May 18, 2020

The Tennessee Black Caucus of State Legislators (TBCSL) strongly encourages all Tennesseans to get tested for the COVID-19 virus as soon as possible and as often as possible. However, the TBCSL remains adamantly opposed to the TN Department of Health’s practice of unnecessarily violating the individual privacy rights of our citizens, by sharing personal health information with law enforcement agencies, which would be otherwise protected by HIPPA.

Among those patriots who harbor mistrust of law enforcements’ unconstitutional access to private health information are the currently underserved populations, who are most at risk for negative health outcomes. Many Tennesseans remain reluctant to test for the COVID-19 virus, fearing that the state and county health departments will share the name and addresses of those citizens who test positive for the COVID-19 virus with outside agencies.

These groups are necessary to complete the random sampling data set; and through random sampling, the integrity of the statistical data gathered by the state and county health departments remains questionable at best.

We urge Governor Bill Lee to act quickly to rescind the constitutionally suspect MOU’s; thereby encouraging full participation in COVID-19 testing by all Tennesseans. Without adequate and statistically sound data, safely reopening our businesses and the economy, restructuring our schools and educational system, restoring our justice system, etc. remain elusive goals at best.

Until Governor Lee rescinds his order which allows the TN Department of Health to enter into MOU’s with law enforcement agencies with whom the department shares the names and addresses of citizens who test positive for COVID-19, we suggest that those citizens who wish to protect their privacy should only provide their city, state and zip code. We do not advise citizens to provide their street address information to the testing agencies at this time. We do advise citizens to continue to provide their phone numbers and email addresses.

Providing basic address information should allow the demographic collections and analyses that allow the proper reallocation of resources to address the reduction and elimination of health disparities, especially in communities of color and economically distressed populations.
This is a temporary fix, in lieu of either a voluntary revocation of the MOU’s by Governor Lee, or the initiation of legal action to enforce our federal and state constitutional guarantees of the individual privacy rights enjoyed by all Tennesseans.

Private health information should only be shared on a need to know basis. The only agencies that may need to know the complete list of addresses of those who test positive, are the local 911 emergency communications agencies. The only information the local 911 emergency communications agencies may need are addresses, no names.

T.C.A. 58-2-107 grants the Governor the authority to suspend statutory laws and rules. The Governor is not empowered by the constitution nor by statute to suspend the constitution.

We can’t properly manage the COVID-19 crisis until we adequately measure the COVID-19 virus. The TBCSL urges every citizen to protect your health and manage your health outcomes by immediate and frequent testing.

The TBCSL urges every citizen to protect your constitutional rights and manage your private health information by providing only the minimal address information i.e. city, state and zip code.

The TBCSL urges every citizen to get tested as soon as possible. The TBCSL urges every citizen to get tested as often as possible.