

Updated CDC Masking Guidance; North Carolina

COVID-19 Response Resource Center: Timely Counsel for your Business

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This week, two different sets of guidance were published that impact employers' COVID-19 policies.

First, on July 27, 2021, the U.S. Centers for Disease Control and Prevention (CDC) updated its guidance to recommend that all persons, including those who are vaccinated, wear masks in indoor public settings in locales with substantial or high community transmission of COVID-19.

Second, on July 29, 2021, Gov. Roy Cooper issued Executive Order No. 224, which “strongly encourage[s]” employers to follow the CDC guidance and also verify the vaccination status of employees and require weekly COVID-19 testing for unvaccinated employees.

Changes to CDC’s Mask Guidance

Prior to its July 27 guidance, the CDC recommended that vaccinated individuals need not wear a mask. In light of new evidence regarding the B.1.617.2 (Delta) variant, the CDC’s latest guidance recommends that all persons – including those who are fully vaccinated – wear a mask in indoor public settings in areas of substantial or high transmission.

In addition, the CDC changed its guidance for vaccinated persons who have been around someone with COVID-19. The CDC now recommends that such persons get tested 3-5 days after the exposure whether or not any symptoms appear. The new guidance goes on to say that an exposed vaccinated person should mask indoors in public for 14 days following exposure or until receiving a negative test result.

New Executive Order in North Carolina

Executive Order No. 224 did not impose a new mask mandate. That said, the order does strongly encourage that employers follow the CDC guidance, which would mean masks, even for vaccinated employees in locations where there is substantial or high transmission.

Executive Order No. 224 adopts a policy for all state employees working for cabinet agencies: they must provide verification of their vaccination status, and if verification is not provided, they must undergo weekly COVID-19 testing. The executive order then states: “While this Executive Order

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only impacts Cabinet Agencies, the Order encourages all state and local government agencies and private businesses to adopt this policy and strongly encourages them to have workers and guests wear face coverings and to require unvaccinated workers to take weekly COVID-19 tests.”

Employer Decisions

Employers are therefore left with significant decisions regarding masking, testing, and vaccination policies. Factors an employer may consider in implementing such policies include: the type of indoor public settings it operates, the amount of community transmission occurring in the communities where employees work, whether children (who are ineligible for vaccines) frequent the employer’s facilities, the processes for COVID-19 testing available, and a host of other legal implications. Brooks Pierce attorneys have a wide range of experience assisting clients developing these types of policies, and can work with employers to tailor their policies to their unique needs and goals. Contact a member of the Brooks Pierce Labor & Employment Team for assistance.

Tags: Centers for Disease Control and Prevention (CDC), Masks, Vaccine