

Weekly COVID-19 Update From EKA May 12, 2021

In California: COVID hospitalizations down 93% from the early January peak.

VACCINATION

President Aims To Vaccinate 70% Of American Adults By July 4

President Joe Biden set a new vaccination goal to deliver at least one shot to 70% of adult Americans by July 4 as he tackles the vexing problem of winning over the “doubters” and those unmotivated to get inoculated. Demand for vaccines has dropped off markedly nationwide, with some states leaving more than half their available doses unordered. Aiming to make it easier to get shots, Biden called for states to make vaccines available on a walk-in basis, and he will direct many pharmacies to do likewise.

California Public Health Department Does Away With Quarantine for Fully Vaccinated and Asymptomatic Workers

Last week, the California Department of Public Health (CDPH) [released](#) updated public health recommendations advising that fully vaccinated non-healthcare workers can refrain from quarantining after a known workplace exposure to COVID-19, but only if they are asymptomatic. This guidance applies only to non-healthcare workplaces. For the purposes of CDPH’s guidance, individuals “are considered fully vaccinated for COVID-19 two or more weeks after they have received the second dose” of either the Pfizer or Moderna vaccines or two weeks after they have received the single-dose Johnson and Johnson vaccine. The guidance also notes that employers that are “subject to the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards must [still] ensure that employees are following the current ETS face covering and testing requirements.” Employers may want to be aware of CDPH’s updated guidance’s impact on whether a fully vaccinated employee who: (1) experiences a known workplace COVID-19 exposure, and (2) is asymptomatic, would be entitled to leave under the 2021 COVID-19 Supplemental Paid Sick Leave Law (SPSL), which, among other things, provides for supplemental paid sick leave due to a required quarantine or isolation related to COVID-19

Pediatricians Can Bypass Myturn As They Vaccinate Children

State officials will allow pediatricians to bypass their cumbersome vaccine management system in a move intended to speed COVID-19 vaccinations for children, CalMatters has learned. The decision comes as the US Food and Drug Administration is expected to authorize vaccines for children ages 12 to 15 as early as next week, which would add 2.1 million kids to the number of Californians eligible. The move is a tacit recognition of the

problems that the massive \$50 million MyTurn system poses for doctors and smaller medical groups wanting to immunize their patients.

Orange County & Other Sites To Close Mass COVID-19 Vaccination Centers

Orange County officials said the demand for first doses has dropped by over 75% since the end of April. As a result, efforts will be made to boost vaccine clinics in neighborhoods. The County said that on June 6, it will close mass vaccination sites at the Anaheim Convention Center, OC Fair & Event Center, Soka University and Santa Ana College. ... The announcement came a day after officials decided to close the Oakland-Alameda Coliseum mass vaccination site, which will shut down May 23. Requests for first doses have dropped from 4,000 a day to 400, according to the Alameda County Public Health Agency. Focus on vaccine distribution there will also shift to smaller clinics. Last week, Los Angeles city officials said the mass vaccination site at Dodger Stadium — one of the largest in the country — will stop operations by the end of May.

Pfizer And BioNTech Apply For Full U.S. Approval For Their Covid Vaccine

Pfizer and the German company BioNTech have become the first companies to apply to the US Food and Drug Administration to approve their Covid-19 vaccine for use in people fully 16 and older. The vaccine is currently being administered to adults in America under an emergency use authorization granted in December. The approval process is likely to take months. In a statement on Friday, the companies said that they had submitted their clinical data, which includes six months of information on the vaccine's safety and efficacy, to the FDA. They plan to submit additional material, including information about the manufacturing of the vaccine, in the coming weeks.

FDA Authorizes Pfizer Vaccine For Children Ages 12-15

Pfizer's COVID-19 vaccine has earned emergency use authorization for distribution to children ages 12 to 15 across the US from the Food and Drug Administration. The FDA made the announcement calling it a "significant step in the fight against the COVID-19 pandemic." Later today, an advisory committee to the Centers for Disease Control and Prevention will meet to vote on the expanded use of Pfizer's coronavirus vaccine. If the committee gives its go-ahead, the CDC will make the final determination and announcement. If everything falls into place, 12- to 15-year-olds could start getting vaccinated as soon as tomorrow.

REOPENING

New Health Orders

LA County has issued a revised [Health Officer Order](#) now that the County has entered the Yellow Tier. The recent changes are highlighted in yellow in the documents. The

Order aligns with the Yellow Tier safety modifications of the State's Blueprint for a Safer Economy.

The revised [Health Officer Order Blueprint for a Safer Economy – Yellow Tier](#) is effective as of 12:01 am on Thursday, May 06, 2021. The recent changes are highlighted in yellow: Aligns with the Yellow Tier safety modifications of the State's Blueprint for a Safer Economy. The County has new [Protocols for Office Worksites](#). The Order is updated to enable occupancy up to 75% of maximum occupancy based on applicable building or fire codes and updated cleaning requirements to align with updated CDC cleaning guidance. The screening language has been updated. Office workplaces that permit only fully vaccinated persons to be on-site in the office may seat employees closer than 6 feet apart.

The modifications to the Health Officer Order include the following:

- **Amusement/Theme Parks/Fairs** can increase capacity to 35%. Fully vaccinated out-of-state visitors are permitted.
- **Bars that do not provide meals** can operate indoors at 25% capacity or 100 people, whichever is fewer. Masking is always required, except when eating or drinking; drinking and eating only while seated. Tables must be at least 6 feet apart and no counter seating/service. Maximum of 6 people from one household per table; if everyone in a group is vaccinated, six people can sit together from up to 6 different households. TV viewing is permitted. No live entertainment is permitted indoors. Outdoors tables can have a maximum of 8 persons per table from up to 3 different households; if everyone in a group is vaccinated, 8 people sit together from up to 8 different households. Live entertainment and TV viewing permitted outdoors. No counter seating/service.
- **Breweries, Wineries, Distilleries that do not serve meals** can increase indoor capacity to 50% or 200 people, whichever is fewer. No live entertainment permitted indoors. These establishments will follow the same public health directives as bars for their outdoor areas.
- **Restaurants** can increase capacity for indoor dining to 50% capacity with continued safety modifications. There must be 6 feet distancing between tables. Maximum of 6 people from one household per table; if everyone in a group is vaccinated, 6 people can sit together from up to 6 different households
- **Cardrooms/Racetracks/Satellite Wagering Facilities** can operate indoors at 50% capacity. There must be 6-feet of distancing between tables and masks are always required. Food and beverages remain banned at the tables.

- **Fitness Centers** can operate indoors at 50% capacity. Masks are always required unless swimming.
- **Movie Theatres** can operate at 50% capacity. Reserved seating only where each group is seated with at least 6 feet of distance between any other groups (in all directions); capacity is limited to ensure that there is at least 6 feet of distance between groups. Seating sections can be established for fully vaccinated people without 6 feet distancing requirements provided there is 3 feet of distance between these sections and other seats in the theatre. Eating is allowed in only designated areas or in your reserved seat.
- **Family Entertainment Centers** can operate at 50% capacity, 75% if all guests are tested or show proof of full vaccination. Masks are required.
- **Grocery and Retail Stores** capacity remains limited to 75% with continued requirement for distancing of at least 6 feet between customers.
- **Hair Salons, Barbershops and Personal Care Services** can operate at 75% capacity with masks required, except for services where customers need to remove their masks. For services where customers must remove their face coverings, staff must wear a fitted N95 mask or a face covering with a face shield.
- **Museums, Zoos and Aquariums** can be open indoors at 75% capacity with safety modifications.
- **Waterparks** can operate at 40% capacity with safety modifications.
- **Youth and Adult Recreational Sports and Community Sporting Events** can apply to Public Health for approval for athletic events, tournaments or competitions that involve more than two teams or multiple individuals. Indoor moderate and high contact sports are permitted following Collegiate Sports Protocols, which includes regular testing.
- **Live Event and Performance Indoor** venues up to 1,500 guests can operate at a maximum of 25% capacity or 50% if guests are tested or show proof of full vaccination. Venues with 1,501 guests and above can operate at 10% capacity of 2,000 people; whichever is fewer or 50% capacity for tested or fully vaccinated guests.
- **Live Event and Performance Outdoor** venues can expand to 67% capacity with safety modifications.

Updated Guidance for Informal Social Gatherings:

The [Guidance for Informal Social Gatherings: Appendix CC](#) has been updated. Recent updates are highlighted in yellow: Updated to reflect moving into the Yellow Tier of the State's Blueprint for a Safer Economy.

Here's What To Know About California's New Mask Mandate

The Centers for Disease Control and Prevention released new guidelines for outdoor mask use for fully vaccinated Americans last week, and California finally made an official announcement that it's aligning with the federal mandate, expanding the scenarios in which fully vaccinated people can go without a mask in public.

Guidance

- For **fully vaccinated** persons, face coverings are not required outdoors except when attending crowded outdoor events, such as live performances, parades, fairs, festivals, sports events, or other similar settings.
- For **unvaccinated** persons, face coverings are **required** outdoors *any time physical distancing cannot be maintained*, including when attending crowded outdoor events, such as live performances, parades, fairs, festivals, sports events, or other similar settings.
- In indoor settings outside of one's home, including public transportation, face coverings continue to be **required** regardless of vaccination status, except as outlined below.

As defined in the [CDPH Fully Vaccinated Persons Guidance](#), fully vaccinated people can*:

- Visit, without wearing masks or physical distancing, with other fully vaccinated people in indoor or outdoor settings; and
- Visit, without wearing masks or physical distancing, with unvaccinated people (including children) from a single household who are at low risk for severe COVID-19 disease in indoor and outdoor settings

Exemptions:

- The following specific **settings** are exempt from face-covering requirements:
- Persons in a car alone or solely with members of their own household,
- Persons who are working alone in a closed office or room,
- Persons who are obtaining a medical or cosmetic service involving the nose or face for which temporary removal of the face-covering is necessary to perform the service,
- Workers who wear respiratory protection, or

- Persons who are specifically exempted from wearing face coverings by other CDPH guidance.

The following **individuals** are exempt from wearing face coverings at all times:

- Persons younger than two years old. Very young children must not wear a face covering because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.*
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

Click [here](#) to view California statewide guidance for face coverings.

LOS ANGELES COUNTY

LA County Expected To Hit COVID-19 Herd Immunity By End Of July

With about 400,000 shots administered weekly, the County has nearly 2 million first doses to go before 80% of all residents 16 and older will have received at least one shot, Los Angeles County Public Health Director Barbara Ferrer said in a news briefing Monday. “At the rate, we’re going, we expect that we can reach this level somewhere in mid- to late July, and that assumes that we continue to have at least 400,000 people vaccinated each week that will include both first doses that people need, as well as their second doses,” Ferrer said. Ferrer noted that the estimated population that needs to be vaccinated in LA County for herd immunity is a guess, “but we do assume it’s probably somewhere around 80%.”

SACRAMENTO

Newsom Promises Additional \$600 Stimulus Checks For Californians, \$1,100 For Families

Gov. Gavin Newsom proposed a second round of \$600 state stimulus checks on Monday to hasten California’s recovery from the COVID-19 pandemic, hoping to expand the payments from low-income residents to also include middle-class families, saying that

doing so would benefit two out of three state residents. The proposal to deliver \$8 billion in new cash payments to millions of Californians is part of a \$100-billion economic stimulus plan made possible in part by a budget swelled with a significant windfall of tax revenues, a surplus the surplus Governor put at \$75.7 billion. Newsom also proposed \$5 billion to double rental assistance to get 100% of back rent paid for those who have fallen behind, along with as much as \$2 billion in direct payments to pay down overdue utility bills.

California Unemployment Claims Improve — But Backlog Worsens

California workers filed fewer unemployment claims last week — but the state’s labor agency is falling behind again in its uneven efforts to whittle down a mountain of backlogged jobless applications. Workers statewide filed 71,200 first-time claims for unemployment during the week that ended on May 1, which was down 7,400 from the claims that were filed in the week ending on April 24, the federal Department of Labor reported Thursday. However, the backlog of unemployment claims that have yet to be paid or resolved by state labor officials remains at a mammoth level and totaled 1.08 million during the week that ended on May 1, a report from the Employment Development Department shows. Although California jobless claims have stayed below 100,000 for a full month, they still are far above the typical weekly pace for unemployment claims prior to wide-ranging business shutdowns ordered by state and local government agencies.

California could end workplace social distancing and mask requirement by August

California workers won’t have to physically distance themselves from each other at workplaces starting in August under a proposed update to the state COVID-19 safety rules. The proposal, which would adjust California workplace regulations adopted in November, also specifies fully vaccinated workers will not have to wear face coverings when they are outdoors and don’t have COVID symptoms. Workers will also not have to wear face coverings indoors if they and everyone around them in a room are fully vaccinated and do not have symptoms of the coronavirus. The proposal by the standards board of the state’s Division of Occupational Safety and Health, commonly called Cal-OSHA, reflects another step toward normalcy in California, where case COVID-19 numbers have plummeted. Gov. Gavin Newsom in April had announced a plan to lift most restrictions by June 15. California won’t completely repeal its workplace regulations, however. For instance, starting July 31, employers will need to provide free testing to workers who have COVID symptoms and are not fully vaccinated.

NATIONAL

California stimulus checks of up to \$1,200 are heading to hundreds of thousands of residents

Hundreds of thousands of Californians can expect a stimulus check from the state within the next eight weeks if they haven't already received one. One-time payments under the "Golden State Stimulus," ranging from \$600 to \$1,200, are on the way for eligible Californians who qualify to receive the state's Earned Income Tax Credit. Money is also coming to people who filed taxes using an Individual Taxpayer Identification Number and earned \$75,000 or less annually.

COVID's US Toll Projected To Drop Sharply By The End Of July

The United States could see a sharp decline in Covid-19 cases by July, according to new models released by researchers in collaboration with the Centers for Disease Control and Prevention. A [first-of-its-kind report](#) uses various models to forecast the potential long-term trajectories of the coronavirus in the US, examining how four scenarios regarding vaccination and prevention measures would influence Covid-19 cases, hospitalizations and deaths. The scenarios represent high and low rates of both vaccination and adherence to nonpharmaceutical interventions, or NPIs, like physical distancing and masking. Data extend from April through September 2021 and are based on six models. They show that hospitalization and death rates are likely to remain low across the County if vaccine coverage is high and there remains at least moderate adherence to measures like masking and social distancing. The sharp decline projected by July could come even sooner if vaccination rates speed up. Even with more vaccines available, however, the country could still see substantial increases in the worst outcomes of infections from the novel coronavirus if measures like masking are cut back too soon. The risk would come from unvaccinated people spreading the virus as businesses stop enforcing mask requirements.

OSHA's COVID-19 ETS Expected Soon

On April 26, OSHA sent its COVID-19 emergency temporary standard (ETS) to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) for review. OIRA is the regulatory "gatekeeper" that is required, under various executive orders, to review proposed rules from agencies before their release. Based on this action, it is expected the ETS's could take effect within the next two weeks and there is speculation that it includes separate requirements for higher risk industries such as health care and other requirements for non-health industries. The AFL-CIO has already had a "listening" session with OIRA, even though no one outside the federal government has seen the proposal. Businesses and industry groups that want to request a similar session to offer OIRA their comments and concerns are encouraged to contact counsel immediately to ensure that their circumstances are considered before the proposal is returned to the Department of Labor from OIRA.

EMPLOYER ISSUES

New COVID-19 Emergency Regulation Amendments Coming From Cal/OSHA

The California Chamber issued an advisory for employers. For ease of reference, the article by Robert Moutrie is copied below.

In a development that every employer in California should be watching closely, Cal/OSHA released the new proposed text (“amendments”) for California’s COVID-19 emergency temporary standard (“ETS”) on Friday, May 7 as part of the agenda for the May 20 Standards Board Meeting. The text of the amendments (available [here](#)): merit a close review with counsel because there is virtually no chance that the Standards Board will change or reject these changes – meaning that we can assume these will pass and go into effect shortly after the May 20 Standards Board vote and the subsequent Office of Administrative Law review. And, though these changes are helpful in parts, they certainly indicate that employers will continue to have significant obligations even after the Governor’s much-discussed June 15th opening date.

I’ll highlight a few of the most important changes – but there is a lot in these amendments to digest, so I would again highly encourage employers across California to look at this and consult counsel on how to adapt their existing policies and practices.

On the positive side,

- The amendments finally recognize vaccination and provide exemptions from a range of requirements for vaccinated employees. Specifically, vaccinated employees will be exempt from the 10-14 day exclusion requirements of the ETS (and accompanying pay), as well as testing, and portions of the social distancing, transportation, and housing requirements.
- In another improvement which CalChamber had pushed for, outbreaks will now only be triggered by 3 or more cases among employees, as opposed to the prior language which allowed non-employees passing through a workplace to trigger an outbreak.

However, there are also new provisions that may add costs for compliance. A few notable examples include:

- In a change to the AB 685-related notice requirements, employers will be required to provide a follow-up verbal notice “as soon as practicable” in the event that the employer learns the employee did not receive the notice or has “limited literacy”.
- Employers will need to provide increased air filtration in minor outbreaks. In the amendments, Cal/OSHA duplicated the obligation to provide MERV filters (which was previously applicable to major outbreaks) to now also apply to outbreaks, meaning that employers with three cases will need to look at air filtration.
- Employers will need to purchase many more N95 respirators, which employers will

need to make available for unvaccinated employees under various conditions both before and after July 31, 2021.

On that note – the amendments include a new date for employers to watch July 31, 2021. On July 31, employers' obligations towards social distancing, engineering controls, housing, transportation will change. Specifically, the social distancing requirements of the ETS will expire and workplaces will be able to return to relatively normal spacing, but employers will face new obligations to provide N95's to unvaccinated employees. Notably, that date is not based on vaccination rates or similar data – it will be set in stone once these amendments pass.

In addition to Cal/OSHA's ETS, employers should also keep in mind that other changes are happening in state guidance simultaneously, and their interactions should be considered. Notably CDPH updated its Guidance for Fully Vaccinated People on May 3, available [here](#). Under CDPH's new guidance, fully vaccinated persons will not need to quarantine after exposure and have loosened masking obligations, more in line with recent federal changes, available [here](#).

I can already hear some apt readers among you asking – “Wait, if the present ETS remains in effect presently and the amends won't go into effect until the end of May, then what should we comply with?” DIR has provided some guidance there: on May 5, DIR's COVID-19 website clarified that, per [Executive Order N-84-20](#), individuals who are fully vaccinated can follow the recent CDPH updated guidance and no longer need to be excluded from the workplace under the ETS. Putting aside the law, this makes sense at a basic level because the ETS amendments will (when they go into effect) match this recent CDPH guidance.

Again – a lot to unpack here, and employers should talk to counsel – but the simple take away is compliance is going to get a lot easier for vaccinated workplaces in the coming months, and social distancing requirements will be eased on July 31, which are certainly a good thing for California.

Employers Are Legally Permitted to Mandate COVID-19 Vaccinations, But Should They?

[Haynsworth Sinkler Boyd PA](#) issued a very informative article for employers considering mandating COVID-19 vaccinations for their employees. The article discusses the various issues involved. For ease of reference, the document is copied below.

Many reasons justify a mandatory vaccination policy, such as a vulnerable client population, protecting other employees, and, frankly, removing the need for quarantining during a possible COVID-19 exposure or addressing other staffing issues

that all employers have been experiencing since the onset of the pandemic. While an employer is legally permitted in certain circumstances to require its employees to have a COVID-19 vaccination, should the employer do so?

As with any policy, there are legal exceptions employers will have to consider. However, it is the practical issues associated with such a policy that may be more compelling to avoiding the mandate. If an employer requires vaccinations and will exclude employees from the workplace who aren't vaccinated, how many employees would be excluded? Who will step in to perform the work? What additional cost is associated with filling the vacant spots? Will the employer be required to pay leave for those excluded? Is the employer a reimbursable employer requiring dollar-for-dollar reimbursement to SCDEW for any funds spent on those excluded? A mandate also creates more administrative hassle for employers and human resource professionals, not to mention the uproar such a policy would cause among those employees opposed to the vaccination on political or other similar grounds.

The legal considerations an employer must consider arise under the Americans with Disabilities Act (ADA) and religious exemptions under Title VII. Under the ADA, an employee with a disability may ask for an accommodation not to comply with the mandatory vaccination policy. If a treatment provider provides documentation indicating that the provider does not believe the employee should take the vaccine, the employer must accommodate the employee but may do so with other PPE and protections to keep the employee safe at work unless doing so would create an undue hardship.

Under Title VII, if an employee is able to establish that a sincerely held religious belief prohibits the employee from taking the vaccine and is able to explain what belief such a policy violates, an employer should grant an accommodation unless doing so creates an undue hardship. The undue hardship standard for a religious accommodation is a "*de minimis*" hardship rather than the more stringent burden of undue hardship under the ADA.

An employer who denies the exemption should be able to document why granting either accommodation is an undue hardship. Examples that might establish undue hardship under the ADA may be proof of disruption of business operations that cannot be solved by temporary measures, overworking other employees, or excess cost to the company as compared to the company's budget. Good examples of meeting a *de minimis* burden would also depend on the specific situation, but increased costs due to hiring additional staff, inability to protect the vulnerable population or other employees or other similar examples might suffice. This inquiry perplexing an employer is that PPE and social distancing are suitable alternatives to the vaccination in most situations.

These practices cannot be fairly said to create undue hardship under either standard as they are safety practices that likely have been in place at workplaces for the last year.

Remote work may be suitable for some positions; however, for many, it is not. Employees requesting remote work as an accommodation on the basis of the mandatory vaccination policy must still show other protections, such as PPE and social distancing, will not suffice to protect them from contracting serious complications from a COVID-19 exposure. Additionally, under the *de minimis* standard, an employer may not be required to provide PPE to the employee seeking a religious exemption from the vaccine policy. Having offered this protection for the last year and now contending it is a *de minimis* hardship may fall flat with the EEOC. If the accommodation is granted, but remote work isn't feasible for a specific position, an employer may exclude the employee from the workplace. However, an employer should not terminate any employee or deny any paid leave as both of these actions would amount to an adverse employment action.

A Massachusetts federal court upheld a hospital's termination of an employee who worked with a vulnerable population and refused to comply with an employer's mandatory flu vaccination policy on the basis of religion. The court found the policy reasonable because the hospital served vulnerable populations. The healthcare workers providing care to those populations were at high risk for contracting influenza and would expose that population to the flu, which could be fatal. The court noted that refusing the flu shot would create an undue hardship on the employers who could not reassign duties and would incur other costs hiring employees to perform those duties. Another North Carolina court stated in its opinion on an unrelated matter that an employer would meet the *de minimis* burden if an employee who served a vulnerable population refused to comply with the hospital's mandatory flu vaccination policy. While those cases are analogous to a policy mandating the COVID-19 vaccination, the COVID-19 vaccination is in Emergency Use Authorization (EUA) status and the flu shots at issue were not. A court considering termination in the instance of an employee refusing a COVID-19 vaccination may not find termination was reasonable regardless of former opinions due to the difference in the vaccinations and the publicity around risks associated with the COVID-19 vaccination. Additionally, the EEOC, expressly contends employers should not terminate but exclude unless they can document undue hardship. It is important to remember here that the EEOC is the first agency in line to address any ADA or Title VII complaints filed by any employees terminated or laid off without use of accrued paid leave.

Additional factors to consider regarding a mandatory vaccination policy:

- An employer who makes a vaccination mandatory is liable for the costs and time spent getting the vaccination.

- Any complications related to the vaccination may be covered by worker's compensation.
- Gross negligence is an exception to limiting claims to worker's compensation. It would permit tort claims against an employee by an employer so keeping up with concerns about vaccinations may warrant rethinking the policy as it pertains to specific vaccines.

President Biden recently announced a tax credit for employers who offer their employees paid leave to get the COVID-19 vaccine. The tax credit is available to businesses and nonprofits with fewer than 500 employees. [Click here](#) to view the IRS fact sheet for information on how to claim the credit.

LEGAL DEVELOPMENTS

US District Court Judge Blocks Nationwide Eviction Moratorium Imposed by the CDC

A United States Federal Judge in Washington, DC, [blocked](#) the Order from the Centers for Disease Control and Prevention that prevented housing providers from evicting tenants during the coronavirus pandemic. The nationwide moratorium on evictions had, according to the Federal Judge, exceeded the CDC's authority by issuing a broad moratorium on evictions across all rental properties. According to the Federal Judge's 20-page ruling that was issued just this morning, "The CDC order must be set aside." While this is clearly good news for rental housing providers across the US, landlords within California have been largely unaffected by the CDC eviction moratorium due to much stricter regulations imposed locally and statewide under Senate Bill 91 (and its predecessor, Assembly Bill 3088). Today's ruling will not likely impact locally imposed eviction moratoriums nor lawsuits seeking to overturn these moratoriums because today's ruling was primarily based upon the CDC overstepping its authority.

Court Upholds California Governor's Use Of Emergency Powers

Governor Gavin Newsom's use of emergency powers to make far-reaching policies during the pandemic was upheld by state appellate judges who rejected a lower court finding that the Democrat had done too much unilaterally. Three judges from the 3rd District Court of Appeal in Sacramento ruled unanimously that the prior judge "erred in interpreting the Emergency Services Act to prohibit the Governor from issuing quasi-legislative orders in an emergency. "We conclude the issuance of such orders did not constitute an unconstitutional delegation of legislative power," they said in ruling on a lawsuit brought by Republican state legislators. The court already had stayed the earlier ruling by Sutter County Superior Court Judge Sarah Heckman that Newsom unconstitutionally usurped the Legislature's power. The appeals court said the case raised "matters of great public concern" and agreed with the Governor's contention

that he acted within the broad emergency authority granted him under state law in times of crisis.

Insurer Escapes Pandemic Coverage For Chicago Businesses

A Chicago pastry shop and a salon can't tap into coverage with Westfield National Insurance Co. for more than \$700,000 in pandemic losses, an Illinois federal judge ruled, saying a virus exclusion bars business income loss indirectly caused by the coronavirus. US District Judge Matthew F. Kennelly on Friday tossed the putative class suit against Westfield for losses to the owners of Bittersweet, a pastry shop and cafe, and Blowtique, a hair salon, caused by government shutdown orders meant to curb the spread of the coronavirus. The owners of Bittersweet and Blowtique filed the suit in October, alleging they are owed business income and civil authority coverage from Westfield, an Ohio-based insurer, for having to close under Illinois government orders to suspend nonessential businesses because of the pandemic. The owners brought claims for breach of contract and bad faith as well as putative class claims for unjust enrichment and violations of the Illinois Consumer Fraud and Deceptive Business Practices Act. In the ruling, Judge Kennelly said Westfield's virus exclusion unambiguously precludes the pastry shop and salon's claims for the loss of business income indirectly caused by the coronavirus.

Nationwide Avoids COVID-19 Travel Cancellation Coverage Bid

Nationwide Mutual Insurance Co. has dodged having to pay travel insurance claims to two would-be tourists to Mexico after an Ohio federal judge found that COVID-19 stay-at-home orders and advisories weren't quarantines protected by their policies. In tossing the proposed class action Thursday, US District Judge Sarah D. Morrison said the plaintiffs had put forward an overly broad definition of quarantine suggesting that travel restrictions amounted to the kind of forced isolation typical of a medical quarantine.

WHAT WE'RE READING

As Can We Expect A Fourth Stimulus Check? It's Up To Congress, White House Says

More Americans are still awaiting the arrival of their third stimulus checks, but whether there will be a fourth stimulus payment would be up to Congress, according to White House officials. The Internal Service Revenue is distributing more than 1.1 million payments with a value of more than \$2 billion in the eighth batch of Economic Impact Payments from the American Rescue Plan, which intends to help Americans amid the coronavirus (COVID-19) pandemic. To read the full story, click [here](#).

California Surpasses 30 Million Vaccines, Governor Newsom Doubles Down on Efforts to Vaccinate Hard-to-Reach Communities

New efforts focus on direct appointment assistance; community outreach including neighborhood canvassing, phone banking and text banking; at-home vaccinations and transportation services; and an additional \$33 million in funding, bringing the total to \$85.7 million, to support community-based organizations. ... To bolster vaccine access in hard-to-reach communities, the state is moving away from mass vaccination sites and toward more targeted outreach with small clinics in communities with the highest disease burden. This move will make it easier for people to access vaccines. Mobile sites will continue to operate in partnership with places of worship throughout the state, as well as in coordination with businesses, school districts and local health departments where vaccination efforts are already underway. To read the full story, click [here](#).

Some Question Whether Hospital Visitation Bans During Pandemic Were Too Strict

Kenneth Newton never imagined his mom would die alone. He lives in Petaluma, Calif. Last winter his mother developed a tumor while she was living in a nursing home in Tennessee. Her health declined quickly. Newton longed to visit, but it was against the rules. His mom saw people who delivered food and those who made sure she took her medicine. But otherwise she was alone, though Newton and his four siblings talked with her regularly. To read the full story, click [here](#).

Riverside County Reports Increase In COVID-19 Hospitalizations

The number of COVID-positive patients in Riverside County increased by about 10% over the weekend, while the number of active coronavirus cases continued to wane, health officials reported. According to data released Monday by the Riverside University Health System, 70 people countywide were hospitalized with coronavirus, seven more than Friday. That includes 19 intensive care unit patients, two more than Friday. To read the full story, click [here](#).

LA, San Francisco Lead California Business Reopening Pace

San Francisco has largely beaten the coronavirus pandemic by avoiding it, while Los Angeles was nearly beaten by it during a deadly winter surge. But both emerged simultaneously Tuesday as the first urban areas in California to reach the least-restrictive tier for businesses to reopen. California's signature cities met infection and vaccine thresholds to allow indoor bars to welcome people again, larger crowds to cheer on Major League Baseball's Dodgers and Giants, and expanded capacity at restaurants, movie theaters, amusement parks, gyms and other establishments. To read the full story, click [here](#).

Amazon warehouse in Rialto fined \$41,000 for coronavirus safety violations

After a months-long inspection that began in October, investigators with the California Division of Occupational Safety and Health, or Cal/OSHA, found that LGB7, an Amazon

fulfillment center in Rialto, didn't implement adequate physical distancing, face coverings and physical barriers such as plexiglass screens that would help block infectious particles. The citation, issued Monday, also says Amazon failed to record 217 COVID-19 infections among employees from April to October 2020. State occupational health and safety laws require employers to document all workplace illnesses and injuries in a record called Log 300 that is supposed to be available to workers on request. To read the full story, click [here](#).

'It's Time' - State Travel Officials Urge Californians To Plan Summer Vacations

Encouraging pandemic-fatigued Californians to step out of their homes and spend money touring their own state was the message of a news conference hosted by Visit California, the state tourism bureau, ahead of Gov. Gavin Newsroom's plan to fully reopen the state on June 15. ... Travel spending in 2020 plummeted to \$65 billion from an all-time high of \$145 billion the year before. It is not expected to top that mark until 2024, when Visit California projects spending to hit \$151.4 billion. The state lost nearly \$12 billion in visitor spending from in-state residents in 2020 as Californians opted to travel to neighboring destinations like Las Vegas, Arizona and Mexico, Beteta said. The industry also lost about 50% of its 1.2 million workers during a nadir last year. Job losses in hospitality "affected entry level and Latino workers the hardest," Beteta said. To read the full story, click [here](#).

Over half of California public school students remain in distance learning

Although 87% of California's traditional public schools have reopened for some form of in-person instruction, fewer than half of students have returned either full time or part time in a hybrid model. A total of 55% of all public school students, including those in charter schools, were at home, in distance learning, as of April 30, according to an EdSource analysis of new data released by the state. EdSource found that two-thirds of students in district schools with the largest proportions of low-income families were in distance learning, compared with only 43% of students in schools with the fewest low-income families — a disparity that may partly explain a widening learning gap between wealthy and poor students that researchers and teachers suspect the pandemic has enlarged. To read the full story, click [here](#).

India's 'Oxygen Express' Races to Supply Hospitals, but Covid Patients Die as Stocks Run Out

At the peak of India's last wave in September, the country was consuming 3,000 tons of medical-grade oxygen a day. Now, Delhi on its own is consuming about 400 tons of oxygen a day, said Saket Tikku, president of the All India Industrial Gases Manufacturers Association, a body that represents India's industrial gases industry. Yet the government and industry experts say the problem bedeviling the efforts is the distribution, not the

amount of oxygen the country is producing. India is producing between 8,500 and 9,000 tons of oxygen a day, which is sufficient to meet current demand. Most of the oxygen is being produced far from the hospitals that need it. Transporting medical-grade oxygen requires special cryogenic tankers, which are specially built to store and transport liquefied gases at subzero temperatures. To read the full story, click [here](#).

Hope Grows For An L.A. Summer Economic Boom As COVID-19 Fades, Tourists Return, Businesses Recover

Los Angeles County is seeing new signs of a resurgent economy, with plummeting coronavirus cases allowing for a faster-than-expected reopening of bars and expanded capacity for restaurants and other businesses. In progressing Tuesday to the least restrictive yellow tier of California's color-coded reopening system, the nation's most populous County can now unshackle its economy to the widest extent possible, sparking hope for significant recovery in sectors long battered by the pandemic. To read the full story, click [here](#).

Job Postings Are Slow In Tech Hubs Like The Bay Area, But Not Because Of A Lack Of Tech Jobs

Company data shows that San Francisco, San Jose and six other US tech hubs have lagged behind the rest of the country in the last year in terms of overall job postings on the site. That's not because of a massive exodus of tech jobs from traditional hubs, but because other industries, like food service and retail, have seen fewer available jobs in those locations posted on the site. The data suggests what has been suspected for months, that businesses relying on the traffic of tech sector employees saw a decrease in business as tech companies closed their offices and allowed workers to telecommute from home. In the Bay Area, specifically, the region's stricter pandemic protocols could also have contributed to the decline in business.

To read the full story, click [here](#).

Kaiser Just Laid Off Hundreds. Are More Job Cuts Coming In The Health Care Industry?

"I certainly believe so," said William Padula, a professor of pharmaceutical and health economics at the University of Southern California. "Hospitals never operate on a very large margin," Padula said. "If their revenue drops 20 or 30%, as it could have this past year, then obviously they need to cut costs to maintain an operating margin that keeps them able to serve patients in general." Kaiser's net income dropped in 2020 to around \$6.4 billion from about \$7.4 billion the previous year, and its operating margin fell from 3.2% to 2.5%. Sutter recorded a \$321 million operating loss in 2020 and a negative 2.4% operating margin. In a March statement posted along with the financial details, Sutter said the pandemic has "exacerbated" existing challenges such as high wages, regulatory requirements, facility upgrades and investments in technology. Both companies say they

scrapped mostly non-clinical positions during their recent layoffs. To read the full story, click [here](#).

US Unemployment Claims Fall To A Pandemic Low Of 498,000

The number of Americans seeking unemployment aid fell last week to 498,000, the lowest point since the viral pandemic struck 14 months ago and a sign of the job market's growing strength as businesses reopen and consumers step up spending. Thursday's report from the Labor Department showed that applications declined 92,000 from a revised 590,000 a week earlier. The number of weekly jobless claims — a rough measure of the pace of layoffs — has declined significantly from a peak of 900,000 in January as employers have ramped up hiring. At the same time, the pace of applications is still well above the roughly 230,000 level that prevailed before the viral outbreak tore through the economy in March of last year. To read the full story, click [here](#).

Millions Are Unemployed. Why Can't Companies Find Workers?

Employers in sectors like manufacturing, restaurants and construction are struggling to find workers. There are more job openings in the US this spring than before the pandemic hit in March 2020, and fewer people in the labor force, according to the Labor Department and private recruiting sites. Surveys suggest why some can't or won't go back to work. Millions of adults say they aren't working for fear of getting or spreading Covid-19. Businesses are reopening ahead of schools, leaving some parents without child care. Many people are receiving more in unemployment benefits than they would earn in the available jobs. Some who are out of work don't have the skills needed for jobs that are available or are unwilling to switch to a new career. To read the full story, click [here](#).

How Newsom's Reliance On Big Tech In Pandemic Undermines Public Health System

Newsom's unprecedented reliance on private companies — including health and technology start-ups — has come at the expense of California's overtaxed and underfunded public health system. Current and former public health officials say Newsom has entrusted the essential work of government to private-sector health and tech allies, hurting the ability of the state and local health departments to respond to the coronavirus pandemic and prepare for future threats. ... Kathleen Kelly Janus, Newsom's senior adviser on social innovation, said the Governor is "very proud of our innovative public-private partnerships," which have provided "critical support for Californians in need during this pandemic." State Health and Human Services Secretary Dr. Mark Ghaly echoed the praise, saying private-sector companies have filled "important" roles during an unprecedented public health crisis. To read the full story, click [here](#).

Bay Area Employers More Likely To Require Vaccinations Against Coronavirus Than Other US Regions

While nationally only about 3% of businesses surveyed required employees to show proof of having been vaccinated, that number was more than double, at 7.5%, in the San Francisco-Oakland-Berkeley metropolitan statistical area, or MSA. The survey data is of businesses requiring employees to come back to in-person work. Percentage calculations excluded businesses that said, “not applicable,” which means they did not have employees physically coming to work in the last week. Many larger companies, like Facebook, with workforces that can work remotely, are encouraging instead of requiring vaccines. To read the full story, click [here](#).

How Newsom’s Reliance on Big Tech in Pandemic Undermines Public Health System

California Gov. Gavin Newsom has embraced Silicon Valley tech companies and health care industry titans in response to the COVID-19 pandemic like no other governor in America — routinely outsourcing life-or-death public health duties to his allies in the private sector.

To read the full story, click [here](#).

Analysis: Half of Global Coronavirus Deaths Unreported

The US still has the highest death toll of any country, according to the analysis, but instead of the country’s official toll of nearly 580,000 lives lost, it is over 900,000. The real count of global deaths caused by the [coronavirus](#) is more than double the number officially reported, according to a new analysis. To read the full story, click [here](#).

California High Schoolers Are Saying No Thanks To Reopened Campuses And Are Staying Home

A few large districts, including Santa Ana Unified and San Bernardino Unified, have not broadly reopened campuses, including for high school students. But most of California’s largest districts are providing a patchwork of reopening approaches based on how local school boards weighed risks and benefits and how they met demands from teacher unions over back-to-campus working conditions. One big district, Corona-Norco Unified, has more than 75% of its students back. In others, it’s closer to 20% with more limited schedules. Despite detailed planning, the majority of secondary school students in California’s largest districts will end their year much like it began — fully online, according to state data. For many, it will mean 17 or 18 months away from classrooms. Statewide, about 84% of secondary school students have the option to return to their middle and high schools in some form, according to state data, which do not separate out high schools. An estimated 48% of all secondary students at schools that are open have returned to campus. To read the full story, click [here](#).

San Diego Schools Offer COVID Vaccine Clinics To Get Students, Teenagers Vaccinated

Next week eight San Diego Unified high schools will hold free clinics offering the Pfizer vaccine, the only COVID vaccine approved for 16- and 17-year-olds. Sweetwater Union High School District, which hosted a vaccine clinic at Sweetwater High late last month that inoculated 350 students, also is planning more school clinics for next week. As of Tuesday, about 55,700 San Diego County teenagers aged 16 to 19 have gotten at least one vaccine dose, according to a county spokesperson. That represents 30 percent of teens in that age range. County Public Health Officer Dr. Wilma Wooten said that's an encouraging number, given that vaccinations only opened to people as young as 16 on April 15. Soon the Pfizer vaccine may become available to youth as young as 12. To read the full story, click [here](#).

COVID-19 Restriction Guidance Could Ease as More Americans Get Vaccinated

Biden administration officials said Sunday that the US is entering a new phase of the pandemic in which many vaccinated Americans can begin returning to normal activities and signaled that the federal government will further relax mask-wearing recommendations as more people get shots. "I would say we are turning the corner," Jeff Zients, President Biden's Covid-19 coordinator, told CNN's "State of the Union." The administration said last week it is focused on helping hesitant and hard-to-reach Americans get shots, with a goal of having 70% of the adult population receive at least one dose by July 4. To read the full story, click [here](#).

A New Covid Dilemma: What to Do When Vaccine Supply Exceeds Demand?

Of the 329 million doses shipped by the federal government to states, about 257 million have been administered, according to the Centers for Disease Control and Prevention. Several states are now sitting on surpluses, leaving officials to grapple with how best to find willing arms, and, in the meantime, telling the federal government to hold off on sending their full allotments. While some states, including Colorado and Maryland, are still requesting their full allotments, others are cutting back on deliveries, according to The Associated Press. North Carolina reduced its deliveries by 40 percent last week. Connecticut asked for just 26 percent of its full delivery, and South Carolina requested just 21 percent. At the end of last month, Arkansas asked to halt its shipment completely for at least one week, The Arkansas Democrat Gazette reported. To read the full story, click [here](#).

To Vaccinate Younger Teens, States And Cities Look To Schools, Camps, Even Beaches

A recent survey by the Kaiser Family Foundation's Vaccine Monitor found that many parents — even those who eagerly got their own Covid shots — are reluctant to vaccinate pubescent children. Yet doing so will be critical for further reducing transmission of the virus, smoothly reopening middle and high schools and regaining

some sense of national normalcy. ... States, counties and school districts around the country are trying to figure out the most reassuring and expedient ways to reach younger adolescents as well as their parents, whose consent is usually required by state law. They are making plans to offer vaccines not only in schools, but also at pediatricians' offices, day camps, parks and even beaches. To read the full story, click [here](#). To read the full story, click [here](#).

Note: While EKA monitors governmental announcements, guidelines and recommendations, our updates are prepared for informational purposes and are compiled from publicly available sources. Our updates should not be considered health, medical, legal, or tax advice. Always consult a qualified professional regarding any specific questions you may have. All hyperlinks are live and will bring you to the information mentioned. If you are not interested in receiving future emails from us, please reply with a "Remove" in the subject line and note the email addresses to be removed.

Previous Updates

Our previous COVID-19 updates can be found [here](#). Feel free to share our updates with friends and colleagues. We hope you find the information in the EKA updates and the questions they raise to be informative. If you have any COVID-19 government or communications questions, please reach out to any EKA team members.