

2024

# BUSINESS IN 2023

WEEKLY WEBINAR SERIES

2022

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2020



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# Introduction



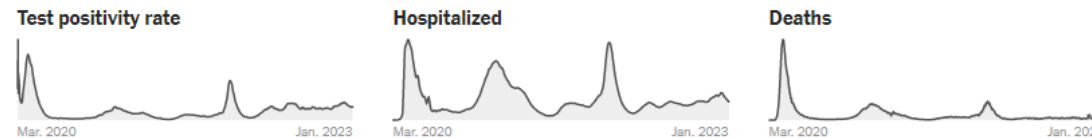
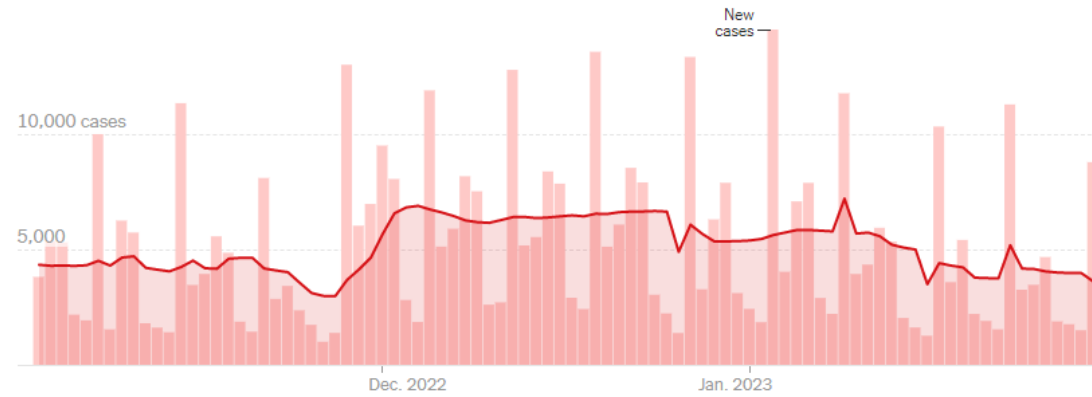
## Adam P. Mastroleo

Member

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Syracuse, NY

# Current COVID Data in New York



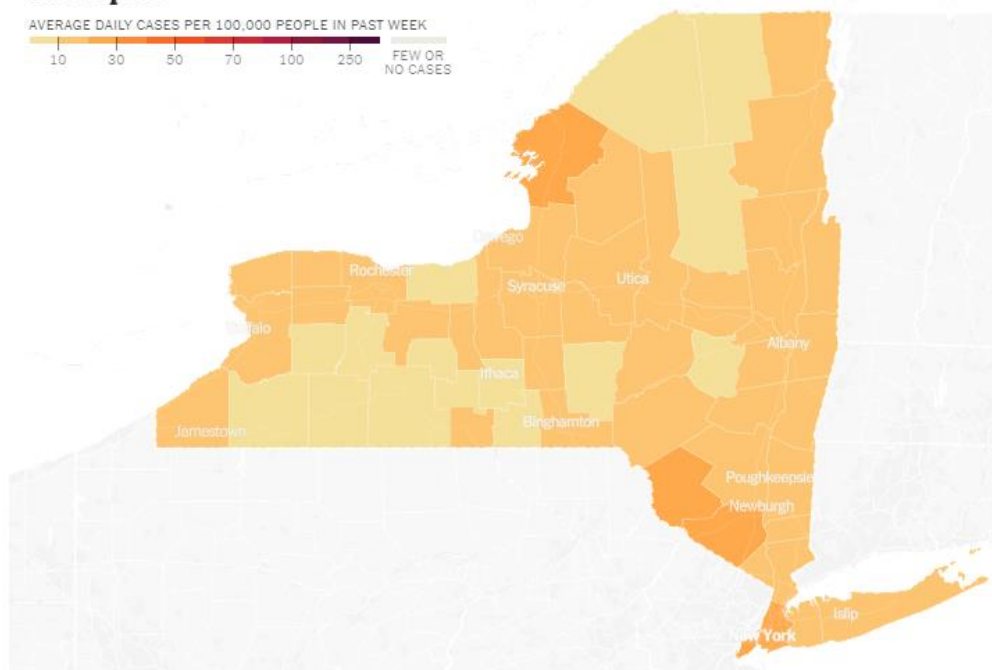
	DAILY AVG. ON JAN. 30	PER 100,000	14-DAY CHANGE
Cases	3,619	19	+3%
Test positivity	10%	—	-10%
Hospitalized	3,113	16	-22%
In I.C.U.s	348	2	-18%
Deaths	26	<1	-16%

# Current COVID Data in New York

## Hot spots

AVERAGE DAILY CASES PER 100,000 PEOPLE IN PAST WEEK

10 30 50 70 100 250 FEW OR NO CASES



	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	3,619	19	+3%	10%	16	-22%	25.9	0.13
Sullivan ›	18	23	-9%	10%	21	-4%	0.1	0.13
New York City ›	1,934	23	-36%	10%	18	-29%	23.7	0.28
Orange ›	88	23	-22%	18%	20	-11%	0.3	0.09
Jefferson ›	25	23	+22%	14%	6	+13%	<0.1	0.07
Oswego ›	23	20	+23%	14%	15	+4%	0.2	0.13
Herkimer ›	12	19	+24%	14%	14	Flat	<0.1	0.09
Rockland ›	61	19	-22%	12%	11	-4%	0.4	0.14
Cortland ›	9	19	+153%	10%	14	-17%	<0.1	0.12
Westchester ›	179	19	-17%	13%	23	-20%	1.1	0.12
Dutchess ›	54	18	-8%	21%	9	-33%	0.3	0.08

# Warehouse Workers Protection Act



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# General Overview

- Signed on December 21, 2022
- Effective 60 days after its signing
- Purpose
- Amendments

# Specific Provisions

- Written descriptions of quotas
- Definition of “covered employer”
- Definition of “quota”
- What counts as a “warehouse distribution center”
  - NAICS Codes

# Employee Protections & Potential Implications

- WWPA requires written description of quotas
- WWPA requires record keeping of quota-related data
- WWPA protects employees against retaliation
- Potential implications



# Other Proposed Changes

- Proposed amendments currently before the Senate
- Changes effective date to 180 days after signing
- Amendments are more employer-friendly
  - Excludes drivers and couriers to/from warehouse distribution centers
  - Expands “covered employer” from 500 to 1000 employees in one or more warehouses
  - Employers have more time to respond to quota-related requests

# Proposed Changes to New York Model Sexual Harassment Prevention Policy



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# New York Proposes Revised Model Sexual Harassment Prevention Policy

- Proposed on January 12, 2023
  - <https://www.ny.gov/sites/default/files/2023-01/SexualHarassmentModelPolicy2022Proposed.pdf>
- Public comment period until February 11, 2023
  - <https://www.ny.gov/sites/default/files/2023-01/SexualHarassmentModelPolicy2022Proposed.pdf>
- Revised policy is 11 pages; current policy is 8 pages

# Revised NYS Model Sexual Harassment Policy

- Renewed and stronger emphasis on gender identity discrimination
- New section on bystander intervention
- Broadened to include discrimination
- Expanded discussion of NY's broader definition of harassment
- Stronger emphasis on supervisory responsibility

# Revised NYS Model Sexual Harassment Policy

- Addition of examples of retaliatory acts
- More detailed harassment examples
- Addresses remote work
- New sexual harassment prevention hotline (1-800-HARASS3)
- Greater emphasis on external reporting options

# Legal Issues Related to the Employment of Out-of-State Telecommuters



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# New York Healthcare Worker Vaccine Mandate Update



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# New York Healthcare Vaccine Mandate

- The “Emergency Regulation”
  - 10 N.Y.C.R.R. 2.61
  - Promulgated August 26, 2021
  - Required covered healthcare entities to “continuously” ensure that their “personnel” are fully vaccinated against COVID-19
  - Provided for limited medical exemptions, but did not provide for religious exemptions
  - Multiple challenges in state and federal courts to the lack of a religious exemption



# New York Healthcare Vaccine Mandate

- The “Emergency Regulation”
  - Second Circuit Court of Appeals resolved these issues in its November 2021 *We the Patriots* decisions
  - Held that healthcare employers could not grant religious exemptions that would permit employees to continue working, unvaccinated, in positions where they could potentially expose patients, residents, or other personnel to the disease

# New York Healthcare Vaccine Mandate

- The Permanent Regulation
  - In June 2022, the DOH Commissioner permanently adopted the Regulation
  - Two decisions, less than one week apart:
    - January 10, 2023 – Albany County Supreme Court
      - Held that the DOH had sufficient authority under the Public Health Law to promulgate the Regulation
    - January 13, 2023 – Onondaga County Supreme Court
      - Held that the DOH did not have sufficient authority under the Public Health Law to promulgate the Regulation
      - Held the Regulation is now invalidated and the DOH was “prohibited from implementing or enforcing” the Regulation

# New York Healthcare Vaccine Mandate

- Status of Litigation
  - Albany County – No Appeal Filed
  - Onondaga County
    - Notice of Appeal Filed on January 24, 2023
    - Motion to the Appellate Division for a Stay pending appeal filed on January 27, 2023
    - Motion currently scheduled to be heard by the Appellate Division on February 6, 2023

# New York Healthcare Vaccine Mandate

- Where are we now?
  - CMS Vaccine Mandate
    - Similar requirement for healthcare employers to ensure vaccination of employees
    - \*\*Medical and Religious exemption requests must be considered
  - NY Healthcare Vaccine Mandate
    - Wait and see what the Appellate Division says

## COVID Update

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## Warehouse Workers Protection Act

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## New York Healthcare Worker Vaccine Mandate Update

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### **New York Employment Law: The Essential Guide**

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

# Thank You

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