

An illustration of a diverse crowd of people, all wearing face masks. The people are rendered 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 11: Legal & Regulatory Updates & Strategically Looking Forward

*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*



Andy Barr
Congressman



Beth Davisson
*Founding Executive
Director of KY
Chamber Workforce
Center*



Brad Patrick
*HRG Partner &
Adviser/Consultant
for Practical
Performance Solutions*



Allison Pettrey
*Manager HR
Outsourcing
HRG*



Autumn Morris
*HR Assessments and
Analytics - Consultant
HRG*

WHAT WE'LL COVER

1

Update from
Congressman
Andy Barr

2

Legal &
Regulatory
Updates

3

COVID-19
and the
Economic
Impact
Ahead

4

Preparing for
the New
Normal:
Evaluating
Business
Strategy &
HR's Role



1

Update from Congressman Andy Barr



Questions & Answers





2

Legal & Regulatory Updates



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

2

PPP Flexibility Act

PPP was clearly broken, with new Rules being issued and implemented daily

On Friday, May 29, 2020, the House voted in favor of the PPP Flexibility Act to undo substantial confusion and inconsistent guidance from the SBA and Treasury (it is not yet law; also, unconstitutional under Article I, §5, voted “by proxy”). If Passed, the law would:

- Extending the minimum maturity of PPP loans to five years (not retroactive to previous loans)
- Extending the covered period for using PPP loan proceeds from June 30, 2020, to December 31, 2020
- 8 week forgiveness period extended to the earlier of 24 weeks or December 31, 2020
- Rehire exception to forgiveness reduction changed from June 30, 2020 to December 31, 2020
- Changes 75% Payroll Rule to 60%
- Senate version is different, 16 weeks; Congress bill has issues in method of adoption (illegal)

2

PPP Flexibility Act

PPP was clearly broken, with new Rules being issued and implemented daily

- No reduction to forgiveness calculation if good faith assertion that there was no ability to rehire/replace employees prior to 12/31/2020 or there was an inability to return to the same level of business activity due to compliance with federal governmental requirements between 3/1 and 12/31 relating to standards of sanitation, social distancing, or other worker or customer safety requirements
- Changes 6-month PPP loan deferral to earlier of forgiveness application, 24 weeks or 12/31
- Expands the 6.2% Employer Portion Deferral of the CARES Act to all employers

This bill is now headed to the Senate, where it is expected to pass. *However, it is not yet law.*

Until it passes, all PPP Recipients are bound by the then-current SBA and Treasury Interim Rules

2

Refusal to Return to Work

Can Employees Refuse to Return to Work due to COVID-19?

Two Federal Agencies come into play: OSHA and NLRA

OSHA

- OSHA protects employees from retaliation in certain circumstances when they refuse to perform an assignment that involves “imminent danger”
- Unclear whether COVID-19 constitutes “imminent danger,” but no agency or court has declared
- Employers do not have to pay employees who refuse assignments

NLRA

- “Protected Activity” and “Work Stoppage Due to Abnormally Dangerous Conditions” concern
 - Typically requires group actions (2 or more), or actions on behalf of all
 - Does not apply to individual complaints or refusals
- Employers can replace “striking” workers, but cannot retaliate or withhold accrued benefits

2 Kentucky UI Disaster

KUIC Issues Continue

- 787 KAR 1:350E adopted on May 1, 2020, becoming the law in Kentucky, still isn't being enforced
- May 28, 2020, Governor announced a "data breach"
 - Alerted on April 23, 2020
 - Potential exposure of "identity data"
 - Those who may have been compromised will be alerted by e-mail or letter
- May 28, 2020, Governor advised a "reorganization" of the UI Office
 - Will soon be under the Labor Cabinet
 - Bringing in new leadership
 - "It is time for better results," the Governor said
- No workshare/STC Applications
- No guidance or Employer Handbook

2 Recent Legal Questions

A few of the recent questions that have come up

- Q. Can face shields be used in lieu of face masks?
- A. Yes.
- Q. If the company supplies the face masks do they need to supply the face shields?
- A. First, companies are required to provide PPE. Second, you must supply for ADA Assistance.
- Q. What legal repercussions can an employer face if employees refuse to adhere to safety mandates?
- A. The Phase Opening requires compliance. If companies cannot comply, they must close. 5/11 Memo
- Q. If an employee has been around a person that tests positive, can the company require testing?
- A. Yes. EEOC and CDC now allow COVID-19 testing. You may also require self-quarantine
- Q. Can an employee refuse to take the test and just self-quarantine for 14 days?
- A. No. EEOC and Governor Mandate require compliance
- Q. How do you address a positive response to CDC oriented questions?
- A. CDC and Governor Mandate requires further action, including PCP referral and self-quarantine

Questions & Answers





3

COVID-19 and the Economic Impact Ahead



Beth Davisson

*Founding
Executive Director of KY
Chamber Workforce
Center*



Kentucky Chamber **WORKFORCE** CENTER

**SERVING AS THE BUSINESS RESOURCE FOR
EDUCATION AND WORKFORCE INITIATIVES.**



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Kevin Smith
Beam Suntory
VP Kentucky Beam
Bourbon Affairs



Beth Davisson
Kentucky Chamber
Workforce Center
Executive Director

COVID-19 and The Economic Impact Ahead



- Economists paint bleak picture for coming months.
- The national outlook control scenario (45% probability) and the pessimistic scenario (35% probability) both showed a three-quarter recession that has already started.
- Consumer demand is expected to fall by 32% under control compared to 60% under the pessimistic scenario.
- Overall GDP declines of 8.3% in control compared to 22.9% in pessimistic.
- Manufacturing employment declines of 8.9% under control scenario vs. 21.6% under the pessimistic numbers.

Source: www.kychamberbottomline.com



COVID-19 and Jobs – Monitoring the U.S. Impact on people and places



- In five states—Hawaii, Kentucky, Michigan, Pennsylvania, and Rhode Island—a quarter or more of the workforce has applied for unemployment benefits.
- Low-wage, part-time, young and minority workers are the most likely to hold vulnerable jobs
- Three-quarters of jobs classified as vulnerable, as of mid-April, paid less than \$40,000.
- Education: Workers without bachelor's degrees are nearly twice as likely to hold vulnerable jobs.
- Race: Minorities are more likely to hold vulnerable jobs, especially in large cities.
- Age: Younger workers are 35 percent more likely to hold vulnerable jobs.
- Gender: Women sustained a majority of the initial job losses

Source: www.mckinsey.com





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84%

OF KENTUCKY
EMPLOYERS TODAY
CANNOT FIND
QUALIFIED
WORKERS.

81%

OF EMPLOYERS PROJECTED
MODERATE TO HIGH GROWTH
FOR THEIR ORGANIZATIONS
IN THE NEXT THREE TO FIVE YEARS.

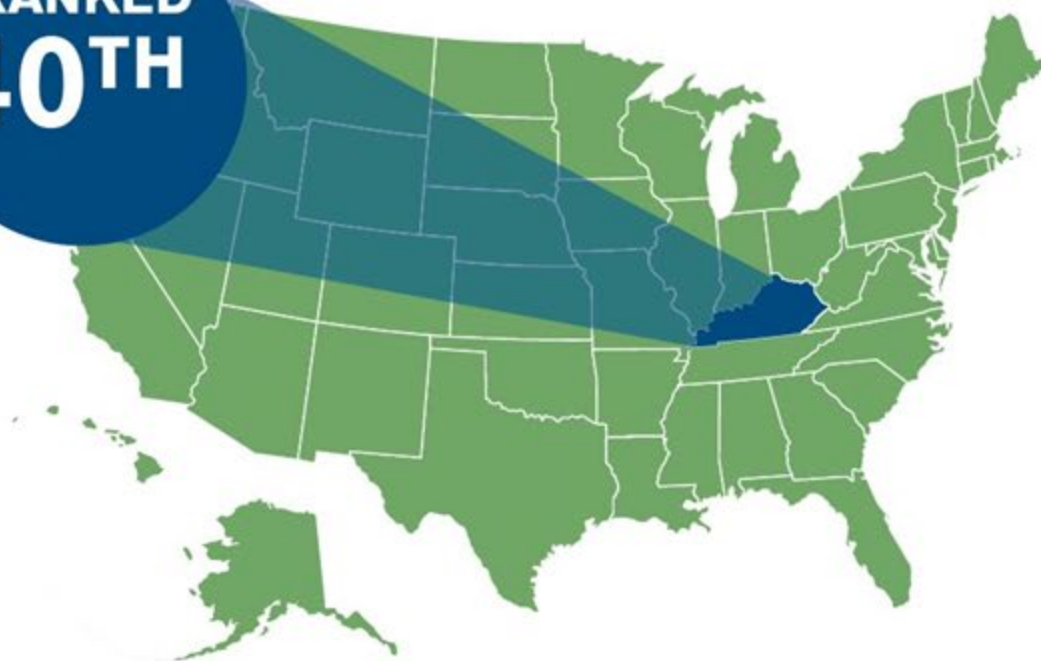
SOURCE: KYSHRM 2017



KENTUCKY'S WORKFORCE PARTICIPATION RATE



RANKED
40TH





59.3% KY workforce participation rate vs. 62.9% US

SOURCE: KY STATS



8.1% disability rate, compared to 4.7% nationally



More than **35,500** state and county inmates



Third highest state in opioid drug overdose deaths





BUS *to* BUSINESS



Partnered with:



DON'T MISS THE BUS!

COMING TO YOUR COMMUNITY OCTOBER 2020



BUS2BUSINESS DAY IS HAPPENING ALL ACROSS THE STATE ON OCTOBER 2, 2019!



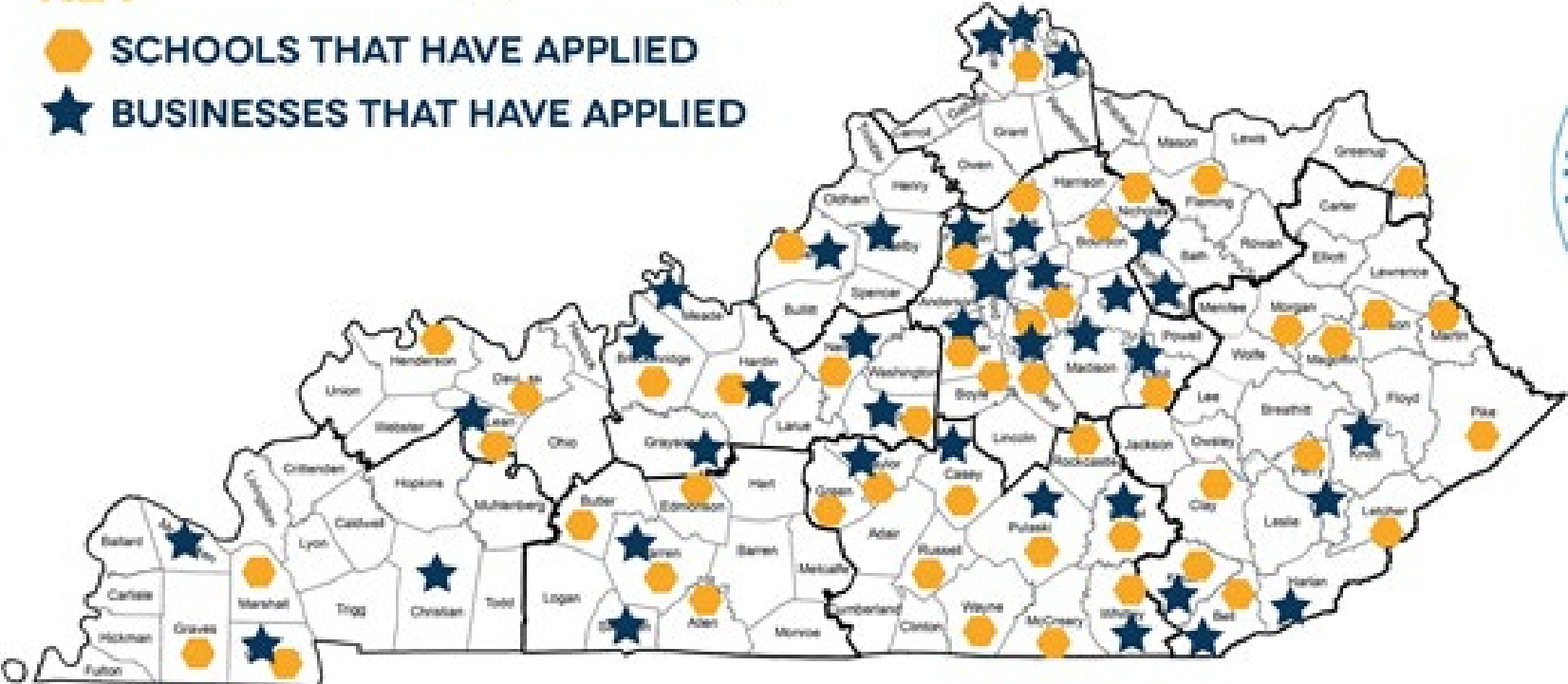
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KEY

-  **SCHOOLS THAT HAVE APPLIED**
-  **BUSINESSES THAT HAVE APPLIED**



WWW.KYCHAMBER.COM/BUS2BUSINESS

Up to date as of 9/4/19.





COVID-19: WHO'S HIRING?

Connecting Kentucky's Talent Pipeline



#UniteKyBiz
#TeamKentucky
#TogetherKy

- Over **20,500** webpage visits,
- **4,000** job report downloads,
- Over **800** employers fill out the job posting survey,
- For a combined total of over **75,000** jobs!



Now introducing:



COVID-19:
WHO'S HIRING?
Second Chance Hiring Campaign



Kentucky Chamber

#UniteKyBiz
#TeamKentucky
#TogetherKy





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<https://kychamberbottomline.com/2020/04/20/op-ed-early-releases-need-an-open-door/>





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Contact us at workforcecenter@kychamber.com or at 502-848-8732.



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@KyWorkforce



Kentucky Chamber Workforce Center



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Helpful Links

CALLS TO ACTION:

Post Jobs or Sign Up to Be a 2nd Chance Employer

- <https://www.kychamber.com/news/coronavirus/covid-19-whos-hiring>

Sign up to be a Bus to Business

- <https://www.kychamber.com/programs-services/Kentucky-Chamber-Workforce-Center/bustobusiness>

SOURCES CITED & RESOURCES:

- <https://www.mckinsey.com/industries/public-sector/our-insights/covid-19-and-jobs-monitoring-the-us-impact-on-people-and-places>
- <https://kychamberbottomline.com/2020/05/22/economists-paint-bleak-picture-for-coming-months-legislative-action-required-to-address-failing-road-fund/>
- <https://www.kentucky.com/opinion/op-ed/article242869781.html>
- <https://www.kychamber.com/sites/default/files/pdfs/Opioid%20Abuse%20in%20Kentucky%202019%20-%20Updated%20Version.pdf>

Questions & Answers





4

Preparing for the
New Normal:
Evaluating
Business Strategy
& the Important
HR
Professional Role



Brad Patrick

*HRG Partner &
Adviser/Consultant,
Practical Performance
Solutions*

4

Preparing for the New Normal

A New Normal...?

- Current processes are being tested
- Clients and customers have different needs
- Financial environment is very different
- Employees have new concerns and new priorities
- Work priorities are impacted
- Organization structure and work processes do not match the new priorities
- Hiring conditions and the talent pool has changed
- Important parts of your culture has been tested

4

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Yep, you are dealing with a new normal,
and an incredible **OPPORTUNITY**

4

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- Evaluate and Revise Strategies
- Leverage your Role as an **HR Professional**

4

Preparing for the New Normal

Leverage Your Role as an HR Professional

- **High-value, high-impact HR professional opportunity**
 - Unique Perspective – focused on people, organization and culture considerations
 - Visibility to –
 - Organization dynamics including workloads, coordination and distractions
 - Employee concerns, issues and changing needs
 - Changing laws, programs and requirements
 - Policy and procedure gaps and shades of gray
 - External hiring market
 - Ability to network with other HR professionals and access to best practices

4

Preparing for the New Normal

Delivering Your "Unique Perspective"

- “Escape the Tunnel”...See the positive opportunity
- Be dedicated to eliminate or minimize uncertainty
- Help the organization confirm its’ values and commitments – **or**, take the opportunity to establish new commitments
- Be a quality change leader/facilitator and communicator
 - Quality communications includes listening
 - Frequent, dependable, group and individual, continuous communications
 - Quality communications are often measured by building trustworthiness and trust
- **(Key Point)** Roll up your unique perspective into a trusted, usable input for business leaders

4

Preparing for the New Normal

New Normal Requires Business Strategy Re-Evaluation

- Sustainable business strategy is about creating value while satisfying stakeholders needs and interests (my business school sounding statement)
- Challenge is to recognize the differences, identify changes and make revisions
 - The “unprecedented nature” likely makes this more difficult – drives thinking timelines
 - Begin with the future state in mind and plan from today forward (an approach)
- Go back the tools to challenge and facilitate thinking
 - Revisit SWOT work and extend into TOWS evaluation (Google it)
 - Scenario planning tools will be very useful
 - Challenge your mission, vision and values against the new conditions
 - Recognize the strongest strategies are simple, clear and synchronized among all business parts
 - **Be a High-Value, High-Impact HR professional by bringing a fully integrated unique perspective**

	External Opportunities (O) 1. 2. 3.	External Threats (T) 1. 2. 3.
Internal Strengths (S) 1. 2. 3.	SO "Maxi-Maxi" Strategy Strategies that use strengths to maximise opportunities.	ST "Maxi-Mini" Strategy Strategies that use strengths to minimise threats.
Internal Weaknesses (W) 1. 2. 3.	WO "Mini-Maxi" Strategy Strategies that minimise weaknesses by taking advantage of opportunities.	WT "Mini-Mini" Strategy Strategies that minimise weaknesses and avoid threats.

4

Preparing for the New Normal

Important Stuff for Strategy & Crisis Management Work Today (As an HR Professional)

- Take point person responsibilities to lead or provide input for Communications³
- Eliminate or minimize uncertainty, build trust
- Recognize your January '20 organization structure, processes, policies, and procedures were not set up for the current and future situation
- Manage the Work! (Work = Resources)
 - Focus on mission critical and build from there (Stop – Start – Continue – Delay)
 - Clarify roles and accountabilities and performance expectations
- Find places to lock-in some useful processes
 - Change model and process
 - Meetings management model
 - Etc.

Questions & Answers



SHRM CODE: 20-S2JH6

HRCI: 524912 (strategic/business)



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