

# MSF CLIENT ALERT

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## New York and New Jersey Governors Issue Executive Orders Affecting the Workplace

*On October 28 and October 31, respectively, the Governors of New Jersey and New York issued Executive Orders affecting the workplace. New Jersey's Executive Order establishes requirements to ensure workplace safety while New York's Executive Order alters New York's travel advisory.*

November 4, 2020

### **New Jersey's Executive Order**

New Jersey Governor Phil Murphy issued an [Executive Order](#) on October 28, 2020 imposing health and safety requirements upon New Jersey employers that require or allow their employees to physically work in their office. The requirements supplement prior protections implemented for employees due to the COVID-19 pandemic and go into effect on November 5, 2020.

Amongst other requirements, all New Jersey employers must comply with the following:

- **Daily Health Checks** – Prior to each shift worked, employers must undertake a daily health check of each employee. Examples of such health checks include temperature checking, visual symptom checking, and self-assessment checklists.
- **Social Distancing** – To the maximum extent possible, employers must require that all individuals always maintain at least six feet of distance between each other. This includes meeting

rooms, restrooms, break rooms and when individuals enter and exit the workplace. When such distancing is not possible due to the nature of the work, employers must install physical barriers, whenever possible, and ensure that employees wear face coverings.

- **Face Coverings** – Employers must require employees and visitors to the workplace (aged 2 and older) to wear face coverings. Exceptions to this requirement are made when employees are seated at their workstation and are more than six feet away from other individuals; employees are alone in a walled office; and when wearing face coverings is impracticable based upon the nature of work. Employers must provide face coverings to employees at no cost and must accommodate employees and visitors who cannot wear a face covering due to a disability.
- **Sanitation** – Employers must provide employees and visitors with sanitation materials, such as hand sanitizers containing at least 60% alcohol, at no cost to the employee or visitor.

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- **Hand Washing** – Employers must ensure that employees regularly wash their hands and provide employees with breaks for handwashing throughout the day and access to appropriate facilities for handwashing.
- **Cleaning** – Employers must regularly clean and disinfect all high touch areas in accordance with federal and state guidelines.
- **COVID-19 in the Workplace**
  - [Employees with Symptoms](#) – When an employee appears to exhibit symptoms of COVID-19, they must immediately be separated and sent home from work.
  - [Exposure in the Workplace](#) – Employers must notify employees of a known exposure to COVID-19 in the workplace in accordance with confidentiality requirements of applicable law. Following a known exposure in the workplace, the workplace must be cleaned and disinfected.

The Executive Order authorizes the Commissioner of the Department of Labor and Workforce Development to develop a means for receiving and investigating complaints that employers are not complying with their obligations. Employers who fail to comply with the requirements may be subject to imprisonment up to six months, a \$1,000 fine or both. Notably, the Executive Order does not provide a private cause of action for employees and permits employers the opportunity to correct violations prior to penalty.

## ***New York's Executive Order***

New York's [Executive Order](#), which goes into effect on November 4, 2020, modifies the existing travel advisory put in place to protect New Yorkers against the transmission of COVID-19 due to travel from other states where transmission rates exceed certain thresholds.

The new Executive Order eliminates the list of states to which the travel advisory applied. Rather, than a required two-week quarantine period, the Executive Order allows individuals travelling from other states to use a negative COVID-19 test to test out of the travel advisory. These requirements do not apply to New York's bordering states (New Jersey, Connecticut, Pennsylvania, and Massachusetts). The travel rules vary based upon how long the individual is in a non-contiguous state.

- *Travelers who enter New York and were in a restricted state for less than 24 hours:*
  - must complete a traveler form upon entry
  - must take a COVID-19 test on the fourth day after arrival in New York
  - need not test prior to departure from the state
  - are not required to quarantine upon entering New York.
- *Travelers entering New York after more than 24 hours in a restricted state:*
  - must take a COVID-19 test within 72 hours prior to departure for New York and obtain a negative result, must quarantine in New York for three days, and take a COVID-19 test on the fourth day after arrival in New York. Once they obtain a second negative test result, they may exit quarantine.

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This Executive Order is a boon to employers. Depending on their individual circumstances, employees returning to New York from travel to other states, may not need to quarantine for 14 days upon return to New York, thus

speeding up their return to work when remote work is not an option.

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Please contact an attorney in MSF's Employment Group if you need assistance with respect to this information.



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