


2022  
**BUSINESS IN 2021**  
WEEKLY WEBINAR SERIES  
2020  
2019  
2018


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& KING ATTORNEYS

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## Introduction



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## NYC Mandatory Vaccination Requirements



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## Executive Order 225: Key to New York City



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## NYC (& NYS?) Mandatory Retirement Program(s)



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## Retirement Security for All Act

- **Background (Bill Nos. 888-A and 901-A):**
  - Passed on May 11, 2021
  - Provide retirement savings opportunities to NYC employees without access to plan through their employers
  - 40% of New Yorkers near retirement age have less than \$10,000 saved for retirement.
  - Create mandatory auto-enrollment payroll deduction IRA program for employees of private sector employers without a retirement plan and 5+ employees.
  - The default employee contribution rate would be 5%, which employees can adjust up or down, or opt-out of at any time, up to the annual IRA maximum of \$6,000 (or \$7,000 if age 50 or above).
  - Plans are “portable” and move with employees, so when employees switch jobs they can continue to contribute or roll over their accounts into other retirement savings plans.
  - Employers would not contribute on behalf of employees.
- **Covered Parties:**
  - Employers:
    - Private sector employers with more than 5 employees in NYC;
    - Operating for at least 2 years; and
    - Does **not** offer their own retirement plan to their employees.
  - Employees:
    - 20+ hours per week
    - Ages 21+
    - Regular work duties occur in NYC



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## Retirement Security for All Act

- **Requirements:**
  - Establish IRA and automatically enroll eligible employees at 5%
    - Employees can adjust contribution rate or opt out of the program at any time.
  - Deposit employee contributions to IRAs as soon as possible after payroll withholding
    - Employer (and NYC) contributions are not permitted
    - Maximum Annual Contributions: \$6,000 per year (\$7,000 for employees age 50+)
  - Recordkeeping:
    - Maintain, or require the maintenance of, separate records and accounting for each account
    - Protect confidentiality of employee & account data and information
    - Provide account reports to participants no less than once per year and upon request
  - Notice – employers must inform employees of program
  - Fees – Charged to participant accounts
- **Penalties:** Covered employers will be penalized for:
  - Failure to enroll eligible employees (\$250 for initial violation; \$500 for second violation within 2 years; \$1,000 for subsequent violations within 2 years);
  - Failure to place funds into program (\$250 for initial violation; \$500 for second violation within 2 years; \$1,000 for subsequent violations within two-year period); and
  - Failure to retain records (\$100 fine)
- **Governing Body:** Overseen by Retirement Savings Board (“Board”)
  - Consists of 3 Mayoral appointees;
  - Board has authority to:
    - contract with financial institutions and administrators;
    - create a process for those not employed by a covered employer to participate;
    - conduct education and outreach to employers as well as employees;
    - minimize the fees and costs associated with the administration of the program; and
    - work with the Comptroller to select investment strategies and policies.



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## Retirement Security for All Act

- **Next Steps:** No immediate action required by covered employers
  - Board has up to 2 years from August 9, 2021 (Effective Date) to provide details on this program
- **Impact of Other Laws:**
  - **ERISA** – Not subject to ERISA, and will be automatically discontinued if found to be an employee benefit plan under ERISA
  - **NYS Program** – If a statewide program is created that applies to NYC covered employers and requires employee deferrals, then program will be discontinued.
- **New York State Requirements:** New program en route?
  - NYS has voluntary IRA program for employers without retirement plan
  - Current bill under consideration would make this program mandatory
    - 3% automatic enrollment
    - Employers with 10+ employees
    - Employers barred from terminating current plans to go to NYS proposed plan
  - Passed by NYS Assembly, Approved by NYS Senate, to go to Governor



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## Update from Albany



**Caitlin A. Anderson**

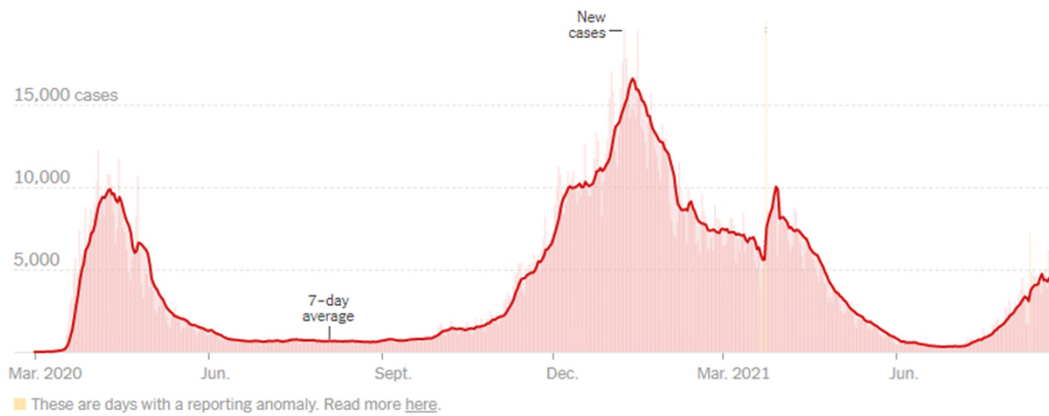
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The New York Times

### New reported cases



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	DAILY AVG. ON AUG. 16	14-DAY CHANGE
Cases	4,482	+89%
Tests	107,544	+40%
Hospitalized	2,051	+80%
Deaths	19	+191%

	DAILY AVG. ON AUG. 23	14-DAY CHANGE
Cases	4,517	+38%
Tests	108,201	+24%
Hospitalized	2,196	+40%
Deaths	23	+125%

## Vaccination progress

- All New Yorkers:
  - 59% fully vaccinated
  - 66% one dose
- 18 and older:
  - 71% fully vaccinated
  - 79% one dose

## ***FULL FDA APPROVAL OF PFIZER***

- Where have vaccine mandates been announced so far?
  - Pentagon – likely to mandate for all DOD personnel (including all service members)
  - SUNY/CUNY – all in-person students have 35 days (SUNY) and 45 days (CUNY) to become fully vaccinated.
  - NYC Schools – Every employee must receive one shot by Sept. 27.
  - NJ – All state employees and all school employees (private and public) must be fully vaccinated by Oct. 18 or tested weekly.
  - CVS – all employees who interact with patients have until Oct. 31 to be fully vaccinated; pharmacists have until Nov. 30.
  - Chevron – all field workers must get vaccinated.



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## COVID-19 Questions Facing New Administration

- Will there be a mask/vaccine mandate in schools?
- Will there be a state government/public worker vaccine mandate?
- Will the HERO Act be activated?
- Will the NY eviction moratorium expire next week?



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STATE OF NEW YORK : DEPARTMENT OF HEALTH

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IN THE MATTER

OF

COVERED ENTITIES IN THE PREVENTION  
AND CONTROL OF THE 2019 NOVEL  
CORONAVIRUS  
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**ORDER FOR  
SUMMARY  
ACTION**



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## NY Vaccine Mandate

- Who is covered: General Hospital or Nursing Home employees.
- Must have at least one shot by September 27, 2021.
- Must report number of people vaccinated and number of people using exemptions.



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## From the Bond “Mail Bag”



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## From the BOND “Mail Bag”...

Are quarantine orders being issued?

Is COVID testing time compensable?

Should we mandate vaccination *now*?

Can we restrict employees from certain domestic travel?

What is the status of the FFCRA extension (voluntary EPSL/EFMLA leave)?



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