



June 30, 2020

## Supplemental Guidance By The New York State Department of Health and New York State Department of Labor on Use of COVID-19 Sick Leave For Health Care Employers

On May 17, 2020, the New York State Department of Health (“DOH”) and New York State Department of Labor (“DOL”) jointly issued guidance on the use of New York’s COVID-19 sick leave for health care employers of health care employees, as detailed in our previous [Client Alert](#). On June 25, 2020, the agencies jointly issued the following supplemental guidance on the application of New York’s COVID-19 sick leave for health care employees:

1. The definition of “**health care employee**” includes a person employed at a doctor’s office, hospital, long-term care facility, outpatient clinic, nursing home, end stage renal disease facility, post-secondary educational institution offering health care instruction, medical school, local health department or agency, assisted living residence, adult care facility, residence for people with developmental disabilities, home health provider, emergency medical services agency, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, including permanent or temporary where medical services are provided that are similar to such institutions.

2. A health care employee who returns to work after completing a period of mandatory quarantine or isolation and who *subsequently* receives a positive diagnostic test result for COVID-19 is deemed to be subject to a **second mandatory order of isolation** from the Department of Health and is entitled to sick leave under the New York COVID-19 sick leave law for the second isolation period. The health care

employee must submit documentation of a positive test result, unless the health care employee's employer administered the test.

3. A health care employee who is subject to an order of quarantine or isolation but *continues* to *test positive* for COVID-19 after the end of the quarantine or isolation period is also deemed to be subject to a **second mandatory order of isolation** from the Department of Health and is entitled to sick leave under the New York COVID-19 sick leave law for the second isolation period. Again, the health care employee must submit documentation of a positive test result, unless the health care employee's employer administered the test.

4. However, health care employees may not qualify for sick leave under New York's COVID-19 sick leave law for more than **three orders of quarantine or isolation**. Moreover, the second and third orders must be based on a positive COVID-19 test.

### **Takeaway for Employers**

This new guidance clarifies that health care employees may be eligible for sick leave under New York COVID-19 sick leave law for up to three orders of quarantine or isolation based on positive COVID-19 test results.

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If you have any questions regarding this alert, please do not hesitate to contact us.

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