

MDHHS Lifts Face Mask Mandate for Vaccinated Persons

On May 14, 2021, Governor Whitmer and the MDHHS (Michigan Department of Health and Human Services) issued an updated “Emergency” Order lifting the face mask requirement for “fully vaccinated persons” (i.e. “persons for whom at least two weeks has passed after receiving the final dose of an FDA-approved or authorized COVID-19 vaccine”). This change was made in light of new CDC recommendations which indicated that most fully vaccinated persons are no longer required to wear a face mask.



Here is a summary of the updated Michigan requirements affecting businesses and employers. Unless noted, all other requirements from prior orders remain in effect.

- **No person, whether vaccinated or not, is required to wear a face mask while outdoors, at any time.** Note, however, that the gathering limits from the May 4 Order remain in effect.

- **"Fully vaccinated persons" are not required** to wear a face mask at any gathering or establishment, whether indoors or outdoors.

- The new standard for face masks is that **all persons must wear a face mask indoors, unless they fall into one of these exceptions:**

- ✦ **Are fully vaccinated persons;**
- ✦ Are younger than 2 years old;
- ✦ Cannot medically tolerate a face mask;
- ✦ Are eating or drinking while seated in a designated area or at a private residence;
- ✦ Are swimming;
- ✦ Are receiving a medical or personal care service for which removal of the face mask is necessary;
- ✦ Are asked to temporarily remove a face mask for identification purposes;
- ✦ Are communicating with someone who is deaf, deafblind, or hard of hearing and whose ability to see the mouth is essential to communication;
- ✦ Are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a face mask would seriously interfere in the performance of their public safety responsibilities;
- ✦ Are engaging in a religious service;

- ✦ Are giving a speech for broadcast or to an audience, provided that the audience is at least 12 feet away from the speaker; or
 - ✦ Are engaging in an activity that requires removal of a mask not listed in another part of this section, and are in a facility that provides ventilation that meets or exceeds 60 ft³/min of outdoor airflow per person.
- However, please note, the Order states that "a person responsible for an **establishment**, or an agent of such person, must prohibit gatherings of any kind at their establishment unless the person makes a **good faith effort** to ensure that all persons at their establishment (including employees)" comply with the indoor face mask requirement (i.e. wear a face mask if no exception applies).
 - ✦ A "**good faith effort**" may include any of the following:
 - * "posting a sign notifying people that wearing a mask is required unless a person falls into a specified exception;
 - * asking patrons not wearing masks whether they fall into a specified exception;
 - * requiring face masks of all patrons and employees; or
 - * any other policy designed to ensure compliance with section 6(a)" (i.e. the indoor face mask mandate).
 - ✦ "Establishment" is defined as a "business, store, office, government office, school, organized event, or other operation."
 - ✦ According to a press release, the face mask mandate will expire for all on July 1, 2021.
 - For food service establishments that have an employee with a confirmed COVID-19 case, or who shows the principal symptoms of COVID-19, the establishment no longer needs to shut down and be deep cleaned.

This latest Emergency Order which **went into effect on May 15, and remains in effect through May 31, 2021**, can be accessed [here](#).

Please note, until MIOSHA rescinds or amends the workplace guidelines, employers are required to continue to comply with the MIOSHA rules in the workplace, including the remote work requirement. We recommend you consult with your Couzens Lansky attorney to determine if you need to update any guidelines for your business.

As always, counties and municipalities retain the ability to issue their own more restrictive orders.

This memo is intended only as a summary and general overview. If you have any questions or would like legal advice regarding the above or any other employment issue, please contact [David Lawrence](#) or [Stacey DiDomenico](#).