COVID-19 and Masks: Updated Guidance from OSHA and Massachusetts

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On the heels of the U.S. Centers for Disease Control and Prevention's ("CDC") revised guidance that fully-vaccinated people no longer need to wear masks in many indoor or outdoor settings, the Occupational Safety and Health Administration ("OSHA") announced May 17th that it was reviewing the CDC's guidance and would be updating its own materials accordingly.

Notably, OSHA advised that, until it updates its materials, employers should follow the CDC's guidance for information "on appropriate measures to protect fully-vaccinated workers." In other words, as we predicted, OSHA is telling employers to follow the CDC's mask guidance.

Here in the Commonwealth, Governor Baker announced Monday that the mask mandate will be rescinded on May 29th, and that the Department of Public Health will be issuing a new mask advisory consistent with the CDC's guidance, which can be found here. The new advisory makes clear that fully-vaccinated individuals may resume "all of the activities [people] engaged in prior to the pandemic without wearing a mask or staying 6 feet apart, except where otherwise required by federal, state or local laws, rules or regulations." Masks will still be mandatory for all individuals on public and private transportation systems, healthcare facilities and in other settings hosting vulnerable populations. A complete list of places where masks will remain mandatory (regardless of vaccination status) can be found here. Employers that fall under this umbrella should continue to require employees to wear masks.



Related People

Brian M. Casaceli

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The guidance from the Commonwealth advises non-vaccinated individuals to continue wearing masks indoors and when they cannot socially distance.

In light of the updated guidance, here are a few additional considerations for employers in Massachusetts:

- **Can employers still require vaccinated employees to wear masks**? Yes. Our answer to this question has not changed from our previous client alert.
- **Can an employer require only unvaccinated individuals to wear masks, as of May 29, 2021?** Yes. Per the Commonwealth's guidance, non-vaccinated individuals are advised to continue wearing masks indoors and when they cannot socially distance.
- **Anything else we should consider?** Yes, if you have not already done so, you should review our prior client alert, which answers important questions such as "What if someone misrepresents their vaccination status?" and "How will an employer know if an employee is fully-vaccinated?"

As we previously indicated, the guidance relating to COVID-19 and the workplace changes rapidly, so do not hesitate to reach out to your counsel if you are presented with any unique or complicated situations.

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