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Life Moves Closer to “Normal” for Fully Vaccinated Individuals in Ohio

Many states and localities are now rescinding orders which previously had mandated face coverings/masks (“masks”), social distancing, and limited gatherings. On May 12, Ohio’s Governor initially announced the bulk of Ohio’s COVID-19–related health orders would expire on June 2, 2021. That has changed. On May 17, 2021, the Director of the Ohio Department of Health issued a new Order, which aligns with new (May 13) CDC guidance. The new Order is retroactive to May 14, 2021, and remains in effect until June 2, 2021.

Fully Vaccinated Individuals

Under the new Order, and in conformity with the CDC’s May 13 guidance, most fully vaccinated individuals now will be exempt from many of the COVID-19 protocols in place since last year. Specifically, with certain limited exceptions, fully vaccinated people (defined as 14 days past the final dose required by the brand of vaccine) may safely participate in most indoor and outdoor activities without a mask and without socially distancing. They, however, still must wear masks on all planes, trains, buses, and other forms of public transportation.

Individuals Not Fully Vaccinated

The new Order stresses that unvaccinated individuals “are at a significantly higher risk of getting COVID-19 and suffering its devastating toll.” Therefore, individuals not fully vaccinated are required to continue: (1) wearing a mask while indoors in a non-residence location, waiting for public transportation, or in outside events where social distancing cannot be maintained; (2) maintaining social distance, and (3) avoiding large inside gatherings. Where possible, they should be outside for activities and gatherings.

When Face Masks Requirements Do Not Apply Regardless of Vaccination Status

The new Order lists 15 situations (mentioned in prior Orders) where the face mask requirement does not apply – regardless of vaccination status. For example, one such situation is an individual alone in an enclosed space (e.g., office). If there is no enclosed space, the individual must be separated by at least six feet in all directions from all other individuals. In both cases, the space cannot be intended for use or access by the public.

Other Covered Subjects

The new Order also discusses the following topics: congregating; hygiene protocols; sanitation; large gatherings; exhibitions/competitions for individuals not fully vaccinated; fixed seating; signage; food and beverage establishments; confirmed cases; students; testing/quarantine situations; and religious observations/First Amendment carve-outs.

The prior Order requiring masks (and other protocols) in certain educational settings remains in effect through June 2, 2021. Additionally, the new Order does not apply to jails, prisons, nursing homes, assisted living facilities, or adult day services. Finally, the new Order does not supersede or preempt any order or law of a local jurisdiction that is more restrictive than the new Order.

Next Steps

Due to these rapid changes, employers and businesses should consider updating their policies, protocols, and practices. When doing so, they should address the following topics:

- Updated guidelines for wearing a face mask;
- Exceptions to face mask policy (e.g., working conditions that make wearing a mask unsafe; medical condition; religious objection; etc.);
- Consequences for violating the face mask policy;
- Applicability of local laws and orders related to the wearing of face masks;
- Protocols for gatherings;

- Updated signage requirements; and
- Whether and to what extent proof of vaccination may be required.

Now What?

Confused? You are not alone. Many workplaces are far from being fully vaccinated. The big question for employers is: How do we know who is fully vaccinated and who is not? Employers, at a minimum, should implement a credible and legal way of distinguishing the fully vaccinated from those not fully vaccinated without stigmatizing individuals who cannot be vaccinated for legally protected reasons (e.g., medical condition, religion). Easier said than done.

Employers then should expect to maintain separate COVID-19 protocols for employees and non-employees (e.g., temp workers, vendors, guests) who are not fully vaccinated or who simply refuse to confirm if they are fully vaccinated.

If an employer chooses to relax its mask/social distancing protocols for fully vaccinated employees, then it should emphasize that they can make their own decision whether to continue wearing a mask and maintaining a safe distance. Of course, employers are free to maintain protocols and practices which are stricter than applicable state orders and federal guidelines.

For more information about this new Ohio Order, please contact [Jeff Shoskin](#), [Catherine Burgett](#), or any attorney in Frost Brown Todd's [Labor & Employment](#) practice group.

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