

2022

BUSINESS IN 2021

WEEKLY WEBINAR SERIES

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Introduction



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What's On My Desk . . .



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What's On My Desk....

- "Repeat Claimants" with SDHR
- NYS/NYC Harassment Training
- NYS Administrative Enforcement
- Handbook Review
 - Reproductive Decision-Making Policy/Rights
 - NYPSL
 - Expanded Protected Classes
 - NY HERO Act
 - Voting Leave
 - NYHRL Changes



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COVID Leave Review



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COVID-19 Leave Laws

- Federal:
 - Federal leave laws relating to COVID-19 no longer exist, in either mandatory or voluntary form
- State:
 - NY COVID-19 Vaccination Leave
 - NY COVID-19 Sick Leave



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COVID-19 Leave Laws

- New York State
 - **COVID-19 Vaccine Leave** – March 12, 2021 → December 31, **2022**
 - All employers must provide sufficient period of leave, up to 4 hours per injection, to get COVID-19 vaccine
 - Up to 4 hours, per vaccine, must be paid at employee's regular rate of pay
 - Moderna, Pfizer → Up to 8 hours
 - Johnson & Johnson → Up to 4 hours
 - DOL has issued guidance which provides paid leave for booster shots as well
 - Guidance is clear that this leave may only be taken for employee to receive their own vaccine
 - NYS guidance has clarified that employees may use available NYS Paid Sick Leave for side-effects (**not** new entitlement)
 - Job protected/retaliation prohibited



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COVID-19 Related Updates – Leave Laws

- New York State (continued)
 - **COVID-19 Sick Leave (“Quarantine” Leave)** – March 18, 2020 → ???
 - All employers mandated to provide leave for employee who is subject to a mandatory or precautionary order of quarantine



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NY COVID-19 Sick Leave Law

Number of Employees (As of Jan. 1, 2020)	Amount of Sick Leave	Supplemental Benefits
0-10 employees; net income of \$1 million or less in the prior tax year	Unpaid leave for duration of the order	Combined COVID-19 Paid Family Leave (PFL) and Disability Leave Benefits (DBL) for the duration of the order
0-10 employees; net income of more than \$1 million in the prior tax year	5 days of paid sick leave	Combined PFL and DBL for the duration of the order
11-99 employees	5 days of paid sick leave	Combined PFL and DBL for the duration of the order
100+ employees and public employers	14 days of paid sick leave	



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NY COVID-19 Sick Leave Law

- On January 20, 2021, the NY DOL published guidance regarding this NY COVID-19 Sick Leave Law:
https://dol.ny.gov/system/files/documents/2021/01/covid-19-sick-leave-guidance_1.pdf
- The guidance expands the obligations of employers with regard to NY COVID-19 Sick Leave



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NY COVID-19 Sick Leave

- If an employee tests positive for COVID-19, the employee:
 - Cannot report to work
 - Is automatically deemed subject to a subsequent mandatory order of isolation from the Department of Health, and
 - Is entitled to paid sick leave under the NY COVID-19 sick leave law (even if the employee already received NY COVID-19 sick leave for the first period of mandatory quarantine or isolation)
 - In order to receive leave for the second time, the employee is required to submit verification of the positive COVID-19 test



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NY COVID-19 Sick Leave

- An employee cannot use NY COVID-19 leave more than 3 times.
- The second and third uses of the leave must be based on a verified, positive COVID-19 test.
- An employee who is subject to a quarantine order but is not showing symptoms and can work remotely is *not* eligible for these benefits.



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NY COVID-19 Leave

- The guidance also appears to require employers to provide employees with paid leave (not necessarily NY COVID-19 leave), even if:
 - The employee is not subject to an order of quarantine or isolation, and
 - The employer mandates that the employee not report to work due to the employee's exposure or potential exposure to COVID-19
 - Regardless of whether such exposure occurred in the workplace.
- The employer must pay the employee at the employee's regular rate of pay until the employer allows the employee to return to the workplace, or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation (at which point the employee would receive NY COVID-19 sick leave for the duration of the order).



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Use of Paid Family Leave for COVID-19

- May be used to care for a family member (spouse, domestic partner, child/stepchild, parent/stepparent, parent-in-law, grandchild, or grandparent) diagnosed with COVID-19 deemed to be a serious health condition
- May be used if a minor, dependent child is subject to a quarantine order and to care for child
 - Not eligible if the employee can work remotely



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Update from Albany



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EMPIRE REPORT

HOCHUL DEPLOYS NATIONAL GUARD TO NURSING HOMES...

HOCHUL: UPSTATE HOSPITAL CAPACITY 'VERY VERY TROUBLING'...

HOCHUL: There will be a surge in hospitalizations...

Hochul signs Executive Order to postpone elective surgeries...

WNY rates still highest in NYS...

Long Island Positive-Test Rate Soars...

Active cases TRIPLE in Ulster County...

Ambulances experiencing 'offloading issues'...

NYC RESIDENTS TOLD TO WEAR MASKS IN INDOOR PUBLIC SETTINGS, REGARDLESS OF VACCINE STATUS...

Hochul Statewide COVID Update...

STOCK MARKET FUTURES DOWN...

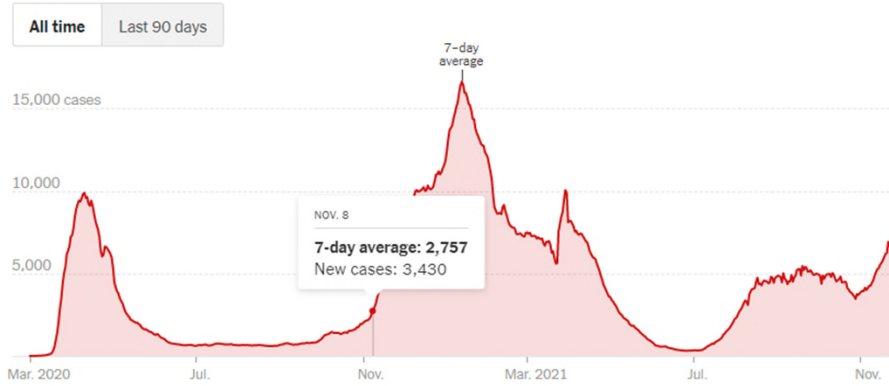


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The New York Times

New reported cases



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	DAILY AVG. ON NOV. 22	14-DAY CHANGE
Cases	6,639	+56%
Tests	144,096	+12%
Hospitalized	2,631	+17%
Deaths	33	-1%

	DAILY AVG. ON NOV. 29	14-DAY CHANGE
Cases	6,215	+13%
Tests	132,643	-2%
Hospitalized	2,715	+18%
Deaths	36	+11%

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Vaccination progress

- All New Yorkers:
 - 68% fully vaccinated
 - 78% one dose
- 12 and older:
 - 79% fully vaccinated
 - 89% one dose
- 65 and older:
 - 87% fully vaccinated
 - 99% one dose

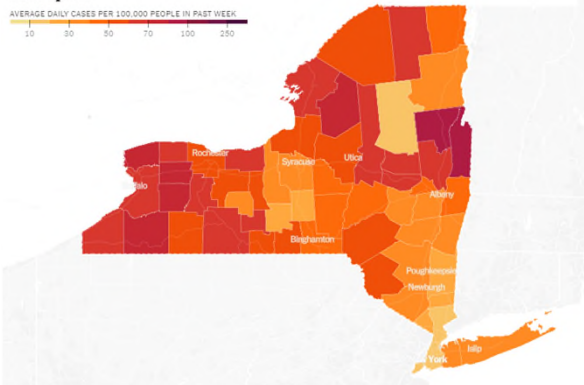
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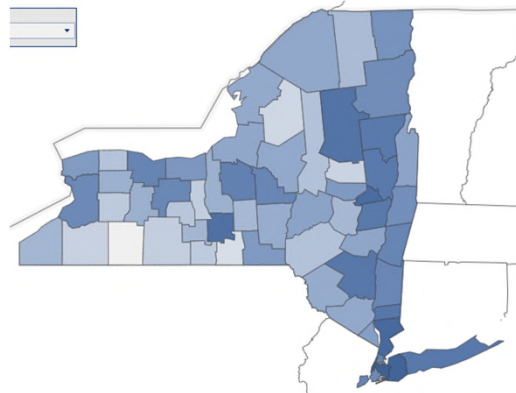
Hot spots

AVERAGE DAILY CASES PER 100,000 PEOPLE IN PAST WEEK

10 30 50 70 100 200



Vaccination Progress to Date



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Executive Order 11

- State of Emergency for COVID-19 issued on November 26
 - REMEMBER: Governor has ability to suspend or modify existing laws and regulations, **cannot issue directives**.
- Why was it issued?
 - Hospital admissions are rapidly rising.
- What does it do?
 - Allows for the implementation Surge and Flex
 - May postpone non-essential elective surgeries if less than 10% of staffed beds are available in a hospital.
 - Yesterday: Gov. said 30 hospitals meet that criteria.

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Executive Order 11

- Suspending certain provisions of the State Finance Law regarding government contracts.
- Governor deploying the National Guard trained as EMTs to nursing homes and long-term care facilities to hot spot areas.
 - Why? Short staffing in nursing homes means people who have recovered from COVID remain in hospitals because there are not enough staff to take care of them.

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Governor's Current Strategy

- Collaboration with local governments is the name of the game.
- Impact of Omicron?

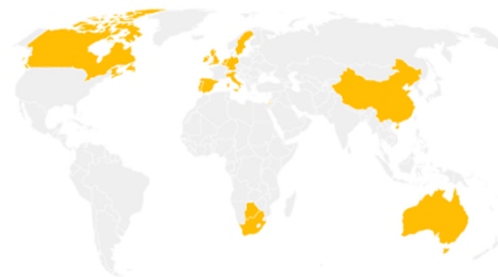
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Omicron Variant

- Designated by WHO on November 26.
- What do we know?
 - Not much yet.
 - First detected in South Africa on November 24, but Netherlands has found samples of it dating to November 11.

Tracking Omicron



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Omicron Variant

- US travel restrictions for eight countries:
 - Botswana
 - Eswatini
 - Lesotho
 - Malawi
 - Mozambique
 - Namibia
 - South Africa
 - Zimbabwe

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NYC COVID-19 Update

- Mask advisory issued.
- Vaccine mandate for childcare and early intervention programs, covers approximately 100,000 people.
- Allowing children 5-11 to receive second shot beginning this week.

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What's On My Desk . . .

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COVID Leave Review

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Update from Albany

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