

POLICY RESPONSE TO THE COVID-19 PANDEMIC

INTRODUCTION

Public policy normally changes at a slow, if not glacial, pace. However, in the past several weeks, we have seen unprecedented action and a flurry of activity by both the federal and state governments in response to the COVID-19 pandemic. As new information from health experts and economic indicators become available daily, legislatures have reallocated budgets, and governors have issued sweeping executive orders to address the crisis.

Tennessee is no exception. The General Assembly, in dramatic fashion, slashed nearly a billion dollars and passed a tornado and COVID-19 response-focused budget before recessing on March 19th. Since then, Governor Bill Lee has issued several executive orders to help fight the COVID-19 pandemic here in Tennessee. But what else could be done? Now more than ever, sound public policy that empowers free enterprise and encourages innovation is needed to fight this virus and limit its economic fallout. Below is a list of proposed solutions for Tennessee's "phase two" response to the COVID-19 crisis.

Where possible, Governor Lee should seek to implement these recommendations by executive order. For those requiring legislative approval, the General Assembly should seek to prioritize these measures when reconvening in June.

First, Governor Lee and his administration deserve praise for their overall deregulatory approach to the COVID-19 pandemic. His various executive orders for the most part have focused on temporarily increasing healthcare providers, granting healthcare facilities flexibility, enabling suppliers and freight to better deliver needed medical and food supplies, and providing targeted economic relief to those most impacted. Some highlights from his orders include the following.

Healthcare Access Related:

- Allows out of state licensed healthcare professionals to work in the state without a Tennessee license if treating COVID-19. Out of state professionals may also provide telehealth and telemedicine services to patients in Tennessee.
- Allows pharmacists to dispense 90-day prescriptions.

- Allows healthcare professions to provide treatment that would otherwise require a home health services license.
- Removes some oversight and review requirements of nurse practitioners and physician assistants in order to provide prescriptions more quickly.
- Allows postdoctoral medical students to serve as medical laboratory technicians for COVID-19 testing while working under a supervised medical lab director.
- Waives certificates of need on the number of hospital beds if related to COVID-19 treatment.
- Streamlines the initial licensure process for new healthcare workers and for those with retired licenses to reactivate their license.
- Allows temporary testing sites to operate without a facilities license.
- Allows more healthcare professionals to provide telehealth services.
- Temporarily suspends the licensing renewal process for healthcare workers and healthcare facilities, allowing them to continue operating.
- Allows pharmacists to process prescriptions remotely.

Economic Related:

- Allows those quarantined to collect unemployment benefits if they were ordered to do so by a medical professional or health authority.
- Waives the one week waiting period before filing for unemployment and suspends the requirement to report to an employment officer and make reasonable efforts to gain employment.
- Relaxes size and weight limitations and time restrictions on freight trucks and truck drivers if transporting medical or food supplies.
- Removes renewals and other requirements for licensed childcare centers.
- Allows the Department of Commerce and Insurance to extend deadlines for renewals of commerce-related licenses as necessary.

POLICY RECOMMENDATIONS

To build on these efforts, the Beacon Center recommends that Governor Lee and the General Assembly take these additional steps.

Healthcare Access Related:

1. While recent federal guidelines allow Medicare recipients to utilize telehealth, states must first file a waiver to take advantage of this for Medicaid populations. The state should file an 1135 waiver with CMS to allow Medicaid patients to also utilize telemedicine services.
2. Tennessee should follow Florida's example and allow pharmacists to test and treat certain common illnesses like the flu and strep throat. Allowing pharmacists to conduct these tests would reduce stress on the healthcare system and essentially serve as Coronavirus screener.

3. The state should clarify that mental health clinicians who have graduated and are finishing their training in Tennessee can provide teletherapy services if they are currently being supervised by a licensed practitioner. At a time of unprecedented social isolation, those utilizing mental health services can ill-afford to experience disruptions in service.
4. Tennessee should follow Iowa's example and allow temporary medical licenses for individuals who held a license within the last five years but whose license is now inactive or lapsed.
5. In light of the CDC's recommendation to postpone routine dental and eyecare visits, Tennessee should consider how to utilize hygienists and technicians to help address the shortage of healthcare professionals.

Economic Related:

1. Similar to what has already been done for the state's franchise and excise tax, the state should allow extensions for individuals filing the Hall Income Tax until July 15, 2020.
2. As many Tennesseans are being forced to stay, work, and learn from home, the state should direct the funding provided by the Broadband Accessibility Act to adequately fund the mobile hotspot lending program for public libraries across the state. The state should request that public libraries remain open solely for the purposes of lending out mobile hotspots.
3. The state should allow professionals who have mandatory health and sanitation training (like barbers and cosmetologists) to see clients in homes if required sanitation protocols are followed.
4. As an unprecedented number of Tennesseans visit hospitals, the issue of surprise medical billing will come to the forefront. The state should look to a Georgia reform that requires healthcare providers to make good faith efforts to inform patients of prices upfront. Rather than outright mandate this on providers, it would simply prohibit providers from using credit or collection agencies to collect medical debt that is not stated upfront.
5. The state should allow businesses to fully expense capital investments in machinery and equipment and allow corporations to deduct net operating losses to previous years, referred to as carrybacks. The federal code allows carrybacks up to two years, where Tennessee does not at all. Allowing companies to do so would help businesses preserve short term liquidity.
6. The state should temporarily prohibit driver's license suspensions for non-driving related offenses to ensure that people are not prohibited from driving to get food or go to the hospital, for example.
7. The state should implement at least a one-day furlough for all state employees by end of fiscal year 2020 to offset lower tax revenues and avoid liquidity concerns. This would save the state nearly \$13 million per day during a time period of declining revenues.
8. It is appropriate to use the state's "Rainy-Day" Fund. However, any use of reserve funds should be for short-term needs only and not for recurring purposes. For example, with the state already experiencing a 1,300 percent increase in unemployment claims, Tennessee could use reserve funds to ensure the solvency of the Unemployment Insurance Trust Fund.
9. Many workers are transit-dependent and may not be willing or able to utilize public transit systems at the moment. Suspending sales taxes and other fees on taxi and ride-sharing services could make these alternatives cost effective for many Tennesseans, especially those in urban areas.

Other Recommendations:

1. In order to reduce the spread of COVID-19 within county jails, state and local officials should require all new arrestees to be released on their own recognizance or on non-monetary conditions unless they pose a public safety threat.
2. While visitations have been suspended in the state's prisons, the state should provide free access for inmates to make phone calls during this crisis. Maintaining ties to their families and communities are key factors in keeping a safe environment in prisons and reducing recidivism upon release.
3. Due to the wide scope of Executive Order 22, and questions surrounding its applicability, the administration should designate an agency to serve as the point of contact and offer a hotline for businesses to obtain clarity to ensure they are in compliance with the Executive Order.

POLICIES TO AVOID

As the Governor and General Assembly consider their reaction to this crisis, they should refrain from pursuing the following policies.

1. The state should not force businesses to close that can comply with the CDC's public health guidelines. As long as businesses can protect the health of their employees and the public, they should be allowed to remain open.
2. The state should not create ongoing financial obligations by expanding public assistance programs. As government revenues begin to contract, the state can ill-afford to take on new permanent obligations. Any funds received from the CARES Act should first be used to address any revenue shortfall, and then be used for specific temporary support, not a long-term expansion of public assistance programs.
3. The state should not make permanent or long-term changes to unemployment eligibility. Permanent or long-term changes to unemployment would require increased taxes on employers that are already paying higher unemployment tax rates if they had to lay off workers during the crisis.
4. The state should not expand the state's corporate welfare programs. All businesses in Tennessee have been impacted by this crisis. The state should resist the call to pick winners and losers by providing direct benefits to specific companies.

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