to an individual’s immigration status, and shall include part-time workers, independent contractors, domestic workers, home care and personal care workers, day laborers, farmworkers and other temporary and seasonal workers.”

Therefore, this new requirement will apply to any psychiatric practice that pays *any* individual who performs duties and services in your workplace on a regular basis (e.g., clerical, administrative or reception services), regardless of whether that individual receives a W-2 or a 1099 from your practice.

Adopted Prevention Plans will not actually *take effect* until “an airborne infectious disease is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health.” According to the DOL website: “Currently, while employers must

adopt plans as required by the law, as of the date of this writing no designation has been made and plans are not required to be in effect.”

To assist employers, the state has developed a model Prevention Plan which may be downloaded from the DOL website, personalized and printed (<https://dol.ny.gov/ny-hero-act>). Spanish language versions will also be made available shortly. Once printed, a copy of the Prevention Plan must be maintained in your permanent files and posted in a visible and prominent location within the worksite. Finally, a copy of the Prevention Plan must be provided to all individuals who work for your practice no later than September 4, 2021 (30 days from the August 5 compliance date).

### Directions for Completing the Prevention Plan

Section I: Insert name of practice, practice location(s) and name and contact information for all supervisory employees (e.g., psychiatrist)

Section II:

- Subsection A, Item 5: Check off exposure controls to be utilized and add any additional measures you plan to take, if applicable
- Subsection B, Item 2: List engineering controls that may be used (e.g. enhanced ventilation or air filters)
- Subsection B, Item 3: List administrative controls to be used (e.g. social distancing or avoiding shared workspaces)
- Subsection B, Item 4: List personal protective equipment that may be utilized (e.g. masks, face shields)

Section V. Insert name of psychiatrist

Section VI. Document any updates or revisions made to your plan in the future, where applicable

Additional Resources for NY HERO Act:

#### **DOL Website**

<https://dol.ny.gov/ny-hero-act>

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#### **The Airborne Infectious Disease Exposure Prevention Standard**

<https://dol.ny.gov/system/files/documents/2021/07/p764-the-airborne-infectious-disease-exposure-prevention-standard-v4.pdf>

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#### **Model Airborne Infectious Disease Exposure Prevention Plan**

<https://dol.ny.gov/system/files/documents/2021/07/model-airborne-infectious-disease-exposure-prevention-plan-p765.pdf>

## **II. OSHA COVID-19 Emergency Temporary Standards**

Last month, OSHA issued Emergency Temporary Standards that establish new COVID-19 safety protocols for health care employers in keeping with existing CDC guidelines. The OSHA standards generally apply to health care settings such as hospitals, nursing homes and federally qualified health care

centers. Please note, these standards do not apply to employers furnishing healthcare services on an outpatient basis in a non-hospital setting, if non-employees are screened prior to entry and people with suspected or confirmed cases of COVID-19 are denied entry. The DOL has indicated that if an employer is subject to the OSHA requirements, they do not also need to comply with the requirements of the HERO Act. However, we expect that the majority of private psychiatric practices, which provide outpatient healthcare services in a non-hospital setting, will be exempt from the new OSHA standards and should therefore, plan to comply with the HERO Act by the August 5 deadline.



### New York State Psychiatric Association Veterans Mental Health - Primary Care Training Initiative

The New York State Psychiatric Association is proud to offer this important training opportunity to ensure that returning veterans receive necessary care & treatment in their community to lessen or heal the invisible wounds of war & to further reduce the stigma which often impedes the decision to seek mental health & substance use disorder care and treatment, particularly among members of the military.

To learn more about this important program, please [click here](#).

## Contribute to NYSP-PAC!

The New York State Psychiatric PAC needs your continued support so we are prepared to confront both the expected and unexpected. We sincerely hope you will join us today by making a contribution using the blue button above or by [clicking here!](#)

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#### December 7, 2021

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