



**Commissioner's Determination on Masking in Certain Indoor Settings  
Pursuant to 10 NYCRR 2.60**

**September 7, 2022**

Pursuant to [10 NYCRR 2.60](#), I hereby issue the following determination, which includes findings of necessity, to support the face masking/covering requirements set forth below, effective immediately:

**Findings of necessity:**

The COVID-19 pandemic continues to impact New York State (NYS), with the Omicron variant continuing to pose a substantial public health concern. As of September 1, 2022, COVID-19 cases (7-day average 20.0 cases per 100,000 persons) are only slightly below levels observed one year ago, while deaths (7-day average of 21) are declining, levels of hospitalization (7-day average 1.74 new admissions per 100,000 persons and 2,235 persons currently hospitalized) remain high at levels last observed in November 2021.

As NYS and the nation enter a new phase of the pandemic, with increased access to COVID-19 information, vaccination, testing, and treatment, the NYS Department of Health is modifying this Determination to reflect updated guidance from the CDC. When people are exposed to COVID-19, they should follow [the CDC's Exposure Guidance](#). It is recommended that those exposed to COVID-19 wear a well-fitting mask or respirator for a full 10-day period and get tested at least 5 days after close contact or sooner if symptoms develop. The current guidance holds for all individuals irrespective of vaccination status or history of prior COVID-19 infection. Additionally, individuals are encouraged to assess risk based on their circumstances and decide on masking and other public health measures accordingly.

This determination rescinds the current masking requirements in correctional facilities and detention centers, shelters (including overnight emergency shelters, day shelters, and meal service providers), and public transportation hubs and transportation conveyances. However, congregate living settings continue to be at increased risk for transmission. For example, CDC studies have documented outbreaks and ongoing transmission in healthcare facilities and nursing homes, and New York data document ongoing COVID-19 outcomes in nursing homes and other long-term facilities.

As the work to slow the spread of the SARS-CoV-2 virus continues in New York, the ongoing requirement for masking/face covering in healthcare settings and Adult Care Facilities will help ensure that there is protection for our most vulnerable residents, such as the elderly or those staying in hospitals.

The above findings demonstrate the necessity to extend the implementation of further prevention strategies that include face coverings/masks in certain indoor settings. COVID-19 spreads through respiratory droplets, and several studies have shown that appropriate face coverings/masks reduce the spray of droplets when worn correctly, fully covering one's nose and mouth. Additionally, [as noted](#)

[by the CDC](#), multiple “real-world” studies have shown face coverings substantially decrease SARS-CoV-2 transmission. Two important new studies from CDC include:

- A case-control study of over 3,000 participants demonstrated a 56% to 83% lower odds of contracting the SARS-CoV-2 virus (depending on mask quality) among those who reported always wearing a mask in indoor settings compared to those who didn't.
- A study of household transmission found that, in households with an index patient infected with the Omicron variant, household contacts who wore masks had a 43% lower chance of becoming infected compared to those who did not wear masks.

Further, as also reported by the CDC, research supports that there are no significant health effects or changes in oxygen or carbon dioxide levels from mask wear.

Properly wearing an appropriate mask is an effective measure to protect against the transmission of the COVID-19 virus, including its variants. While the Omicron variants continue to circulate, the statewide number of COVID cases remains high and the number of hospitalizations continues to be a potential stress to the healthcare system. Although the percentage of New Yorkers who are fully vaccinated and boosted continues to increase at a slow rate, coverage levels alone may not adequately curb the spread of the Omicron variant or substantially reduce infection risk in these indoor settings.

Accordingly, based on the foregoing findings of necessity, I hereby issue the following masking requirements:

### **Face Covering/Masking Requirements<sup>1</sup>**

#### **1. Healthcare settings:**

- a. *Personnel:* After careful review and consideration of [CDC recommendations](#) for face masks in healthcare settings regulated by the Department, I hereby adopt such recommendations, imposing them as requirements, where applicable. Accordingly, all personnel, regardless of vaccination status, in a healthcare setting (i.e., facilities or entities regulated under Articles 28, 36 and 40 of the Public Health Law) shall wear an appropriate face mask in accordance with applicable CDC exceptions, until this determination is modified or rescinded.
- b. *Visitors to Healthcare Facilities:* After careful review and consideration of [CDC recommendations](#), all visitors two years of age and older and able to medically tolerate a face covering/mask shall be required to wear a face covering/mask in health care facilities, regardless of vaccination status, subject to applicable CDC exceptions, and until this determination is modified or rescinded.

#### **2. Adult care facilities (ACFs) regulated by the Department:**

- a. *Personnel:* After careful review and consideration of the core principles for infection control to protect the health and safety of both fully vaccinated and unvaccinated residents, all ACF personnel, regardless of vaccination status, shall wear an appropriate face mask if providing direct medical care and at a minimum, a cloth face covering by other staff in such settings, in accordance with any applicable CDC exceptions, until this determination is modified or rescinded.

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<sup>1</sup> Nothing in this determination shall be interpreted as inconsistent with the Americans with Disabilities Act (ADA), workplace safety guidelines, or applicable federal regulations.

- b. Visitors: After careful review and consideration of [CDC Recommendations](#), all visitors, who are two years of age and older and able to medically tolerate a face covering/mask shall be required to wear a face covering/mask in such setting, subject to CDC exceptions, and until this determination is modified or rescinded.

3. Specialty Hospitals Certified by the Office for People with Developmental Disabilities (OPWDD)

In consultation with the Commissioner of OPWDD, and pursuant to 14 NYCRR 680.11, the following requirements apply to Specialty Hospitals:

- a. Personnel: After careful review and consideration of the core principles for infection control to protect the health and safety of both fully vaccinated and unvaccinated residents, all personnel in Specialty Hospitals, regardless of vaccination status, shall wear an appropriate face mask if providing direct care and at a minimum, a cloth face covering by other staff in such settings, in accordance with any applicable CDC exceptions, until this determination is modified or rescinded.
- b. Visitors: After careful review and consideration of [CDC Recommendations](#), all visitors to Specialty Hospitals, who are two years of age and older and able to medically tolerate a face covering/mask shall be required to wear a face covering/mask in such setting, subject to CDC exceptions, and until this determination is modified or rescinded.

4. Addiction Services Facilities regulated by the Office of Addiction Services and Supports

- a. Personnel: After careful review and consideration of the core principles for infection control to protect the health and safety of both fully vaccinated and unvaccinated residents, all personnel in 14 NYCRR Part 816, 817, 818 and 822 certified ASF, regardless of vaccination status, shall wear an appropriate face mask if providing direct medical care and at a minimum, a cloth face covering by other staff in such settings, in accordance with any applicable CDC exceptions, until this determination is modified or rescinded.
- b. Visitors: After careful review and consideration of [CDC Recommendations](#), all visitors in 14 NYCRR Part 816, 817, 818 and 822 certified ASF, who are two years of age and older and able to medically tolerate a face covering/mask shall be required to wear a face covering/mask in such setting, subject to CDC exceptions, and until this determination is modified or rescinded.

5. Clinical and Hospital settings regulated by the Office of Mental Health:

- a. Personnel: After careful review and consideration of CDC recommendations for face masks, I hereby adopt such recommendations and impose them as requirements, applicable to Clinics and In-Patient facilities established pursuant to Public Health Law Article 28 or Mental Hygiene Law Article 31, or operated by New York State, Comprehensive Psychiatric Emergency Programs established pursuant to Mental Hygiene Law Section 31.27, Residential Treatment Facilities established pursuant to Mental Hygiene Law 31.26, and Partial Hospitalization Facilities established pursuant to 14 NYCRR 587.12. Accordingly, all personnel, regardless of vaccination status, in such setting shall wear an appropriate face mask in accordance with applicable CDC exceptions, until this determination is modified or rescinded.
- b. Visitors: After careful review and consideration of CDC recommendations, all visitors two years of age and older and able to medically tolerate a face covering/mask shall be required to wear a face covering/mask in such settings, regardless of vaccination

status, subject to applicable CDC exceptions, and until this determination is modified or rescinded.

Current [CDC guidance](#) recommends masking, including in schools and public indoor places, when there is a high level of community COVID-19 burden, in order to limit exposure that may lead to infection. **While this determination does not mandate universal masking nothing in this determination shall be construed as limiting a county, city, town, health department or school district from requiring the use of face coverings.**

Updates to the above referenced CDC recommendations will not necessarily require issuance of a revised or modified determination. However, such CDC recommendations will be continuously monitored by the Department, and updated determinations issued, as appropriate.

A handwritten signature in black ink, appearing to read "Mary T. Bassett". The signature is written in a cursive, flowing style.

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Mary T. Bassett, M.D., M.P.H.  
Commissioner of Health