

A stylized illustration of a diverse crowd of people, all wearing face masks. The people are depicted in various colors and poses, creating a sense of a large gathering. The background is a solid dark blue.

# CRISIS MANAGEMENT FOR COVID-19

## Phase 36: Vaccines, Updated Regulations, Legal Changes, and Legislation

*Presented by:  
Hanna Resource Group  
and  
Morris & Morris, PSC*

# INTRODUCTIONS



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# WHAT WE'LL COVER

1

Kentucky COVID – 19  
Status

2

Vaccine Update

3

Updated Guidance,  
Legal Changes, and  
Legislation



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# Kentucky COVID-19 Status



**Autumn Morris**

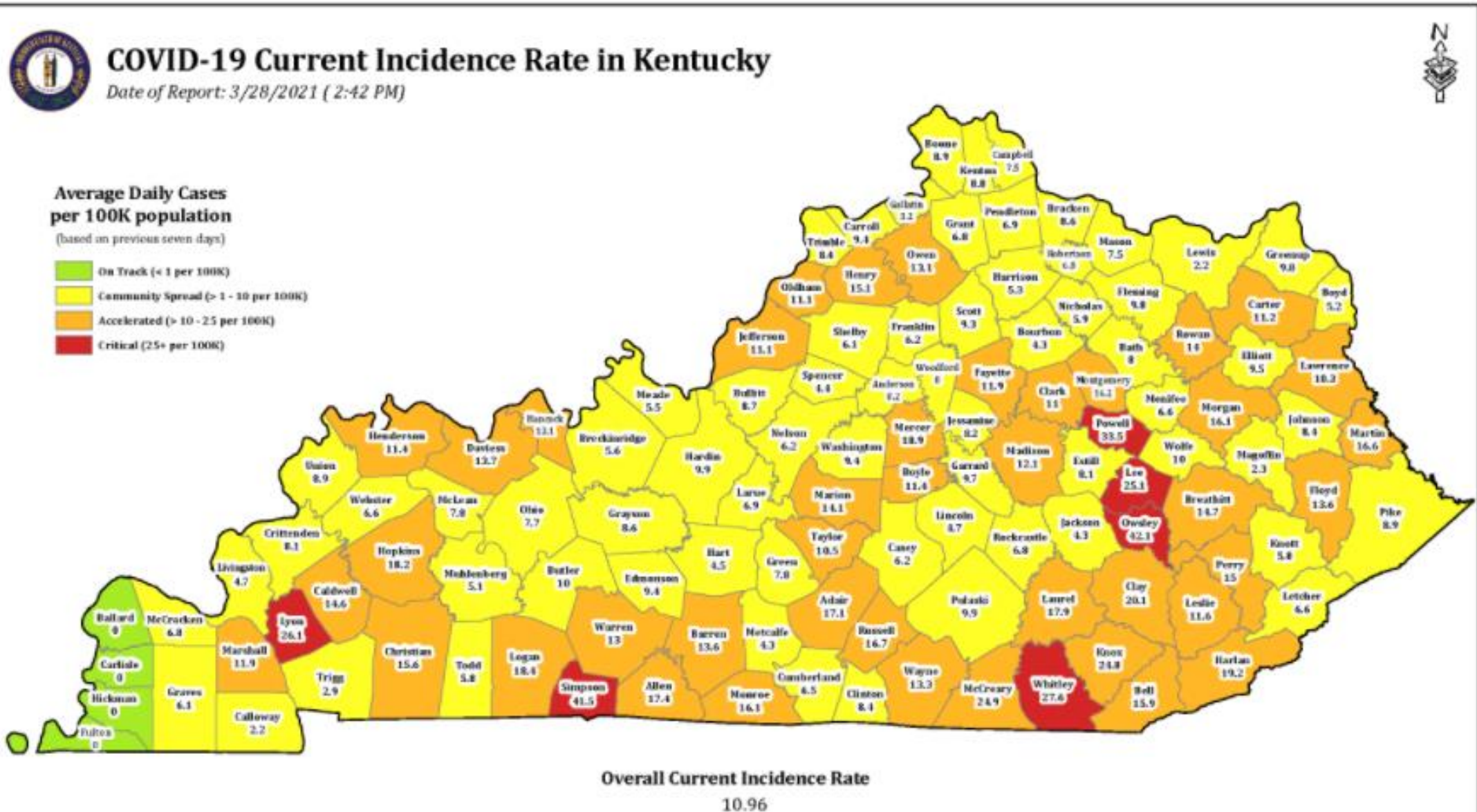
*MBA, SHRM-CP*

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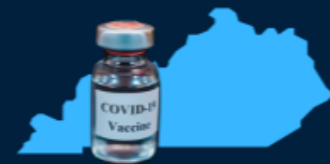
*HRG*



# Kentucky's State-Wide COVID-19 Progression Continues



## WHEN CAN YOU GET A COVID-19 VACCINE?



The COVID-19 vaccine will be distributed in phases.  
All Kentuckians will have access to a vaccine.

- Long term care facilities
- Assisted living facilities
- Health care personnel



Phase 1a

- Anyone age 70 or older
- First Responders
- Kentucky K-12 school personnel
- Kentucky child care workers



Phase 1b

- Anyone age 50 or older
- Anyone age 16 or older with medical or behavioral health conditions per the CDC that "are" or "might be" at increased risk of severe COVID-19 disease,
- All essential workers



Phase 1c

We are here

March 22, 2021

# Kentucky COVID-19 Vaccine Monitoring

Current as of March 28, 2021

## COVID-19 Vaccination Program-to-Date Performance

	Total First Dose Allocated to KY *Updated on Tuesday for receipt of weekly Federal Allocation	Total Number of Unique Persons Vaccinated in KY *Updated Daily
Federal Direct Program	Direct Federal Allocation	34,570
LTCF Program *Program concluded 02/17/2021	76,050	78,084
All Other State and Federal Programs	1,304,925	1,198,258
Total	1,380,975	1,310,912

Kentucky's total population is 4.468 million people, and 18% are under the age of 16 years old, resulting in 3.217 Million people eligible for the vaccine; **41% of Kentuckians over the age of 16 have been vaccinated with the first dose**; positivity rate has dropped to 2.88% (was 3.98%)



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## Vaccine Update

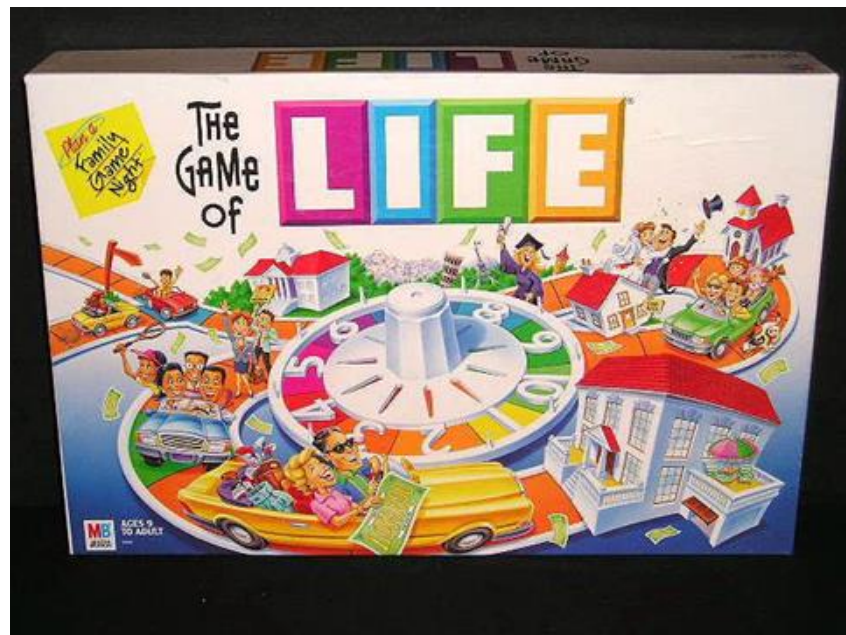
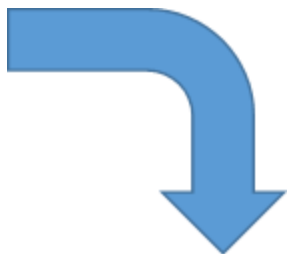


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# COVID-19

## ☑ Vital Signs



New Cases & Deaths / Day  
Hospital (& ICU) Occupancy  
Positivity & Incidence Rates  
[Testing]  
Vaccination Hesitancy



Vaccine Supply (+ JJJ)  
Supply Chain  
Locations  
Optimism / Confidence  
*LTC Visiting/Activities*

## Key Metrics: Measure What Matters!

Vaccines Given  
Vaccines Rec'd

%

*Vaccines Given*

Incidence Rate

*Positivity Rate*

Useful

Uptake Rate  
(denominator)

*Hesitancy (Polls)*

<https://vimeo.com/528009279>

*Interesting*

Recovered #

*Death #*

Vaccination Sites

*Priority Group*

Contiguous  
State(s)

*National  
Benchmarks*

## Reliable & Accessible Sources

- Centers for Disease Prevention & Control (CDC)
- Centers for Medicare & Medicaid Services (CMS)
- Food & Drug Administration (FDA)
- State: COVID-19 Resources
  - Kycovid19.ky.gov
  - Vaccine.ky.gov & 855-598-2246
- Becker Hospital Review
  - <https://www.beckershospitalreview.com/public-health/states-ranked-by-percentage-of-covid-19-vaccines-administered.html>
- National Public Radio (NPR)
  - <https://www.npr.org/sections/health-shots/2021/01/28/960901166/how-is-the-covid-19-vaccination-campaign-going-in-your-state>
- NBC News
  - <https://www.nbcnews.com/specials/plan-your-vaccine/>



## Kentucky Department for Public Health COVID-19 Vaccination Report

-March 25, 2021

**Table 1: COVID-19 Vaccination Program-to-Date Performance**

	<b>Total First Doses Allocated to KY</b> <i>*Updated on Tuesdays for receipt of weekly Federal Allocation</i>	<b>Total Number of Unique Persons Vaccinated in KY</b> <i>*Updated Daily</i>
<b>Federal Direct Program</b>	<b>Direct Federal Allocation</b>	<b>32,587</b>
<b>LTCF Program</b> <i>*Program concluded 02/17/2021</i>	<b>76,050</b>	<b>78,084</b>
<b>All Other State and Federal Programs</b>	<b>1,304,925</b>	<b>1,138,350</b>
<b>Total</b>	<b>1,380,975</b>	<b>1,249,021</b>

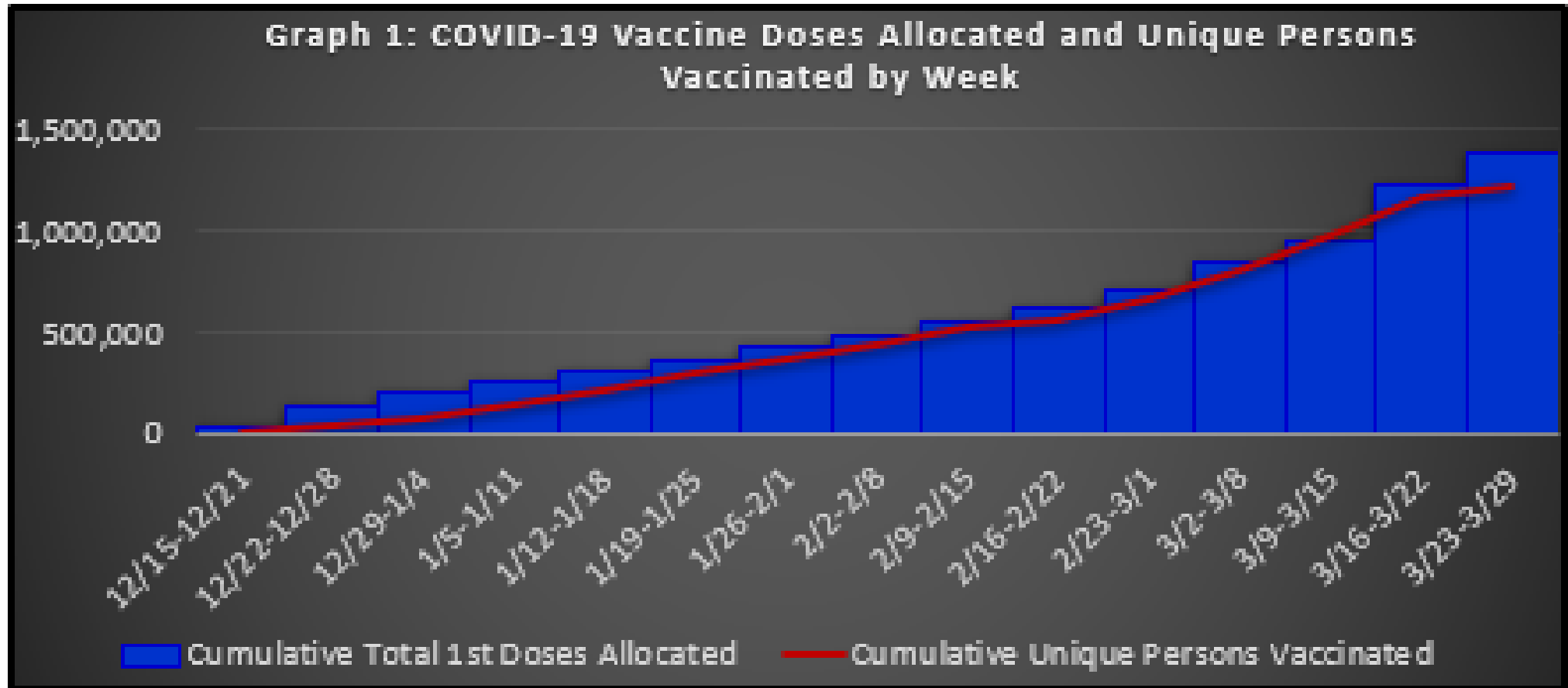


Table 2: Unique Persons Vaccinated and Weekly Percent Vaccine Allocation Utilization (Tues – Mon)

Week #	Week Beginning	New Persons Vaccinated	1st Dose Allocation	7 Day % Utilization
1	Dec 15	10,213	38,025	27%
2	Dec 22	26,962	104,000	26%
3	Dec 29	37,616	60,625	62%
4	Jan 5	63,871	53,700	119%
5	Jan 12	76,721	53,800	143%
6	Jan 19	82,578	56,175	147%
7	Jan 26	74,794	56,175	133%
8	Feb 2	79,777	64,975	123%
9	Feb 9	70,627	68,475	103%
10	Feb 16	41,835	6,825	613%
11	Feb 23	112,428	152,710	74%
12	Mar 2	127,110	130,210	98%
13	Mar 9	165,217	98,390	168%
14	Mar 16*	198,447	287,880	70%
15	Mar 23	48,238	149,010	32%
Total		1,216,434	1,380,975	88%

\*One lump sum was added to March 16<sup>th</sup> of the Federal Rx program. Going forward, data will reflect a combined total from all other State and Federal Programs.

Data Sources for this Report: Allocation Data is from Tiberius and Vaccine Administration Data is from KYIR



**Table 3: COVID-19 Total Vaccine Received vs. Administered**

Total Doses Received in KY <i>First and second doses</i>	Total Doses Administered in KY <i>First and second doses</i>	Total Percent Utilization
2,159,700	1,727,851	80%

Table 4: Unique Persons Vaccinated compared to Kentucky Population by Age

Age Group	Unique Persons Vaccinated	Population*	Percent Vaccinated
Total (16 years and Older)	1,249,021	3,548,508	35%
60-69 Years	277,746	543,346	51%
70 + years	337,417	498,466	68%

\*Source for the population data is CDC Wonder, 2021 census projections by age and state

Graph 2: Age of Unique Persons Vaccinated

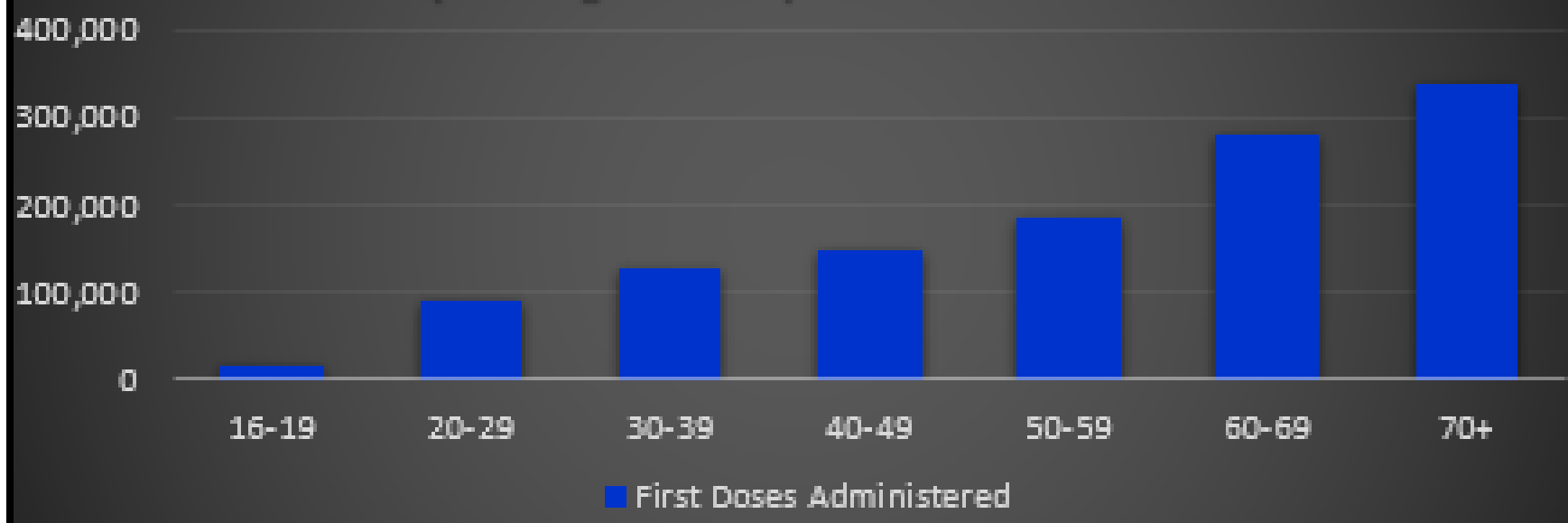



Table 5A: Total State 1<sup>st</sup> Doses Allocated by Week and Brand\*

Week #	Week Beginning	Pfizer	Moderna	J&J	Weekly Allocation Total
1	Dec 15	38,025	0	0	38,025
2	Dec 22	27,300	76,700	0	104,000
3	Dec 29	34,125	26,500	0	60,625
4	Jan 5	27,300	26,400	0	53,700
5	Jan 12	27,300	26,500	0	53,800
6	Jan 19	28,275	27,900	0	56,175
7	Jan 26	28,275	27,900	0	56,175
8	Feb 2	28,275	36,700	0	64,975
9	Feb 9	28,275	40,200	0	68,475
10	Feb 16**	6,825	0	0	6,825
11	Feb 23	65,910	86,800	0	152,710
12	Mar 2	50,310	43,400	36,500	130,210
13	Mar 9	54,990	43,400	0	98,390
14	Mar 16	59,670	43,400	5,100	108,170
15	Mar 23	60,840	43,400	5,100	109,340
Total		565,695	549,200	46,700	1,161,595

Table 5B: Total Federal Rx 1<sup>st</sup> Doses Allocated by Week and Brand\*

Week #	Week Beginning	Pfizer	Moderna	J&J	Weekly Allocation Total
14	Mar 16***	85,410	81,600	12,700	179,710
15	Mar 23	24,570	13,600	1,500	39,670
Total 		109,980	95,200	14,200	219,380

\*Updated Weekly on Tuesdays


\*\*Winter Storms in February impacted the vaccine delivery.

\*\*\* One lump sum was added to March 16<sup>th</sup> of the Federal Rx program.



**Table 6. Number of Facilities Enrolled in the COVID-19 Vaccine Program**

<b>Hospital</b>	<b>129</b>
<b>Local Health Department (LHD)</b>	<b>120</b>
<b>Pharmacy</b>	<b>437</b>
<b>Federally Qualified Health Center (FHC)</b>	<b>137</b>
<b>Rural Health Center (RHC)</b>	<b>61</b>
<b>Physician's Office &amp; Other</b>	<b>369</b>
<b>Sub-Total Fully Enrolled</b>	<b>1,253</b>
<b>Sub-Total in Process</b>	<b>371</b>
<b>Sub-Total New</b>	<b>9</b>
<b>Total Vaccine Administration Sites</b>	<b>1,633</b>



# NEXT CHALLENGES

- Complacency  
& Overconfidence
- *Vaccination*
  - Protection (*not* Super-Powers)
  - FINISH (72-75% Vaccinated)
- P&P Reviews
  - Emergency Preparedness
  - Hiring Qualifications & Testing
  - Sick @ Work?
    - PTO
    - Attendance/Punctuality
  - Multi-Employers
  - Cross-Training / Universal

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Thanks for all  
YOU are doing  
EVERY day!



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## Kentucky Legal Update



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# 3

## Ongoing Legal Wrangling over Governor's Authority

*Attorney General Cameron Filed for Interlocutory Relief  
on March 24, 2021, Supreme Court to weigh in....*

- On March 3, 2021, Franklin Circuit Court Injunction was issued enjoining the 30-day limitation on emergency Executive Orders and Emergency Administrative Regulations
- On March 11, 2021, the House voted to ratify approximately 60 Emergency Orders (pending the legal battle); all others would have expired absent judicial injunction
- On March 24, 2021, Attorney General Cameron filed an Interlocutory Appeal with the Kentucky Supreme Court, in 2021-CA-0328
- Governor's Response is due April 5, 2021
- Kentucky Supreme Court may issue interlocutory (meaning prior to conclusion) relief, but may well issue scheduling order for oral argument
  - Until process is concluded, the Franklin Circuit Court injunction remains in effect
- Process typically takes approximately 3 months to complete if urgent review



**HB 4:** Allows the General Assembly to eliminate adjournment dates; allows extensions, etc. (3/16/21)

**HB 190:** Authorizes the sale of grocery items by food service establishments; eliminates any local or state limitations

**HB 210:** Amending KRS 337.015 to require adoption leave by all employers the same as birth parents

**HB 278:** Amends tax code to allow deductions paid with proceeds from PPP to be treated the same as federal purposes

**HB 413:** Unemployment Insurance; Establishes state-sponsored pool during states of emergency; Applies retroactively

**SB 7:** Establishes fraud prevention efforts and investigation team; waives accidental overpayment for Unemployment Benefits

**SB 8:** Exceptions for mandatory immunization; prohibits mandatory vaccinations – Became law with no signature

- On March 10, Congress passed the American Rescue Plan Act of 2021
- Several provisions relate to employment law, including FFCRA
- As previously advised, after 12/31/2020, no requirement of FFCRA continuation
  - Consolidated Appropriations Act of 2021 (signed by Trump) extended, voluntarily, through 3/31/21
- Further extends the tax credit for employers of less than 500 employees through September 30, 2021
- Tax credits are available for all of the “old” FFCRA-qualifying reasons, and for vaccine-related issues
- From 4/1/21 through 9/30/21, employers may voluntarily offer 10 new days (up to 80 new hours)
- EFMLA was originally limited to school closings; but now expanded to include all FFCRA Leave
- All 12 weeks of EFMLA may be paid, including the first two weeks, which were previously unpaid
- The American Rescue Plan prohibits the tax credit if the employer discriminates with respect to leave:
  - (1) in favor of highly compensated employees
  - (2) in favor of full-time employees, or
  - (3) on the basis of employment tenure.
- Employers should decide whether to voluntarily offer the new FFCRA leave
- Tax credits are available to private sector employers with fewer than 500 employees

# 3

## OSHA Does Not Issue ETS

### *OSHA's "National Emphasis Program" In Place of Emergency Temporary Standards*

#### ***On March 12, 2021, OSHA Issued "National Emphasis Program"***

- When this was issued, we thought this was a "precursor" to an Emergency Temporary Standard pursuant to the Executive Orders entered in January
- The National Emphasis Program "Targeted" High Risk Businesses
- To date, OSHA has still failed to issue any new ETS
- The National Emphasis Program may be the substitute, by this administration, to the ETS
- Businesses in "high risk" industries, or "high risk activities" must be aware
- Intended to clamp down on those entities not strictly following COVID-19 instructions
- Less "formal" than ETS, but may create substantial problems
- Issues with enforcement, structure, and uniformity under an "Emphasis" instead of ETS
- Businesses need to be aware of new ETS at any point, as it is still predicted to be released asap

# 3

## New Regulations Impacting Businesses

*On March 25, 2021 the US Department of Labor Began Dismantling Recent Wage & Hour Regulations*

- W&H Division issued two new directives directly impacting the struggling restaurant industry:
  - Tip Regulation Rules for 20% Rule and Tip Pooling delayed through 12/31/20:
    - Previously, DOL placed a cap of 20% of time a tipped employee could on side duties
    - 2020 Rule would have allowed employers to pay the FLSA tip credit rate for related non-tipped duties if work was completed during, or “immediately before or after” work
    - 2020 Rule would also have allowed restaurants to use “tip pools” to share tips
- Replacement of regulations relating to penalties and other aspects of tip pooling or tip sharing
  - The DOL intends to withdraw portions of the 2020 Rule and replace them with language that significantly expands the DOL’s authority to assess Civil Money Penalties for tip pooling and tip sharing violations.
  - The proposed replacement language would also eliminate the requirement in the 2020 Rule that violations be “repeat or willful” – resulting in the real potential for double penalties – i.e., back wages and liquidated damages as well as DOL Civil Money Penalties

# 3

## New Regulations Impacting Businesses

*On March 9, 2021 the US Department of Homeland Security (DHS) Set Aside the Public Charge Rule*

- On 3/9/21, DHS announced cancellation of the Public Charge Rule we previously addressed
  - The Public Charge Rule disallowed immigrants from applying for citizenship if the immigrant was on the United States Public Charge (i.e., public assistance)
- The new Administration has declared that such laws will not be enforced
  - Mayorkas stated that the rule was unfair to individuals who “access health benefits and other government services available to them” and “was not in keeping with our nation’s values.”
  - Mayorkas advised that additional reforms will be implemented in the near future
- Following this announcement, USCIS advised that applicants seeking lawful permanent resident (i.e., green card) status are no longer required to submit proof of self-sufficiency
- USCIS stated that it would immediately cease application of the Public Charge Rule
- Public Charge will no longer be considered by USCIS for permanent resident status



- On 3/17/21, the Senate Committee on the Judiciary held a hearing on the Equality Act -- which would prohibit discrimination based on sex, sexual orientation, and gender identity
- On 3/18/21, the American Dream and Promise Act of 2021 was passed – which would provide a pathway to citizenship for DREAMers, as well as recipients of Temporary Protected Status
- The House also approved the Farm Workforce Modernization Act of 2021 -- which would provide a pathway to citizenship for eligible farm workers and update the H-2A temporary agricultural worker program.
- The DOL Employment and Training Administration announced a further delay in the effective date of the rule entitled “Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States” through November 14, 2022
- On 3/23/21, the Senate confirmed Martin Walsh as Secretary of Labor -- the first union representative in over 50 years to be appointed to the Secretary of Labor
  - DOL has rolled back independent contractor classification and joint employment
  - Rescinded certain opinion letters and Payroll Audit Independent Determination program
  - Rescinded the Industry-Recognized Apprenticeship Program
  - Walsh is in favor of \$15 minimum wage change and other substantial business issues

- Senate is working on undoing the EEOC Conciliation Rule through a Joint Resolution under the Congressional Review Act (CRA) providing for congressional disapproval
  - The rule, which became effective on 2/16/21, makes the statutorily required conciliation process more transparent by requiring the EEOC to provide defendants with the factual and legal bases for the EEOC's reasonable cause findings and demands for monetary relief.
  - CRA would preclude adoption along the same or similar fashion as the 2/16/21 directive
- On 3/24/21, the House Committee on Education and Labor moved forward with several bills:
  - Pregnant Workers Fairness Act -- would require accommodations for "workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a related medical condition";
  - Paycheck Fairness Act -- would limit employers' defenses under the Equal Pay Act and require employers to submit employee compensation data to the federal government
  - Protecting Older Workers Against Discrimination Act -- would amend federal employment law to allow a plaintiff to establish an unlawful employment practice by showing that retaliation, age, or disability was a, but not the, motivating factor in the practice
- On 3/25/21, Congress extended the PPP through 5/31/21, and provides a month to process

HRCI (Strategic): 556074  
SHRM: 21-3YVUX



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