

All of My Employees are Vaccinated. Can We Ditch the Masks?

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Not Yet.

Over the last three months, many employers, including large employers like Aldi, Amtrak, Instacart, McDonald's, and Target, have been hard at work motivating employees to get vaccinated through incentive programs and education campaigns. Many businesses, especially small businesses with small workforces, wonder when they can start to lift COVID-19 safety protocols, such as mask-wearing in common areas and limiting in-person meetings. While we are the closest we have ever been since the start of the pandemic to scaling back these restrictions, in most states, we aren't there yet.

While the CDC has given vaccinated individuals the green light to visit with other fully vaccinated people indoors without wearing masks or distancing, a review of the CDC's guidance is the start of the analysis, not the end. Many states, including the State of Maryland, still have mask mandates in place that impact employers. For example, in Maryland, Governor Hogan's statewide mask mandate from July 2020 is still in place and requires that individuals wear a mask when "engaged in work in any area where...interaction with others is likely, including without limitation, in shared areas of commercial offices..." (View the Governor's Order here: Executive Order 20-07-29-01)

Governor Hogan's Order does not contain any exceptions for vaccinated individuals, and willfully violating the Order is a misdemeanor punishable by up to a year in jail or up to a \$5,000 fine or both. While changes to the Maryland mask mandate are likely in the months to come as more individuals are vaccinated, employers must continue to abide by the current order.

Additionally, even when the rules on the federal and state levels loosen, employers will need to consider what makes the most sense for their workplace based on vaccination rates and the realities of their physical workplace to continue to keep employees safe. While restrictions are lifted nationwide, employers should be mindful of the risks associated with prematurely lifting restrictions in the workplace and continue to review their policies and procedures to ensure their employees are safe and comfortable coming to work.

Main takeaway? Employers should continue to encourage their employees to get vaccinated, as vaccination is the best way for employees to stay safe and avoid contracting the virus. However, it is too soon to start removing other safety procedures in the workplace. Employers should continue to utilize COVID safety protocols, including liberal use of remote work, where possible, and mask and distancing mandates.

Questions about this or any other legal matter, please contact Sarah at Sarah.Sawyer@offitkurman.com.