

A photograph of a woman in green scrubs and a young girl standing in a hospital hallway. The woman is on the right, smiling, and has her arm around the girl. The girl is on the left, also smiling. In the background, other people are walking in the hallway. The text is overlaid on the image.

# Medical and Legal Vaccination Considerations for Volunteer and Staff Management During the COVID-19 Pandemic

National CASA/GAL Association for Children

April 23, 2021

# About This Session

- We will record this session and make the recording and deck available on the portal
- Submit questions through the Q&A feature



# DISCLAIMER

The speakers are not providing medical or legal advice and have no doctor-patient or attorney-client relationship with you.

This session presents information of a general nature and does not address the cases of any specific individuals or organizations.





Welcome

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GENERAL COUNSEL, CHIEF PUBLIC POLICY OFFICER

# Panelists



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# Agenda

**WELCOME**

**COVID-19 VACCINE MEDICAL OVERVIEW**

**COVID-19 EMPLOYMENT CONSIDERATIONS – LEGAL  
AND PRACTICAL IMPLICATIONS**

**COVID-19 VACCINATION AND VOLUNTEER  
MANAGEMENT**

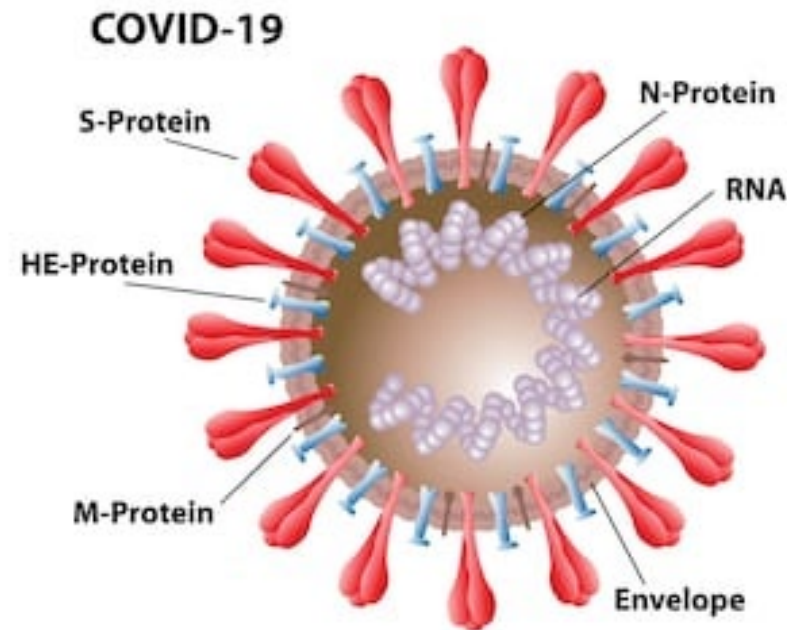
**QUESTIONS**

# A Closer Look (With Social Distancing): COVID-19 Vaccines for Adults and Children

ARMANDO CORREA, MD  
TEXAS CHILDREN'S HOSPITAL  
HOUSTON

# COVID-19 Vaccine Candidates

Most candidates aim to induce neutralizing antibodies against the viral spike (S) protein, preventing uptake via the human ACE2 receptor.

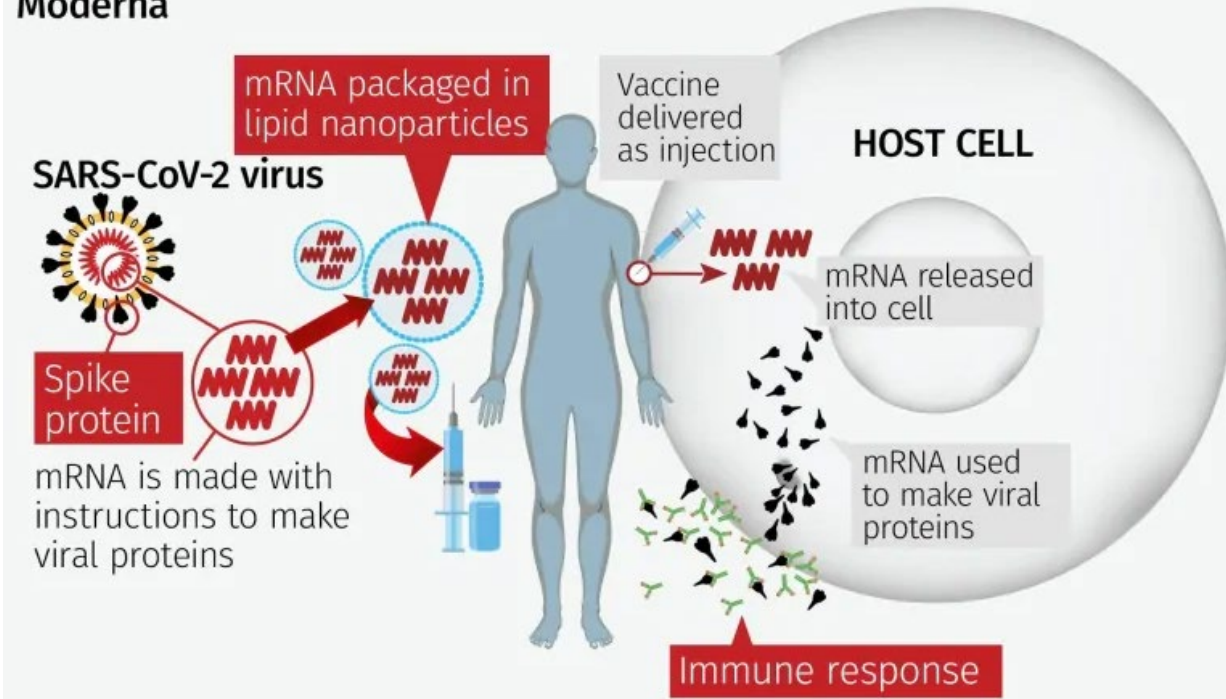




# How do the COVID-19 Vaccines Work?

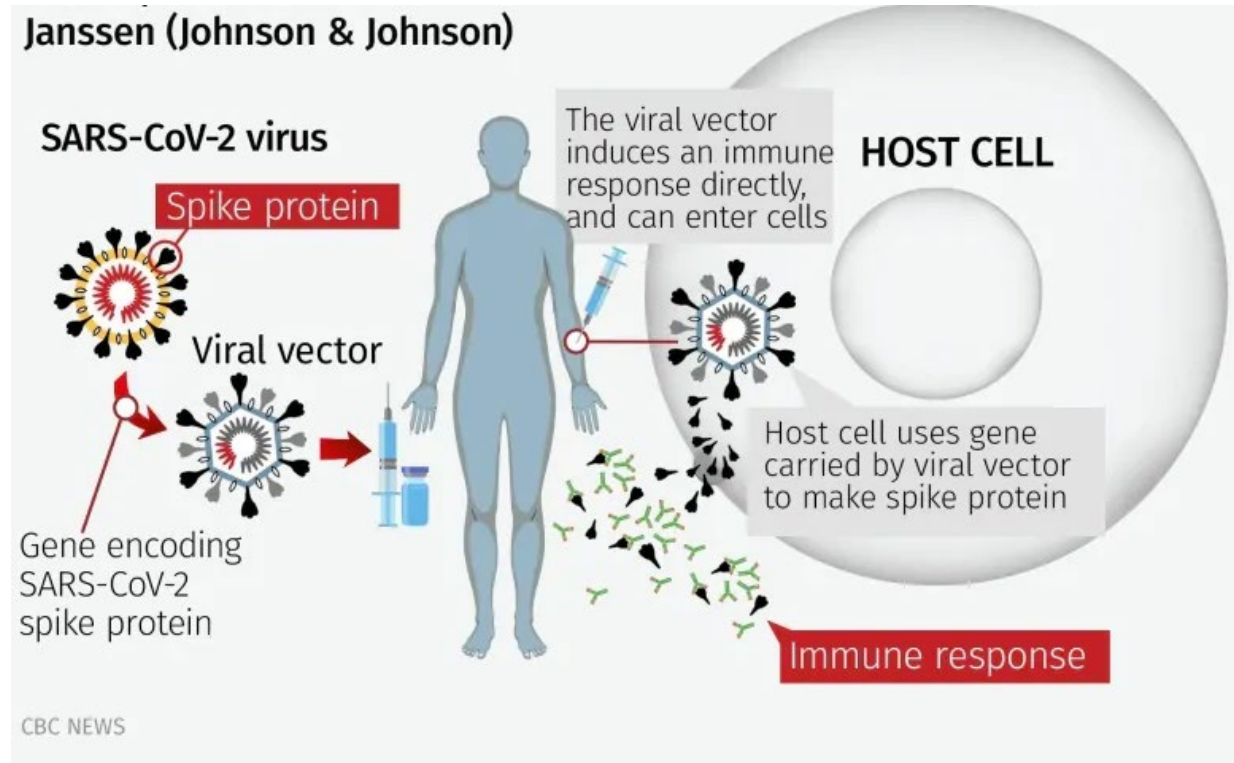
## mRNA vaccines

Pfizer-BioNTech  
Moderna

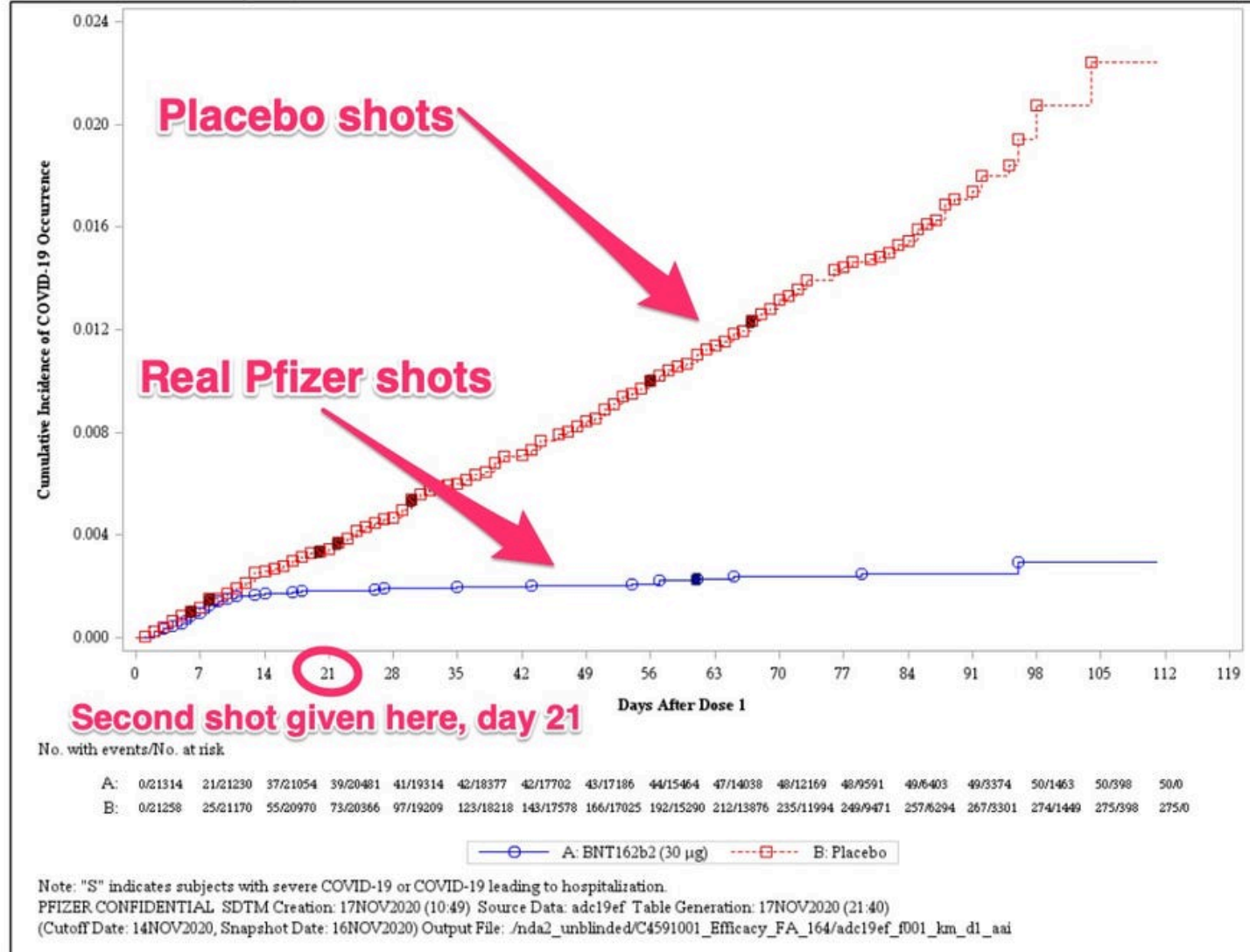


## Non-replicating viral vector vaccines

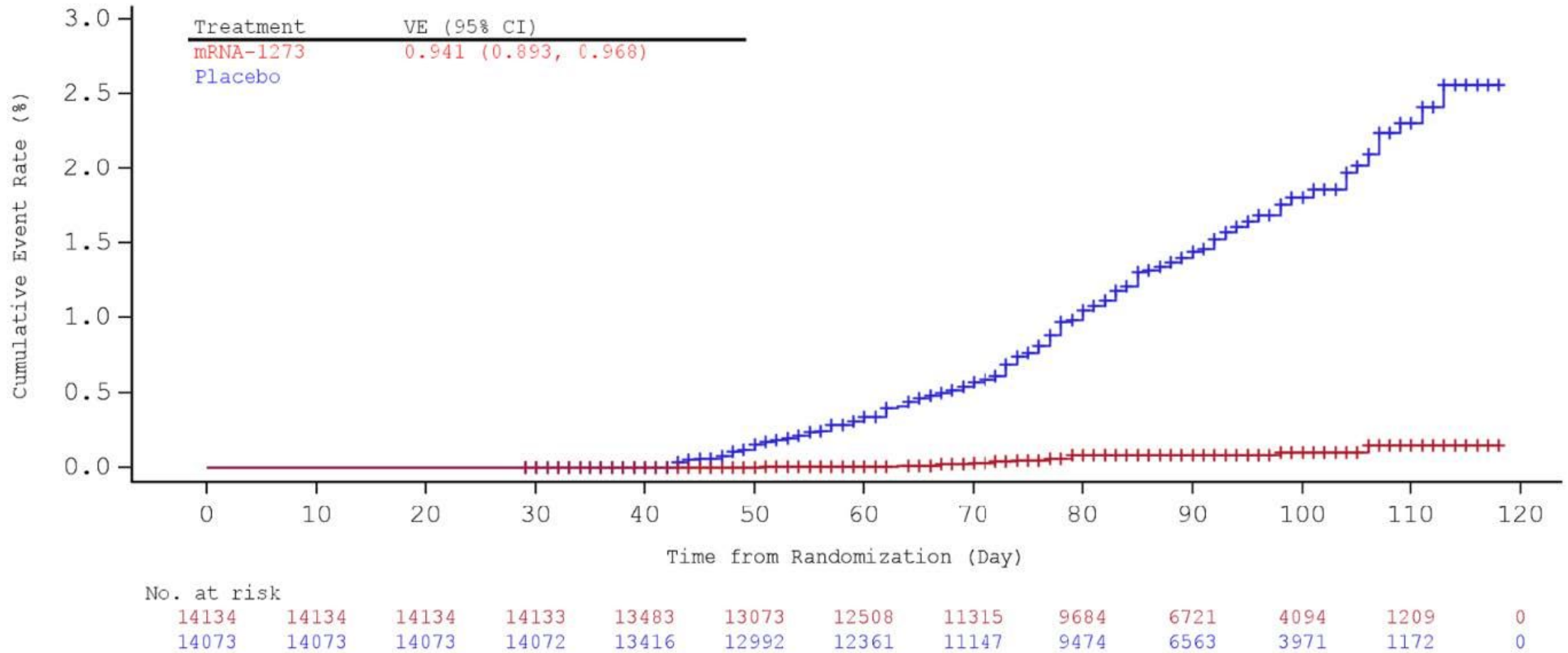
Janssen (Johnson & Johnson)



**Figure 2. Cumulative Incidence Curves for the First COVID-19 Occurrence After Dose 1, Dose 1 All-Available Efficacy Population**



# Cumulative Incidence Curves of COVID-19 - Moderna





# COVID-19 vaccine trials by the numbers

As of November 30, 2020

## Pfizer/BioNTech

- **43,931** enrolled
- **150** clinical sites
  - 39 U.S. states
- Racial/ethnic distribution
  - **13%** - Hispanic
  - **10%** - African American
  - **6%** - Asian
  - **1%** - Native American
- **45%** ages 56-85

## Moderna

- **30,000** enrolled
- **89** clinical sites
  - 32 U.S. states
- Racial/ethnic distribution
  - **63%** - White
  - **20%** - Hispanic
  - **10%** - African American/Black
  - **4%** - Asian
  - **3%** - All others
- **64%** ages 45 and older
  - 39% ages 45-64
  - 25% ages 65+

Sources: <https://www.pfizer.com/science/coronavirus/vaccine>;  
<https://www.modernatx.com/cove-study>  
For more information, visit [www.clinicaltrials.gov](http://www.clinicaltrials.gov)



# About these COVID-19 mRNA vaccines

- These mRNA vaccines are expected to produce side effects after vaccination, especially after the 2nd dose.
  - Side effects may include:
    - Fever
    - Headache
    - Muscle aches
- No significant safety concerns were identified in the clinical trials.
- At least 8 weeks of safety data were gathered in the trials. It is unusual for side effects to appear more than 8 weeks after vaccination.



Source: <https://www.cdc.gov/vaccines/hcp/acip-recs/vacc-specific/covid-19/clinical-considerations.html>

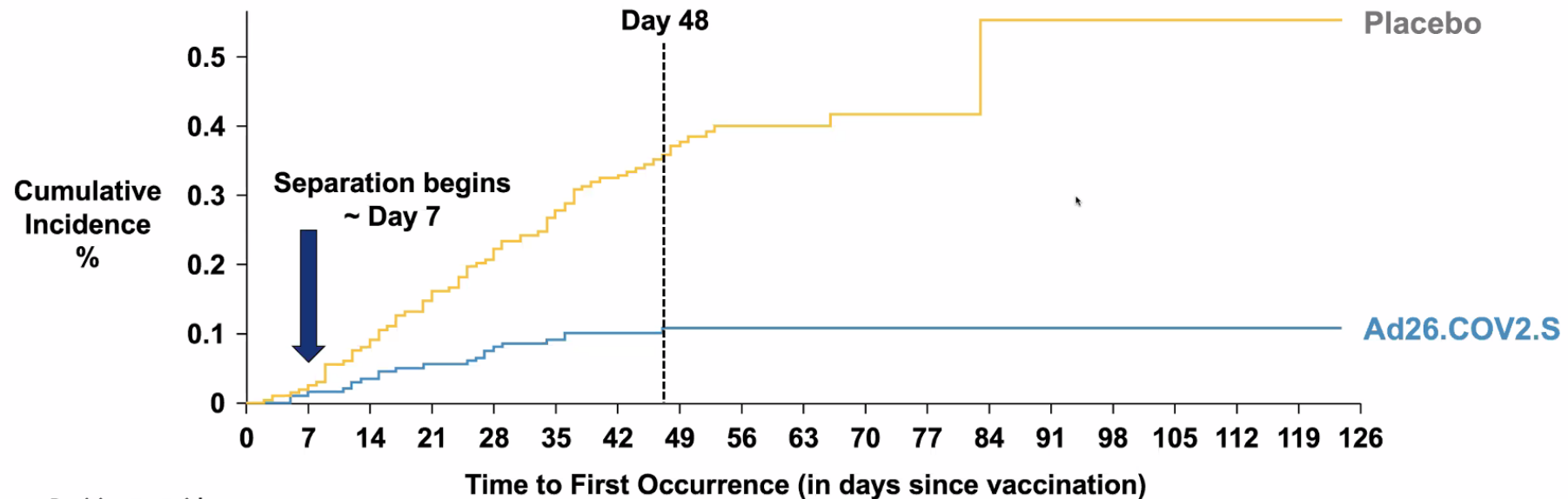
# Johnson & Johnson Vaccine (Ad26.COV2.S)

- Safety and efficacy demonstrated in a global phase 3 study, including in the US, Latin America and South Africa
- High efficacy (85%) shown against severe disease in all regions studied, in all subgroups and including vs resistant variants
- Single-shot with no sub-zero freezing cold chain may facilitate mass vaccination campaign in the US and globally
- EUA approved by FDA in US and rolling out; approved in Canada; expanded access in South Africa; EU and WHO approvals pending



# Johnson & Johnson COVID-19 Vaccine

## Time to First Occurrence of Severe/Critical COVID-19 Demonstrates Early Onset of Protection



**Participants at risk**

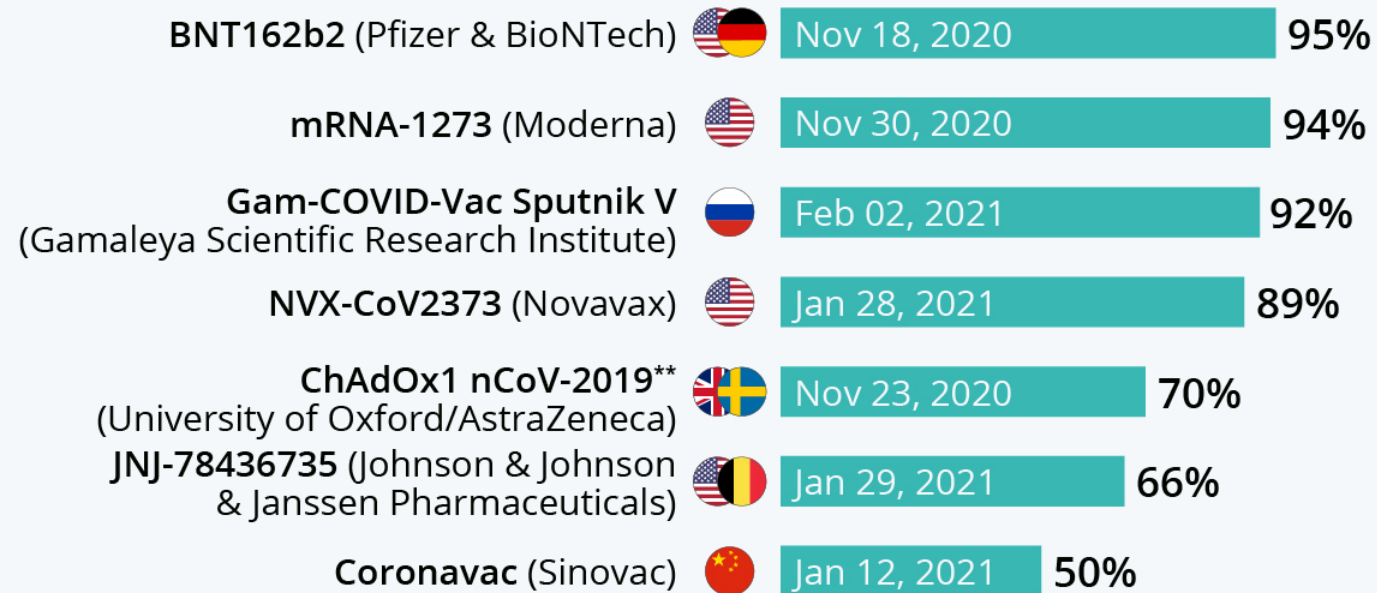
Ad26.COVS.2.S	19744	19741	19734	19725	19718	19705	18685	15043	11046	7919	4039	1481	720	490	490	489	146	31	0
Placebo	19822	19817	19799	19779	19760	19725	18682	15088	11069	7939	3995	1485	732	500	497	495	137	29	0

**Number of cases**

Ad26.COVS.2.S	0	3	7	11	16	18	20	21	21	21	21	21	21	21	21	21	21	21	21
Placebo	0	5	18	32	44	55	65	73	76	76	77	77	78	78	78	78	78	78	78

# How Effective Are The Covid-19 Vaccines?

Estimated effectiveness at Covid-19 prevention based on interim data from late-stage clinical trials\*



\* Some trials are ongoing and findings have not been peer-reviewed. Efficacy may differ with new Covid-19 variants.

\*\* ChAdOx1 nCoV-2019 efficacy climbs to 90% with a second dose. JNJ's U.S. efficacy was 72%. Coronavac data based on Brazil trials.

Sources: Respective companies, The Lancet, Butantan Institute

## If I have had COVID-19, do I need to get vaccinated?

There is not enough information currently available to say if or for how long after infection someone is protected from getting COVID-19 again

Early evidence suggests natural immunity from COVID-19 may not last very long, but more studies are needed to better understand this.



## Do I still have to wear a mask/social distance after receiving 2 doses?

Yes. While experts learn more about the protection that COVID-19 vaccines provide under real-life conditions, it will be important for everyone to continue using all the tools available to us to help stop this pandemic.

Together, COVID-19 vaccination and following CDC recommendations for how to protect yourself and others will offer the best protection from getting and spreading COVID-19.

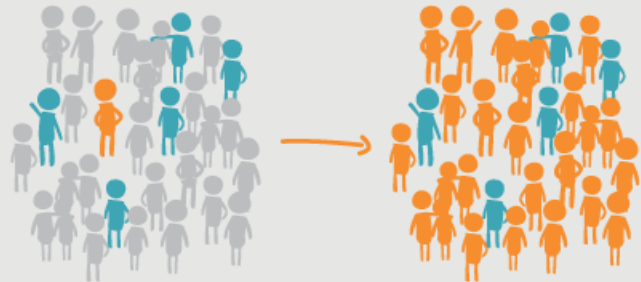


# What % of population needs to be immunized in order to achieve herd immunity?

- Experts do not know what % of people would need to get vaccinated to achieve herd immunity, but it's estimated to be 65-75%
- Herd immunity is a term used to describe when enough people have protection—either from previous infection or vaccination—that it is unlikely a virus can spread and cause disease. As a result, everyone within the community is protected even if some people don't have any protection themselves.

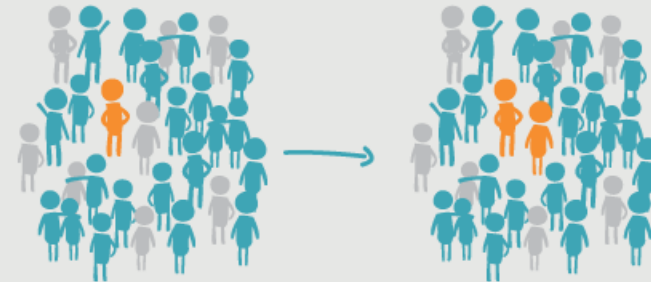
## What is 'herd immunity'?

If only a few people are vaccinated ...



...then one person is infected...  
the disease spreads very fast

But if lots of people are vaccinated ...



...then the disease can't spread very far,  
so the whole community stays safe.  
**This is 'herd immunity'**

#CelebrateVaccines

# Can those who are pregnant receive the COVID-19 vaccine?

The Society for Maternal Fetal Medicine (SMFM) and ACOG has issued guidance statements:

The risks of COVID-19 disease in pregnant women are greater than in non-pregnant women

The COVID-19 vaccine has not yet been thoroughly tested in pregnant women. However, a few people received the vaccine and did become pregnant. There were no reports of problems and monitoring continues.

The three authorized vaccines are not a live vaccine, meaning that you cannot become infected with the virus when you receive the vaccine

Persons who are pregnant, planning to become pregnant or breastfeeding may choose to be vaccinated. The decision should be made with the provider taking into account not only the vaccine's risks and benefits, but the risk of getting moderate or severe disease if they were to remain unvaccinated.





# When will children be able to get COVID-19 vaccines?

- The Pfizer vaccine already is cleared for use starting at age 16
- Pfizer and Moderna both have completed enrollment for studies of children ages 12 and older, and expect to release the data over the summer (about 3000 each)
- Pfizer and Moderna expect to start studies in children 11 and younger later this year
- Johnson and Johnson hasn't started any pediatric studies yet
- It's unlikely we could get community protection without immunizing children

# Pfizer-Biontech Phase 3 Trial in Adolescents 12 to 15 years of Age

- Enrolled 2,260 adolescents 12 to 15 years of age in the US. In the trial, 18 cases of COVID-19 were observed in the placebo group (n=1,129) versus none in the vaccinated group (n=1,131)
- demonstrated 100% efficacy and robust antibody responses, exceeding those recorded earlier in vaccinated participants aged 16 to 25 years old

SARS-CoV-2-neutralizing antibody geometric mean titers elicited by the Pfizer-BioNTech vaccine:



# Update on the Pfizer Phase 1/2/3 Study in Children 6 months to 11 years old

Last month, Pfizer dosed the first healthy children in a global Phase 1/2/3 study to further evaluate the safety, tolerability, and immunogenicity of the Pfizer-BioNTech COVID-19 vaccine in children 6 months to 11 years of age.

- two-dose schedule (approximately 21 days apart) in three age groups: children aged 5 to 11 years, 2 to 5 years, and 6 months to 2 years



# Further Clinical Studies of mRNA-1273 (Moderna)

- Phase 2/3 “TeenCOVE” study in adolescents ages 12-17 years has completed enrollment of 3,000 participants in the U.S.
- Phase 2 “KidCOVE” study of mRNA-1273 in young children ages 6 months to 11 years has just started

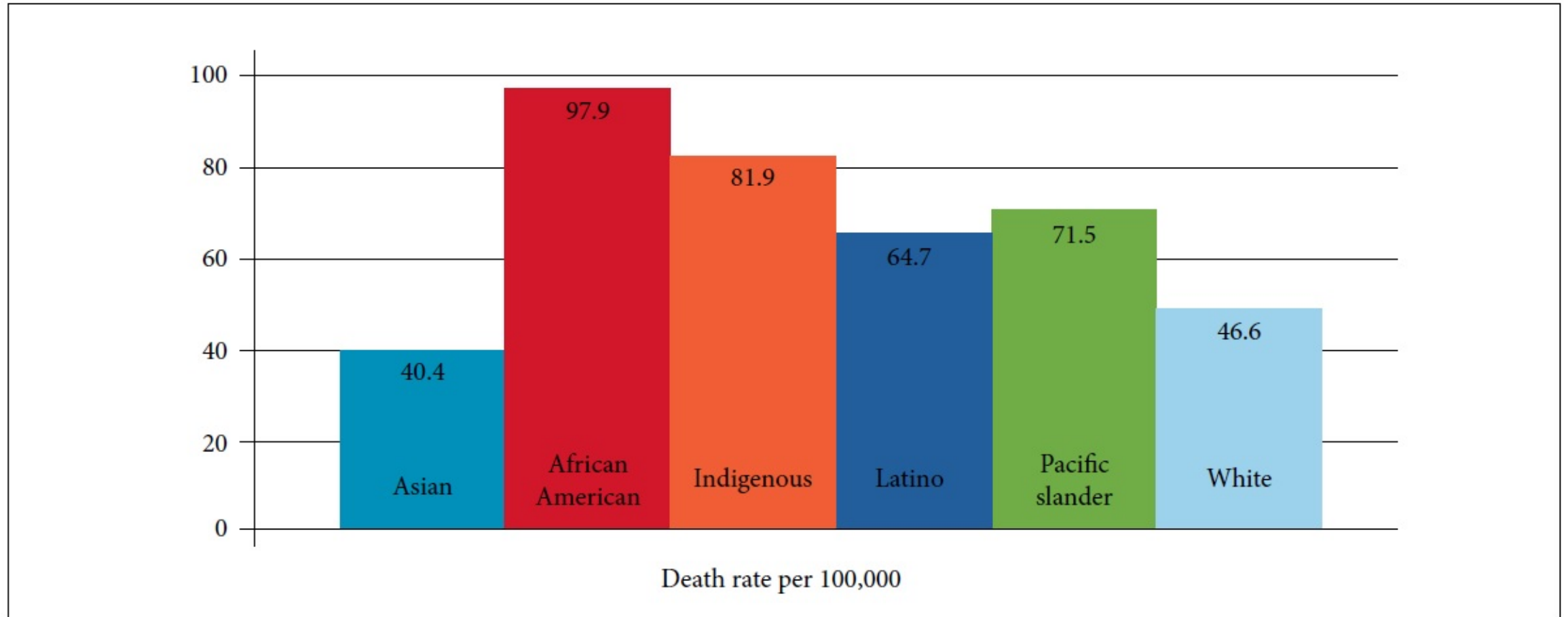
# Johnson & Johnson Expands Phase 2a Clinical Trial

The randomized, double-blind, placebo-controlled Phase 2a study (VAC31518COV2001) is now including adolescents 12 to 17 years of age.

- will initially be tested in a small number of adolescents aged 16-17 years.
- currently enrolling participants in Spain and the UK; enrollment will commence shortly in the US, the Netherlands and Canada, with Brazil and Argentina

# Disproportionate Toll of COVID-19 on People of Color

FIGURE 1. COVID-19 deaths per 100,000 people by race/ethnicity, through September 10, 2020



Source: APM Research Lab, September 10, 2020. Available at <https://www.apmresearchlab.org/COVID/deaths-by-race>.

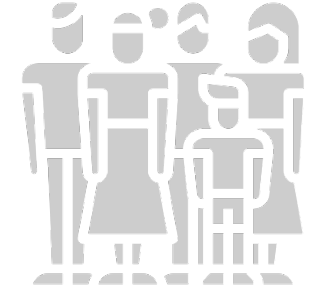
# Why are People of Color disproportionately affected by the coronavirus pandemic?



Healthcare disparities in the US:

- less access to healthcare
- high-risk conditions are more prevalent in these populations

The belief that “it’s only family, so we can get together”



Housing situations:

- living in multifamily and/or multi-generation residences

Employment factors:

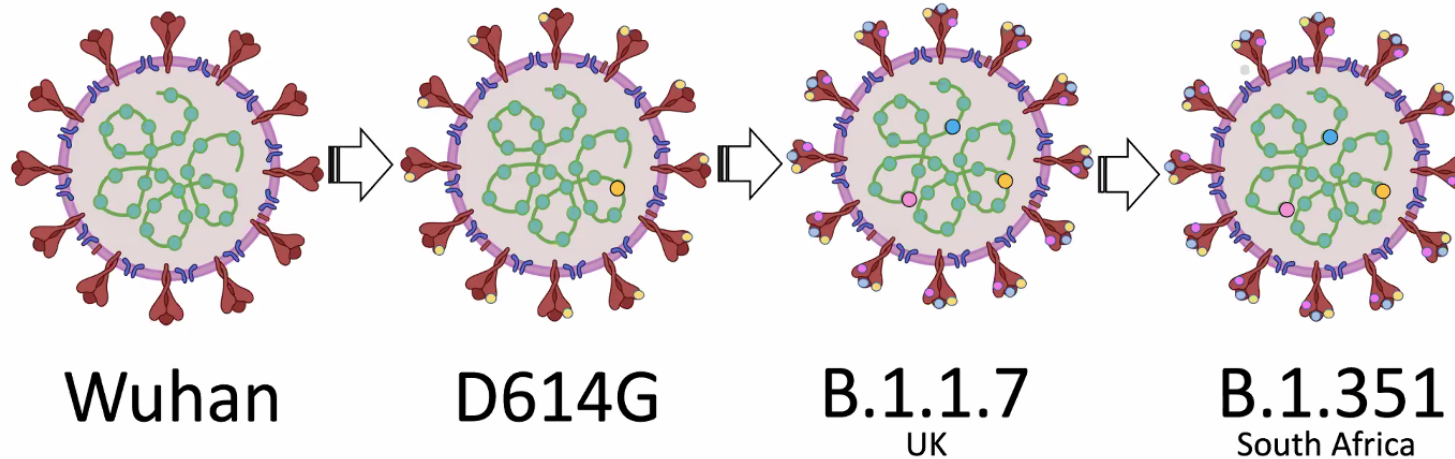
- extremely high-risk jobs (such as meat packing)
- overrepresented in industries such as restaurants, food services, etc.
- more likely to interact face to face with customers





# SARS-CoV-2 Variants

## Emergence of New SARS-CoV-2 Variants Threatens Vaccine Efficacy



Enhanced transmission?  
Higher viral loads and worse disease?  
Impact on vaccine efficacy?

# SARS-CoV-2 Variants

Multiple SARS-CoV-2 variants circulating globally

After emerging, some disappear, others persist

CDC and others are studying these variants to understand whether they:

- Spread more easily from person to person
- Cause milder or more severe disease
- Detected by available diagnostic tests
- Respond to therapeutics currently used
- Change effectiveness of COVID-19 vaccines

Variants classified, e.g., “variants of concern”

# Modifying Vaccine to Target SARS-CoV-2 Variants

- Current prevention measures and licensed vaccines offer protection against SARS-CoV-2 variants
  - Efforts needed to increase speed and degree of uptake
- Periodic update of SARS-CoV-2 vaccines likely needed
- Moderna and Pfizer launching booster studies of current vaccines in US and developing second-generation vaccines against B.1.351

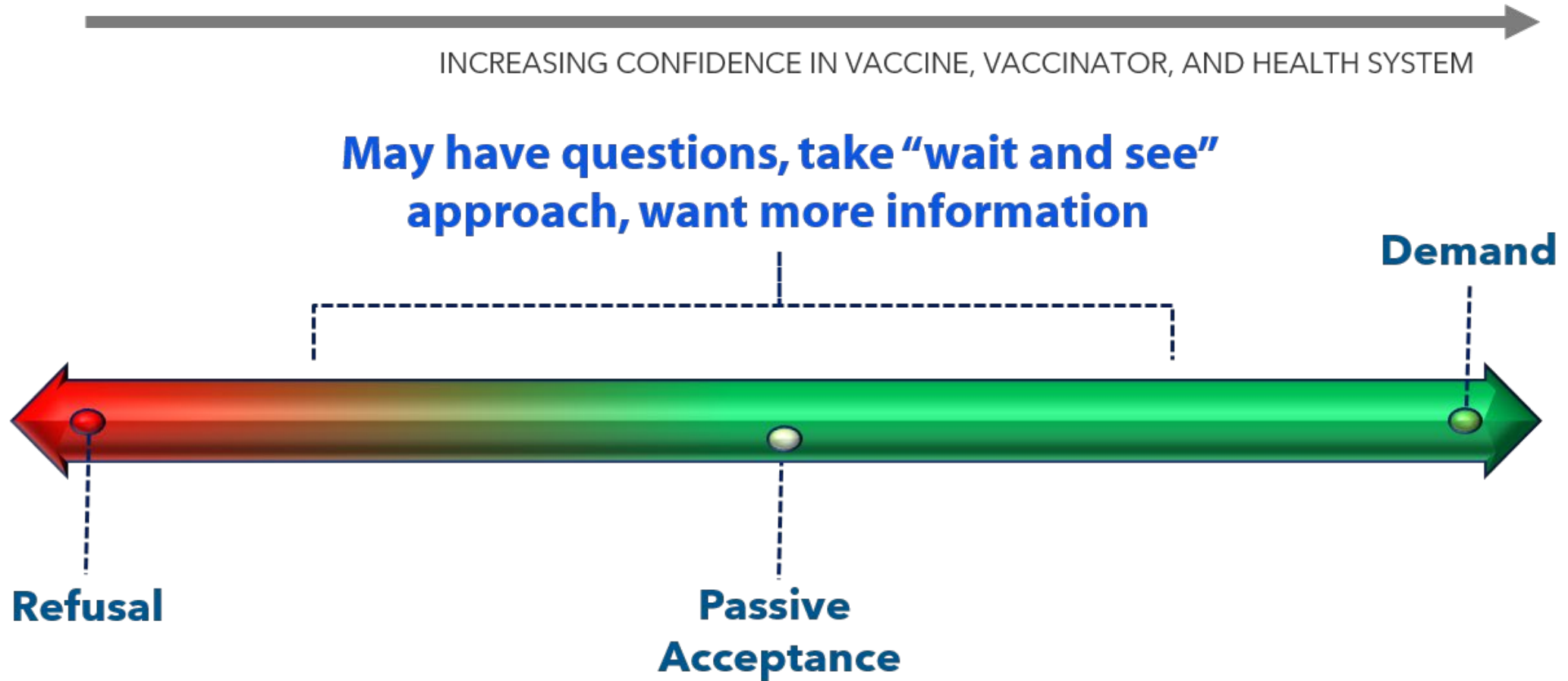
# Defining Vaccine Confidence

Vaccine confidence is the trust that patients, parents, or providers have in:

- Recommended vaccines
- Providers who administer vaccines
- Processes and policies that lead to vaccine development, licensure, manufacturing, and recommendations for use



# Willingness to accept a vaccine falls on a continuum



# The Problem: Patients may be hesitant to receive COVID-19 vaccine

- Only **65%** of the general public said they would receive a COVID-19 vaccine

## Factors weighing on acceptance:

Are there side effects?

Does it work?

Is it safe?

How much does it cost?



## COVID-19 vaccine more acceptable if:

Healthcare team said it was safe

No costs to the individual

It would help get back to school and work

They could get it easily

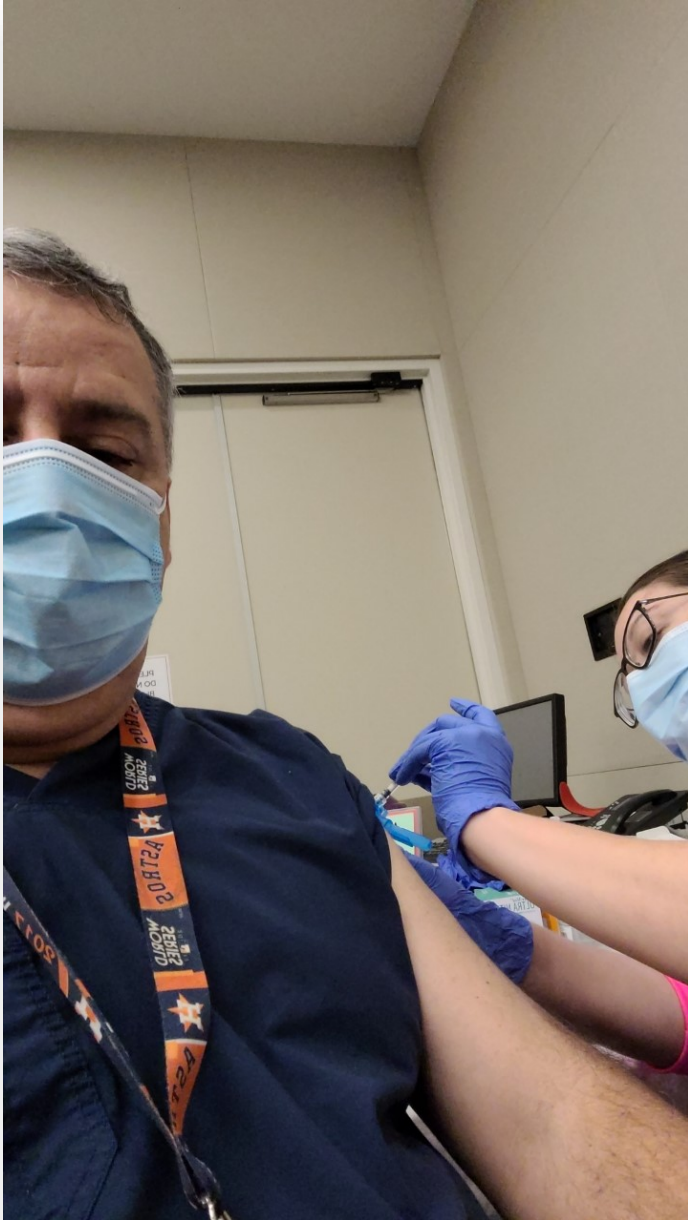


Tyson, A, Johnson, C, & Funk, C. (2020, September 17). *U.S. Public Now Divided Over Whether To Get COVID-19 Vaccine*. Pew Research Center. <https://www.pewresearch.org/science/2020/09/17/u-s-public-now-divided-over-whether-to-get-covid-19-vaccine/>

Jackson, C., & Newall, M. (2020, September 29). *Despite COVID-19 spike, few individual behaviors are changing*. Ipsos. <https://www.ipsos.com/en-us/news-polls/axios-ipsos-coronavirus-index/>

# Top 6 strategies for building COVID-19 vaccine confidence

1. Encourage senior leaders to be vaccine champions.
2. Host discussions where personnel at different levels can provide input and ask questions.
3. Share key messages with staff through multiple channels
4. Educate teams about COVID-19 vaccines, how they are developed and monitored for safety, and how teams can talk to others about the vaccines.
5. Educate everyone about the importance of getting vaccinated.
6. Make the decision to get vaccinated visible and celebrate it!



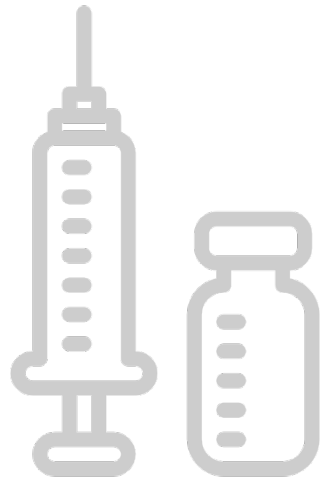
### COVID-19 Vaccination Record Card

Please keep this record card, which includes medical information about the vaccines you have received.  
 Por favor, guarde esta tarjeta de registro, que incluye información médica sobre las vacunas que ha recibido.

Last Name: **CORREA**      First Name: **ARMANDO**      MI: **G**  
 Date of birth: **MAY 29, 1962**      Patient number (medical record or IIS record number):

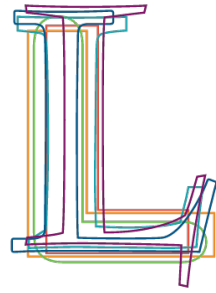
Vaccine	Product Name/Manufacturer Lot Number	Date	Healthcare Professional or Clinic Site
1 <sup>st</sup> Dose COVID-19	<b>PFIZER EK5730</b>	<b>12/16/20</b> mm dd yy	<b>TCH-main</b>
2 <sup>nd</sup> Dose COVID-19	<b>PFIZER EL3248</b>	<b>01/06/21</b> mm dd yy	<b>TCH</b>
Other		___/___/___ mm dd yy	
Other		___/___/___ mm dd yy	

# Perspectives



- Vaccine development for COVID-19 has proceeded faster than any pathogen in history; safety and public trust are critical
- Multiple vaccines need to be implemented in parallel, since we need to accelerate the vaccine roll out in the USA and the world
- Viral variants require further study, vaccines may need to be updated, and additional variants will likely emerge
- There are 7+ billion people in the world: we therefore need multiple vaccines to be deployed to end the pandemic.





# The COVID-19 Vaccine – Legal and Practical Implications

April 23, 2021

Presented to National CASA/GAL



**Littler**<sup>®</sup>



# Agenda

- Setting the Stage
  - COVID-19 Vaccination Overview /Update
  - The Key Question: To Mandate or To Recommend?
- EEOC December 16 Guidance and EEO Related Issues
- Wage and Hour Issues
- Incentives Tied to Vaccinations (e.g. Wellness Plans)
- Impact of the Anti-Vaccine Movement
- Workplace Safety & Health / Workers' Compensation / Privacy
- Employee Relations Issues
- Key Takeaways





## Setting the Stage

# Setting the Stage

The Key Question:  
To Mandate Or To  
Recommend?



# The Key Question: To Mandate or to Recommend?

- Decision must be informed by:
  - Logistical issues: supply, distribution and administration challenges
  - Public health policy and ongoing federal transition
  - Community considerations
  - Legal and employee relations considerations affecting each workforce







## **EEO Issues and EEOC's December 16, 2020 Guidance**

# Key EEOC Questions Dealing with Employee Vaccinations

Question #1: Does the EEOC encourage mandatory vaccinations?

Question #2: Can an employer mandate that employees be vaccinated against COVID-19?

Question #3: If so, are there any “thresholds” that must be met before imposing a mandatory vaccination requirement for applicants or employees?

Question #4: Even assuming an employer can pass the “threshold,” are there EEO implications if an employee requests to be excused based on a disability (i.e. ADA implications), other medical reasons (e.g. pregnancy) or religious practices/religious beliefs (i.e. Title VII)?

Question #5: Even in the absence of a mandatory vaccination requirement, are there potential EEO implications based on any employer vaccination program?



# EEOC View on COVID-19 Vaccinations – Are there Any Prerequisites that Must Be Met Before Requiring Vaccinations – The “Threshold Question”

**Point #1:** EEOC is **not** a medical examination. **Impact:**

- Employer ***does not*** have to demonstrate vaccination is job related and consistent with business necessity
- Employer can mandate vaccination
- Employer can request “proof of vaccination” (*Note: ADA risks if ask “why” individual did not receive vaccination*)
- **Caveat:** *This only eliminates the “threshold question” of requiring the vaccine, but does not eliminate the potential exceptions and ground rules based on EEO grounds, regardless of whether the vaccine is “recommended” or “mandatory”*

# EEOC View on COVID-19 Vaccinations – “Recommended” Vaccinations

**Point #2:** “If a vaccination is offered to employees on a voluntary basis (i.e. employees choose whether to be vaccinated), the ADA requires that the employee’s decision to answer pre-screening, disability-related questions also must be voluntary.”

“If an employee chooses not to answer these questions, the employer may decline to administer the vaccine, but may not retaliate against, intimidate, or threaten the employee for refusing to answer any questions.”

*Caveat: The ADA requires employers to keep any employee medical information obtained in the course of the vaccination program confidential.” (Query: Do you have to keep fact that employee did not take vaccination confidential?)*

*Caveat: Care must be taken regarding potential disparate treatment /hostile work environment claims.*

# EEOC View on Mandatory Vaccinations and Impact of ADA

**Point #3-** Mandatory Vaccinations are permissible, but care must be taken based on excluding an employee from the workforce who indicates that he/she cannot receive a COVID-19 vaccination due to a disability.

“The ADA allows an employer to have a qualification standard that includes ‘a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace.’ However, if a safety based qualification, such as a vaccination requirement, screens out or tends to screen out an individual with a disability, ***the employer must show that an unvaccinated employee would pose a direct threat due to a ‘significant risk of substantial harm to the health or safety of the individual or others that could not be eliminated or reduced by reasonable accommodation.’***”

Step #1: Per the EEOC, this requires an ***individualized assessment*** whether a direct threat exists:

- (1) the duration of the risk;
- (2) the nature and severity of the potential harm;
- (3) the likelihood that the potential harm will occur; and
- (4) the imminence of the potential harm.

# EEOC Views on Mandatory Vaccinations – Obligation of Reasonable Accommodation and Interactive Process under ADA

Step #2: “If an employer determines that an individual who cannot be vaccinated due to disability poses a **direct threat** at the worksite, the employer **cannot exclude** the employee from the workplace- or take any other action- **unless there is no way to provide a reasonable accommodation** (absent undue hardship) that would eliminate or reduce this risk so the unvaccinated employee does not pose a direct threat.”

Step #3: Employer needs to determine if any other rights apply.... “For example, if an employer excludes an employee based on an inability to accommodate a request to be exempt from a vaccination requirement, the employee may be entitled to accommodations such as performing the current position remotely...or if not, [the employee] may be eligible to take leave under the Families First Coronavirus Response Act, under the FMLA, or under the employer’s policies.”

Step #4: “If an employee cannot get vaccinated for COVID-19 because of a disability....and there is no reasonable accommodation possible, **then it would be lawful for the employer to *exclude* the employee from the workplace. This does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities.**”

# EEOC Views on Mandatory Vaccinations and Religious Accommodations

**Point #4:** If an employee indicates that he/she is unable to receive a vaccination because of a sincerely held religious belief or practice, care also must be taken in excluding an employee from the workforce.

- “EEOC guidance explains that because the definition of religion is broad and protects religious beliefs, practices and observances with which the employer may be unfamiliar, the employer should ordinarily assume that an employee’s request for religious accommodation is based on a sincerely held religious belief.”
- If, however, an employee requests a religious accommodation , and an employer has an objective basis for questioning either the religious nature or sincerity of a particular belief, practice or observance, the employer would be justified in requesting additional supporting information
- Practice Pointer: Although there is a lower burden to establish “undue hardship” dealing with religious accommodation, employers should consider the same approach to reasonable accommodation through the interactive process. The EEOC used identical language grouping religious accommodation with ADA issues in stating, “If an employee cannot get vaccinated for COVID-19 because of a ...sincerely held religious belief, practice or observance, and there is no reasonable accommodation possible, **then it would be lawful for the employer to *exclude* the employee from the workplace. This does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities.**”
- *Note: Littler has reviewed/monitored EEOC litigation involving employee vaccinations, pre-COVID, and most of the litigation focused on the failure to accommodate based on religious beliefs, practices and observances.*



# Wage and Hour Issues



# Wage and Hour Issues

## Must an employer pay for time spent getting a vaccine?

- FLSA states: If employer recommends, but does not require vaccination, time spent getting the vaccine *most likely* need not be compensated, unless vaccination occurs on premises during working time
- If mandatory, even if non working time, under FLSA, it may be ‘*compensable if vaccination is “integral and indispensable” to employee’s “principal activity.”*’
  - See *Busk v Integrity Staffing Solutions*, 574 U.S. 27 (2014). “Integral and indispensable” to a “principal activity” may tip in favor of compensability if the “principal activities relate to physical health, care must be taken (e.g. health care).
- Take care in states that do not follow the Portal to Portal Act (e.g. California), which more broadly interpret “time worked.”
- Remember the “continuous workday.”
- Business sense: Incentives achieve goals.



## **Incentives Tied to Vaccinations (e.g. Benefits Related Issues)**

# Incentives Tied to Vaccinations (i.e. Wellness Programs)

- Employer regularly provide cash awards to incent employees to engage in certain behaviors
- When the award is health-related, a “wellness plan” is generally established
- Regulations issued under HIPAA statute generally govern wellness plans that are part of a group health plan.
- EEOC regulations govern programs which require a medical examination or disability related inquiry
  - Under these types of programs, any award provided must be de minimus
  - Most vaccine incentive programs will not fall within this category.
- Programs that are not subject to EEOC regulations will permit larger incentives but ADA rules protecting disabled employees are applicable
  - Fundamental issue: There must be some accommodation available to assure disabled can participate: *Is there a reasonable alternative available for those not able to be vaccinated?*
  - Accommodation also will be required for those who object to vaccination on religious grounds



# Impact of Anti-Vaccination Movement

# Impact of Anti-Vaccination Movement

- Even absent a union, a group of co-workers protesting mandatory vaccination could be viewed as “protected concerted activity” under Section 7 of the NLRA
- Section 7 provides that employees may engage in “concerted activities for the purpose of collective bargaining or other mutual aid or protection”
- NLRB may view employee speech related to vaccination mandates as having direct nexus to employees’ interest, as vaccinations may be considered a term or condition of employment
- Given EUA status, concerns have been raised regarding safety of the vaccine (regardless of scientific data)
- Add in potential protection “political activities” in some jurisdictions





## Other Selected Issues



# Other Selected Issues

- Occupational Safety and Health
  - Whether duty to provide a safe workplace includes an EUA vaccine
  - Likelihood of new federal OSHA COVID-19 standards with the new administration
- Worker's Compensation and Related Risks
  - Whether workers' compensation reaches injuries related to an EUA vaccine
- Privacy Related Issues
  - How individual medical privacy bears on employer vaccination programs
  - How information is collected and disclosed in relation to vaccination or non-vaccination





# Employee Relations Issues

# Consider the Employee Perspective

- Acknowledge what employees have already experienced:
  - Continued risk of contracting COVID-19
  - Exhaustion with COVID-19 protocols
  - Lasting health consequences
  - Financial insecurity
  - Changed family/living circumstances
  - Bereavement
  - Effects of isolation
  - Political polarization
  - Misinformation - about the virus *and* the vaccine



# Vaccine Prioritization Schemes Will Segment the Workforce

- Different categories of workers will be eligible at different times, based on:
  - Geography
  - Age
  - Pre-existing health conditions
  - Specific job responsibilities – frontline vs. less essential
  - Exposure risk based on nature of work
- Demographics may influence willingness to get the vaccine:
  - Race/ethnicity
  - Age
  - Pregnancy and family planning





# A Successful Vaccination Program Requires Engagement

- Recognize that COVID-19 vaccines are authorized but experimental
- Assume there will be hesitation, and focus on broad, fact-based messaging
  - Link in with public campaigns as they develop
- Be conscious of appearing to “lead from the back”
- Consider how peer engagement can play a role
- Evaluate how to remove or simplify possible barriers to getting the vaccine



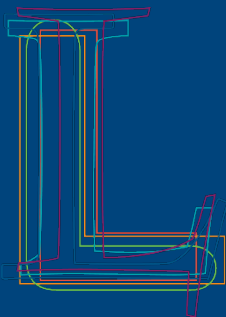


# Employer Takeaways



# Takeaways – What Can Employers Be Doing *Now*?

- Review guidance from CDC, including sample communications
- Engage government relations, industry associations, community ties to support the public health effort
- Assess how portions of the workforce may fit into different prioritization schemes
- Ensure that benefits plans will not include hidden costs related to getting the vaccine
- Consider options to ease burden for non-exempt employees
  - Onsite programs
  - Recording as hours worked
  - Account for time off in the event of side effects (e.g. 2<sup>nd</sup> vaccine and anticipated side effects)
- Reinforce existing COVID-19 protocols and prepare for additional guidance
- Develop positive, specific and fact-based messaging



# Thank You!

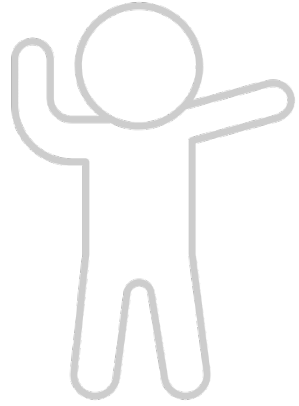
This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.

# Covid-19 Vaccination and Volunteer Management

RUSSELL JACOBS  
GENERAL COUNSEL, CHIEF PUBLIC POLICY OFFICER



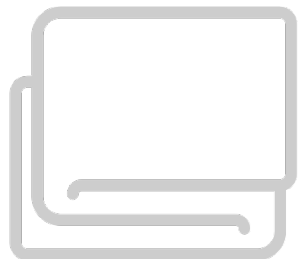
## In-Person Visits



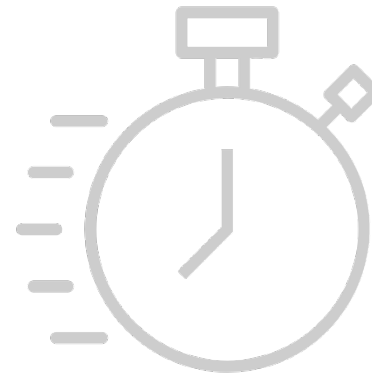
Standard 8.F.5.g:  
in-person meetings every  
30 days



Each program has an  
exception policy and  
documents any  
exceptions granted



No blanket exceptions  
from National CASA/GAL



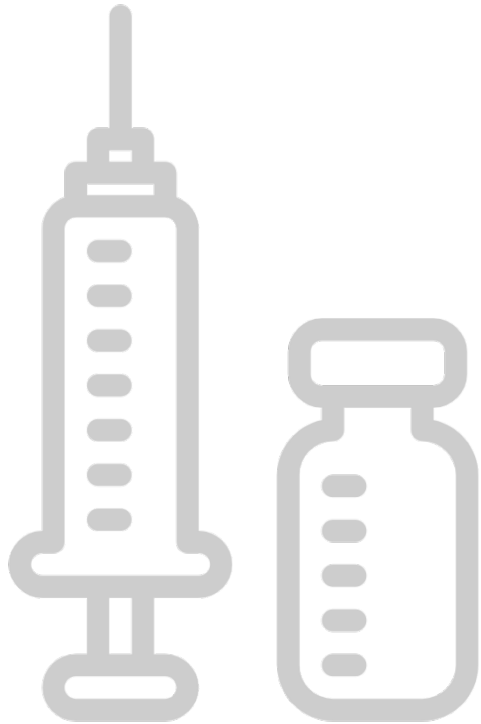
Programs may decide to  
grant exceptions as long  
as the exigency of the  
pandemic continues  
makes that necessary

# Volunteer Vaccinations



- Volunteers ≠ employees
- Liability considerations
  - State statutes and executive orders limiting liability
  - Insurance
  - Waivers and releases
- Policies, Protocols, and Training

# Volunteer Vaccine Mandates



1. Vaccine passport bans (FL & TX)
2. Discrimination claims
  - a. Vaccination as a proxy for another characteristic
  - b. Inconsistent application
3. Duties of public agencies



# Volunteer Vaccine Policy

## Requiring vaccination $\neq$ Requiring proof of vaccination

Require volunteer vaccination?

*Likely yes, with relatively low risk*

- Make it a policy that conforms with public health guidance
- Apply policy consistently
- Do not use vaccination status as a proxy for another characteristic

Require volunteer proof of vaccination?

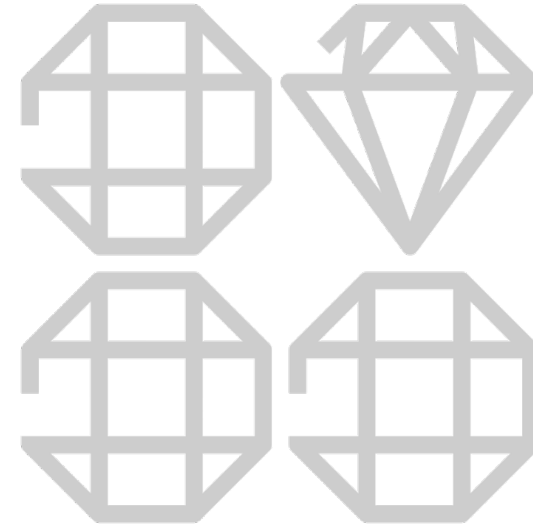
*More complications*

- Vaccine passport bans
- Privacy in sharing information
- Risks in keeping records

# Managing Volunteer Concerns



Communication and  
Engagement



Different volunteers –  
different concerns

# Preparing for Visits



Joint Protocols with Agency



Joint Trainings with Agency



De-Brief Volunteers

# Questions

# Upcoming Webinars and Training Opportunities

# Upcoming Webinars

## WEBINARS

- *Trafficked Boys: Invisible Victims of Human Trafficking*  
— April 27, 10-11 a.m. PT | 1-2 p.m. ET
- *Human Trafficking: Impact of Pornography*  
— May 6, 12-1 p.m. PT | 3-4 p.m. ET
- *Covid-19 Vaccine Adoption and Hesitancy*  
— **May 24, 10:30-11:30 a.m. PT | 1:30-2:30 p.m. ET**
- *Core Drug Endangered Children (DEC) Awareness*  
— May 25, 10-11 a.m. PT | 1-2 p.m. ET
- *Drug Identification and Trends*  
— June 29, 10-11 a.m. PT | 1-2 p.m. ET

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past session  
materials and  
recordings



# Upcoming Events

## Walk.Run.Thrive Virtual Event

**May 1-2, 2021** | Register on the Events Page | Cost = \$35



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latest schedule



Thank you