

GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION

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21-23

TO: ALL MEMBER FACILITIES

FROM: ROBIN C. ROSEN, ESQ., LABOR COUNSEL

DATE: JULY 16, 2021

RE: UPDATE ON NEW YORK HEALTH AND ESSENTIAL RIGHTS
ACT (HERO ACT)

As a follow-up to Memo 21-19 on the New York Health and Essential Rights Act (HERO Act), please be advised that the Department of Labor (DOL) has issued their Airborne Infectious Disease Exposure Prevention Standard and a Model Airborne Infectious Disease Exposure Prevention Plan. The DOL Standard and Model Plan can be reviewed at <https://dol.ny.gov/ny-hero-act>.

In their Standard, the DOL specifically states that the Standard **does not apply** to “any employee within the coverage of a temporary or permanent standard adopted by the Occupational Safety and Health Administration setting forth applicable standards regarding COVID-19 and/or airborne infectious agents and diseases.” Since your facility is covered by the Emergency Temporary Standard (ETS) issued by OSHA to protect healthcare workers from the coronavirus, the HERO Act requirements do not apply, and your facility does not need to adopt a HERO Act model plan at this time. Your facility should follow the OSHA guidance.

For information on OSHA’s ETS, please see Memo 21-21 from Mary Gracey-White and John Kerney, attached for your convenience.

Thank you.