

KNOX COUNTY BOARD OF HEALTH

Regulation No. 2020-4

WHEREAS, on March 11, 2020, the novel Coronavirus 2019 Disease (COVID-19) was declared a global pandemic by the World Health Organization; and

WHEREAS, as of July 6, 2020, a group of 241 scientists published an open letter in the journal *Clinical Infectious Diseases* concerning COVID-19, saying, "There is significant potential for inhalation exposure to viruses in microscopic respiratory droplets (microdroplets) at short to medium distances (up to several meters, or room scale);" and

WHEREAS, as of July 14, 2020, the White House Coronavirus Task Force made specific recommendations for Knox County to control the spread of COVID-19, including, "close bars until percent positive rates are under 3%;" and

WHEREAS, as of July 20, 2020, Knox County was defined as a county in the Red Zone by the White House Coronavirus Task Force, meeting the requirements of "counties during the last week reported both new cases above 100 per 100,000 population, and a diagnostic test positivity result above 10%;" and

WHEREAS, as of July 21, 2020, the Tennessee Department of Health determined that Knox County is above the "threshold for acceptable disease transmission within the community" using the metric of the average rate of new COVID-19 cases per 100,000 county residents over the last 14 days; and

WHEREAS, as of July 27, 2020, the Coordinator of the White House Coronavirus Task Force, Dr. Deborah Birx, stated, "I can tell you in every red state, and Tennessee is now in the Red State category, it flipped from being in the Yellow State category, what does that mean? They had under 10% test positivity, they're now over 10% test positivity and the number one bullet is mandate masks, close your bars, enhance social distancing, tell every Tennessean to not socially gather with more than 10 people, to not socially gather even with your relatives if they've been elsewhere because of the chance of spreading this virus;" and

WHEREAS, as of July 28, 2020, since May 25, 2020, the average number of new COVID-19 infections identified daily by the Tennessee Department of Health in Knox County has increased 435%, the number of simultaneous COVID-19 hospitalizations monitored by the Knox County Health Department and the number of Knox County resident deaths attributed to COVID-19 has increased 420%; and

WHEREAS, pursuant to Knox County Code § 38-33(a), the Knox County Board of Health has all of the powers and duties as required and provided for by state law; and

WHEREAS, pursuant to T.C.A. § 68-2-601(f), the powers and duties of the Knox County Board of Health include adopting rules and regulations as may be necessary or appropriate to protect the general health and safety of the citizens of Knox County and governing the policies of the Knox County Health Department; and

WHEREAS, pursuant to T.C.A. § 68-2-603(b) and Knox County Code § 38-32(f), the Knox County Health Director, as head of the Knox County Health Department, shall act in concert with, and meet all applicable policies established by, the Knox County Board of Health; and

WHEREAS, by Opinion No. 20-07 issued on April 27, 2020, the Attorney General of Tennessee confirmed that “local health officers confronted with an epidemic [have] the power—*indeed, the obligation*—to ‘[e]stablish appropriate control measures which may include examination, treatment, isolation, quarantine, exclusion, disinfection, immunization, disease surveillance, closure of establishment, education, and other measures considered appropriate by medical experts for the protection of the public’s health’” (quoting Tenn. Comp. R. & Regs. 1200-14-01-.15) (emphasis added); and

WHEREAS, pursuant to Executive Order No. 38 issued by the Governor of Tennessee on May 22, 2020, the Knox County Health Department has the authority to issue additional orders or measures related to the containment or management of the spread of COVID-19, which may permit to a greater degree, or restrict to a greater degree, the opening, closure, or operation of businesses, organizations, or venues or the gathering of persons in Knox County, except with respect to certain subjects; and

WHEREAS, as of July 28, 2020, the foregoing authority remains in effect pursuant to Executive Order No. 50 issued by the Governor of Tennessee on June 29, 2020; and

WHEREAS, the Knox County Board of Health finds it necessary and appropriate to limit the probability of COVID-19 spread in droplet and airborne transmission in order to protect the general health and safety of the citizens of Knox County during the COVID-19 pandemic; and

WHEREAS, the Knox County Board of Health finds that the consumption of alcoholic beverages over time leads to the removal of social inhibitions, which can result in lessened social distancing and a failure to wear face coverings, which in turn can lead to an increased chance to transmit COVID-19; and

WHEREAS, the Knox County Board of Health enacted Regulation No. 2020-3 on July 30, 2020, which recited in part “all persons who own, manage, operate, or otherwise control any bar in Knox County shall suspend offering food and drink, including both alcoholic and non-alcoholic beverages, for any on-premises consumption;” and

WHEREAS, the Knox County Board of Health, when it enacted Regulation No. 2020-3, defined a “bar” to mean “any establishment permitted to offer alcoholic beverages for on- or off-premises consumption and which generates 50% or more of its revenue through the sale of such alcoholic beverages;” and

WHEREAS, the Knox County Board of Health now finds that the complete closure of “bars” has a detrimental impact on the owners and employees of such establishments; and

WHEREAS, the Knox County Board of Health finds that closing “bars” by 10:00 p.m. will reduce the opportunity for the transmission of COVID-19 among their patrons and employees:

NOW, THEREFORE, the Knox County Board of Health, by virtue of the power and authority vested in it, to protect the general health and safety of the citizens of Knox County, does hereby declare that a continuing public health emergency exists in Knox County, Tennessee, due to the COVID-19 pandemic, and adopts the following regulation:

1. This Regulation should be cited as the “Revised COVID-19 Suppression in Bars Regulation.”

2. This Regulation shall take effect at 12:01 a.m. on August 6, 2020, and shall remain in effect until amended, superseded, or rescinded by the Knox County Board of Health.
3. The words, terms, and phrases used in this Regulation shall have the same meanings ascribed to them in Paragraph 3 of the COVID-19 Face Covering Regulation, Knox County Board of Health Regulation No. 2020-1 (adopted July 1, 2020). In addition, the word "bar," when used in this Regulation, means any establishment permitted to offer alcoholic beverages for on- or off-premises consumption and which generates 50% or more of its revenue through the sale of such alcoholic beverages.
4. Except as provided in Paragraph 5 of this Regulation, all persons who own, manage, operate, or otherwise control any bar in Knox County shall suspend offering food and drink, including both alcoholic and non-alcoholic beverages, for on-premises consumption at 10pm Eastern Daylight Time daily.
5. Paragraph 4 of this Regulation shall not apply to any of the following:
 - a. Nursing homes, retirement homes, long-term care facilities, or assisted-living facilities;
 - b. Places of worship; and
 - c. Places owned, leased, or managed by the government of the United States or the government of the State of Tennessee.
6. This Regulation shall not be construed to prohibit offering food and drink for off-premises consumption through such means as in-house delivery, third-party delivery, and walk-up, drive-up, drive-through, curbside pick-up, and carry-out services, provided that such deliveries and services are offered consistent with applicable law.
7. A person who owns, manages, operates, or otherwise controls any bar in Knox County and who knowingly fails to comply with any provision of this Regulation may be subject to such orders and/or penalties as are provided by law, including, but not limited to, the penalty provided in T.C.A. § 68-2-602 and/or the revocation, suspension, or imposition of conditions on licenses or permits as provided in T.C.A. § 68-2-609.
8. The Knox County Health Director may issue orders, request injunctions, and seek any other remedy available at law or equity to require compliance with this Regulation as provided in T.C.A. § 68-2-608 and, as Knox County Health Officer, as provided in T.C.A. § 68-2-609.
9. The Knox County Board of Health requests and authorizes all officers, including constitutional and charter officers, boards, commissions, departments, offices, and agencies of Knox County government, the City of Knoxville, and the Town of Farragut to cooperate with, aid, consult with, advise, and coordinate with the Knox County Board of Health, the Knox County Health Director, and the Knox County Health Department in furthering the intent of, enforcing, explaining, and clarifying this Regulation.

10. Consistent with Executive Order No. 38 issued by the Governor of Tennessee on May 22, 2020 ("Order"), as extended by Executive Order No. 50 issued by the Governor of Tennessee on June 29, 2020, this Regulation shall not be construed as regulating the provision of medical, dental, or oral procedures; places of worship; or nursing homes, retirement homes, long-term care facilities, or assisted-living facilities. This Regulation does not alter, limit, or abridge the Order's requirement that persons who test positive for COVID-19 or who are suffering from COVID-19 symptoms shall stay at home, except to receive medical care, until satisfying the conditions set forth by the Centers for Disease Control and Prevention (CDC) for discontinuing home isolation. This Regulation does not alter, limit, or abridge the Order's requirement that an employer, through its supervisors or appropriate management personnel, shall not require or allow an employee who the employer knows has tested positive for COVID-19 to report to work until that employee has satisfied the conditions for discontinuing home isolation under CDC guidelines.
11. The intent of this Regulation is to suspend the on-premises consumption of food and drink in bars within Knox County after 10pm Eastern Daylight Time daily in order to protect the general health and safety of the citizens of Knox County during the COVID-19 pandemic. This Regulation shall be liberally construed so as to further this intent, and all provisions of this Regulation shall be interpreted to effectuate this intent.
12. If any provision of this Regulation or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Regulation are declared to be severable.
13. This regulation replaces Regulation 2020-3, which is hereby abrogated by this Regulation 2020-4 upon its adoption.
14. This regulation shall remain in effect until 12:01 AM August 20, 2020 and may be extended by the Board of Health if indicated by the current data.

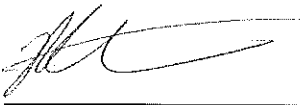
ADOPTED this 5th day of August, 2020.

KNOX COUNTY BOARD OF HEALTH



Jack Gotcher, DMD, PhD/Chair 8/6/2020
Date

ATTEST:



Martha Buchanan M.D./Secretary 8/6/2020
Date