The Massachusetts Way Forward

Presentation to the Reopening Advisory Board

05/01/2020
Overall principles

• Public health and safety is a priority and must be balanced with economic impacts.
• Data and expertise should guide decisions.
• We all need to consider unintended consequences.
• There must be coordination & consistency among federal, state, and local governments.
• Guidance is generally preferred to regulations.
• Advance communication allows for better planning.
Themes

• Government should lead on testing, childcare, and transportation

• Government should guide with minimum standards for public health safety and liability

• Business should lead on getting back to work
Testing, childcare, and transportation
Priority: Testing

• A rapid increase and expansion in testing is a top priority for all businesses
• MA’s statewide goal should be anyone, anytime
• Employers want information and guidance on who, when, and how
  • Outstanding question: who pays for it as testing volume increases and some individuals undergo multiple tests because of the nature of their jobs, travel, etc.
Tracing is also important

• MA is taking the national lead on this front
• There are several questions about tracing, for example:
  • How will it be implemented on a large scale?
  • Who will be responsible for what?
  • What data can or should employers have access to?
Priority: Childcare

• Childcare has a broader meaning in this moment
  • Childcare needs aren’t limited to children ages 0-5
  • Necessary for older children who aren’t in school, at camps, etc.

• Many employees cannot return to physical workspace without childcare

• Requires a statewide childcare “infrastructure” because social distancing will mean fundamental changes to the service and business models
Priority: Transportation

• Commuting concerns primarily related to public transportation.
• Commuters are unlikely to get on public transportation if there’s a risk of crowding or other exposure.
• Employers and employees want to know the expectations on riders.
How businesses will respond

• Work from home is likely to continue until these concerns – testing, childcare, and public transportation – are addressed
  • Businesses have invested in the WFH infrastructure
  • Some employees prefer the flexibility and work/life balance

• But WFH can’t be the solution
  • Some can’t WFH
  • There is a negative impact on small businesses with widespread work from home
Effect on small businesses

• Major employers are planning to extend WFH for the foreseeable future; some expect long-term shifts

• With fewer employees coming into economic centers, small businesses that depend on them will feel the impact for far longer
  • Downtown lunch places, coffee shops, restaurants, and retail will see a fraction of the traffic they had prior to the outbreak
  • Recovery for these particular businesses may be out of reach if there are permanent shifts to workplaces
Information, guidance, and minimum standards
Businesses & the public want information

• Criteria that must be reached for each phase of re-opening

• Activities permitted and public health guidance for each re-opening phase

• The criteria the state will monitor to identify a resurgence and how it will respond to a potential resurgence
Minimum standards as guidance

• Businesses want guidance on minimum standards for **workspaces** and **people** to ensure public health

• Guidance from the state on who is responsible and what is necessary may mitigate some liability concerns

• Work with property managers, landlords, and tenants to make sure guidance is doable
Workspace & people guidance

• Need to differentiate between workspace and building
• Workspace guidance would include occupancy rates and cleaning
• Guidance for people would include PPE
• Given the high cost and limited availability of PPE and other supplies, flexibility may be needed. Guidance rather than regulation is important.
Liability concerns

• Employers are concerned with legal liability

• Following applicable government standards and guidance should grant legal protections from:
  • Claims for allegedly causing someone to contract the virus
  • Negligence claims for manufacturing items during the crisis – such as PPE – that are new to them
  • Claims of violating disability, discrimination, and privacy laws for requiring COVID-19 testing before employees return to work
Liability concerns

• Complications between federal and state laws; safe harbors will address some concerns

• There is precedent for liability shields:
  • Ch. 64 of the Acts of 2020 – civil liability protections for COVID-19 health care workers and facilities in Massachusetts
  • PREP Act – wrongful death and product liability (e.g., respirators)
  • Y2K Act – limits Y2K-related class actions
  • SAFETY Act – ensures threat of liability does not deter manufacturing of anti-terrorism technologies
Future of employees and the economy
A unified approach

• Allow business to lead using the guidance provided by the state
  • This crisis will permanently change how many operate; allow them the flexibility to adapt

• Businesses want to take a unified approach that’s guided but not *regulated* by government
Business will build consensus

• Allow businesses to build consensus among themselves on things like:
  • A common set of business practices
  • Timing for returning employees to work
  • Childcare prioritization
  • Flexibility for employees who may be high risk or have other complications
  • Training for new environments
Two-phase reopening plan

• **Part A:** incremental change to current restrictions; select industries

• **Part B:** More comprehensive opening
Proposed action plan

• Create a two-phase reopening plan
  • Plan A (May 18): incremental change to current restrictions; select industries and activities return
  • Plan B (June 1): more comprehensive reopening

• Childcare goal date of June 1

• Goal of “anyone, anytime” testing and establish a timeline for availability
Establish and announce target dates

- Target May 8 for announcements to provide adequate preparation time
  - Plan A/May 18: incremental details
  - Plan B target date
  - Plans for MBTA
  - Necessary actions to address liability concerns
  - Details on Plan A and Plan B
  - Assist business on PPE access
Information sources & survey responses
Sources of information

• Executive Committee working group of CEOs
• Member survey responses
• CEO webinar
• Full Executive Committee meeting
• Board and Leadership Council roundtables
• Regular contact with members and GBCC hosted webinars
• Practices in other states
Survey feedback

What information is most important for your business in order to return to work confidently?

Based on 131 responses. Not shown: Domestic and international travel restrictions, 2.29%
Survey feedback

Which data point is most important for your business to re-open with confidence?

Based on 131 responses. Not shown: Other responses that centered on testing
Survey feedback

• Open-ended question: What’s the most important factor for the government to consider when developing a plan to re-open the economy?
• The availability of both testing and protective gear (masks)
• Safety on public transportation systems
• Balancing the need to reopen with public safety
  • Within this sentiment is balancing the risk of a secondary outbreak due to reopening