

A stylized illustration of a diverse crowd of people, all wearing face masks. The people are depicted in various colors and styles, representing different ethnicities and ages. The background is a solid dark blue. The text is overlaid on the left side of the image.

CRISIS MANAGEMENT FOR COVID-19

Week 8: Legal Updates, Healthy Workplaces & Health Screening

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

INTRODUCTIONS



**Lyle S. Hanna SPHR,
SHRM-SCP**
*President and CEO
Hanna Resource Group*



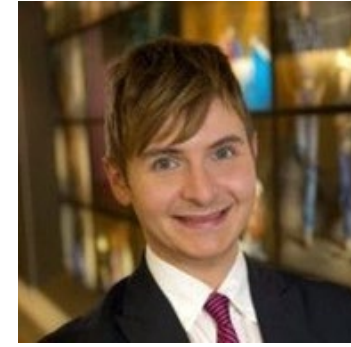
James M. Morris, Esq.
*Juris Doctor, MPA
Morris & Morris, P.S.C*



**Kraig E Humbaugh,
MD, MPH**
*Commissioner of
Health at the
Lexington-Fayette
County Health
Department*



Allison Pettrey
*Manager HR
Outsourcing
HRG*



Chase Adams
*Mgr Organizational
Development
HRG*



Autumn Morris
*HR Assessments and
Analytics - Consultant
HRG*

WHAT WE'LL COVER

1

Healthy
Workplaces &
Health Screenings

2

Legal &
Regulatory
Updates



1

Healthy Workplaces & Health Screenings



Kraig E Humbaugh, MD, MPH

*Commissioner of Health at the Lexington-
Fayette County Health Department*



1

Healthy Workplaces & Health Screenings

Working During the COVID-19 Pandemic

For Hanna Resource Group

Kraig Humbaugh, MD, MPH

Commissioner of Health

Lexington-Fayette County Health Department

May 11, 2020



Helping Lexington be well.



Reducing the Spread of COVID-19

1

Healthy Workplaces & Health Screenings

- In a pandemic, everyone is susceptible to the disease.
- COVID-19 is thought to spread much the same way as other respiratory viruses.
- No vaccine is currently available.
- The best way to prevent illness is to avoid being exposed to this virus.
- To help reduce the spread, everyone should:
 - Wash your hands often
 - Avoid close physical contact
 - Cover your mouth and nose with a face cover when around others
 - Cover coughs and sneezes
 - Clean and disinfect

Source: [cdc.gov](https://www.cdc.gov)



COVID-19 Symptoms

1

Healthy Workplaces & Health Screenings

- Symptoms may appear 2-14 days after exposure and may include:
 - Fever
 - Cough
 - Shortness of breath or difficulty breathing
 - Chills
 - Muscle Pain
 - Sore throat
 - New loss of taste or smell
 - Other less common symptoms have been reported

Source: [cdc.gov](https://www.cdc.gov)



A “New Normal” for Workplaces



1

Healthy Workplaces & Health Screenings

- Successful business operations going forward will require staff and public confidence that risks are being reduced.
- Minimum guidelines have been set. They are available on our website (lfchd.org) or search for “Healthy at Work minimum requirements.” Consider monitoring the state “Healthy at Work” site for updated and industry-specific guidance and timelines.
 - Continue to telework as possible
 - Be flexible and creative
 - Make use of and provide current technology for staff
 - Phased return to work
 - Gradually lift restrictions at the workplace
 - Ensure sick employees can stay home
 - Enforce social distancing
 - Keep staff and customers who are on-site physically separated from each other as much as is required to perform their duties
 - Limit face-to-face interaction
 - Do a walk-through to identify common areas, narrow hallways, stairs and areas where staff and clients could congregate and change workflows to reduce traffic and person-to-person interaction
 - Consider staggering shifts or extending them, using fewer personnel



A “New Normal” for Workplaces

1

Healthy Workplaces & Health Screenings

- Conduct staff temperature and health checks daily
 - Tell staff to stay home if feverish or if they have symptoms
 - Turn away staff who show up with fever or symptoms
 - Perform daily temperature and health screenings by one of two general methods:
 - On-site temperature taking and inquiry about symptoms upon workplace entry
 - Self-administered temperature and health assessment done by employees at home, before they come to work, and reported to employers daily
 - Example: Have you had any of the following since the last time you were at work?
 - Fever (100.5 F or higher)
 - New cough?
 - Shortness of breath
 - Sore throat?
 - New muscle aches or headaches
 - Gastrointestinal symptoms?
 - Chills?
 - New loss of taste or smell?
 - Close contact with a COVID-positive case?



A “New Normal” for Workplaces

1

Healthy Workplaces & Health Screenings

- Universal masks and any other necessary personal protective equipment (PPE)
 - Provide masks as needed
 - Enforce the wearing of surgical or cloth masks by employees when around others
 - Encourage clients to wear masks
- Adequate hand sanitizer and hand washing
- Restrict common areas
 - Maximize physical distancing by limiting numbers and seats in common areas
- Proper sanitation
 - Perform regular, frequent cleaning, focusing on high-touch areas



A “New Normal” for Workplaces

1

Healthy Workplaces & Health Screenings

- Create a testing plan
 - Determine how an employee with COVID-19 symptoms could be isolated immediately (if at work) and get tested
- Make special accommodations
 - To the extent possible, put those who are at highest risk of complications (elderly, those with chronic disease) in positions less likely to be exposed to the virus
- Designate a “Healthy at Work” officer
- Educate and train employees
 - Make sure employees understand what the “new normal” should look like and their responsibilities
- Contact notification responsibilities
 - Be willing to work with public health authorities if an employee tests positive or is a close contact or someone with COVID-19
 - Consider “block” scheduling to make limit exposures and make contact tracing easier
 - Have staff schedules and contact information available

Questions?



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2

Legal & Regulatory Update



James M. Morris, Esq.

*Juris Doctor, MPA
Morris & Morris, P.S.C*

2 Unemployment Insurance Update

Kentucky's Workshare Regulations Overview *787 KRA 1:350E*

- Kentucky's system is still broken; workshare application is not available; regulations are not yet on-line
- Employers should be creative during the assistance to avoid laying off or furloughing employees.
- Unemployment Benefits are available for “a reduction in work hours of more than 10 percent, but less than 60%, with no reduction in hourly rate, or the equivalent thereto, to be eligible for unemployment benefits to compensate ... for the temporary loss of income
- STC Benefits means “the regular weekly UI amount Multiplied by the percentage of reduction
- Submit a “STC Plan” to the KUIC Executive Director (e-mail until application is available)
- Promised new Handbook is still not available
- Applications are still not available
- Workshare guidance is still not available
- However, KAR has been file-stamped and filed, so, I am providing guidance

2 EEOC Update

Ongoing updates – and corrections

- Employees with “high risk” conditions may ask employers about reasonable accommodations (ADA)
- Employer may not exclude or take any adverse action merely because of CDC-identified disability
 - Employer may exclude the employee only if a “direct threat” -- that the employee has a disability that poses a “significant risk of substantial harm” to his or her own health.
 - Consideration of the severity of the COVID-19 outbreak in a particular area; the employee’s own health, and the Employer’s workplace (and measures taken)
 - Employer still cannot exclude the employee or take adverse action unless there is no reasonable accommodation, absent undue hardship, that the employer can make – telework; leave; reassignment; protective equipment; separation barriers; elimination or substitution of functions; temporary schedule modifications.
- The employee must notify the employer of need for accommodation
- CDC guidance documents references “vulnerable workers” (defined to include individuals over age 65 and those with underlying medical conditions) and suggests that employers provide duties that minimize their contact with customers and other employees “if agreed to by the worker.”

2

PPP Ongoing Confusion

Ongoing questions about PPP and Loan Forgiveness

- As discussed last week, SBA/Treasury requires 75% of the loan toward payroll, compared to the “last full quarter” (1st Quarter contains 13 weeks; 75% = 9.75 weeks
 - Paying 9.75 weeks of pay in 8 weeks is currently impossible – still no clarification
- Still massive confusion on PPP. What we know:
 - Must certify that the loan was needed considering current activity, access to other sources of liquidity, and whether these other options would be significantly detrimental to the business
 - Borrowers will want to have documentation that shows they considered each factor
 - Subject to review (mandatory for more than \$2,000,000)
- Amnesty extended through May 14, 2020 for “additional guidance”
 - No additional guidance as of today’s date
- SBA Guidance is changing every single day. Document the dates when decisions are made, the then-current guidance, and the rationale for business-decisions related to the loan request

2 EIDL Guidance

SBA Announces Limitations of new EIDL Grants solely to agricultural businesses

- As previously referenced, EIDL received additional funding in COVID-19 Phase 3.5
- At this time, only agricultural business applications will be accepted
- Applicants who have already submitted their applications will continue to be processed on a first-come, first-served basis.
- For agricultural businesses that submitted an EIDL application through the streamlined application portal prior to the legislative change, SBA will process applications without the need for re-applying.
- Agricultural businesses includes those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries
- SBA is encouraging all eligible agricultural businesses with 500 or fewer employees wishing to apply to begin preparing their business financial information needed for their application.

2

Practical Advice for Employers

What employers need to explain to employees

Q: Is it sufficient to have each employee self-verify, and call in if their temperature is 100.4° or above?

A: No. The Governor has identified additional guidance is necessary – and liability concerns exist

Q: UI office has provided wildly inconsistent guidance about reducing hours what benefits will be received. What should we do?

A: Prepare an application, in letter form, and send to the Executive Director. Do not wait for an application form

Q: Is there a maximum amount that an employee can make under Kentucky's Workshare?

A: No. Despite inconsistent guidance, there is no cap in the actual regulations (no \$552 per week)

Q: On Monday's call it was mentioned there would be a new handbook with updates to workshare and details on the new workshare program that is still pending DOL approval. Where can I find these?

A: No clue! Promised to be sent by end of the day last Monday. Have I mentioned, KUIC is broken?!

Questions & Answers





HANNA RESOURCE GROUP



Morris & Morris, PSC