To Fight the Coronavirus, Cut the Red Tape

Two economists suggest suspending these 5 types of regulations because they are slowing the medical response to the pandemic. And they are asking for more ideas.

By Sendhil Mullainathan and Richard H. Thaler

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These are scary times. The world is living through the double whammy of a pandemic health care crisis and a possible global economic depression.

Fighting the coronavirus is hard enough. Government regulations shouldn't make it any harder. But that's exactly what's happening.

We have identified five kinds of regulations that we believe are hindering us in what amounts to a war of survival. They should be paused for now, and some might be usefully eliminated forever.

Fully deploy all qualified medical professionals.

We face an acute shortage of medical workers, yet red tape is keeping people who could help on the sidelines.

One example is medical licensing, which, in the United States, is done at the state level. Qualified professionals licensed in one state cannot practice if they happen to have moved somewhere else. Let’s instead treat medical licenses like we do driver's licenses. New York State has already implemented this policy.

Other regulations restrict who can do which tasks. In this emergency, licenses should be extended across specialties. All doctors begin by receiving the same general training, but then go on to specialize in a particular form of medicine. But when someone on an airplane is having a heart attack, the flight attendant doesn't ask if there's a cardiologist on the plane.

The 2020 Nobel Prizes

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• See all of the 2020 winners here.

• Drs. Harvey J. Alter, Michael Houghton and Charles M. Rice received the prize for medicine for their discovery of the hepatitis C virus.

• Roger Penrose, Reinhard Genzel and Andrea Ghez received the physics prize for their discoveries that have improved understanding of the universe, including work on black holes.

• Emmanuelle Charpentier and Jennifer A. Doudna were awarded the chemistry prize for their work on genome editing.

• The Nobel Prize in Literature was awarded to Louise Glück, the American poet.

• This year's Peace Prize was awarded to the U.N.'s World Food Program.

The same principle can be expanded more broadly. Nurses, physician assistants and even advanced medical students are capable of doing more than the law allows them to do. Let’s use everyone’s skills and also provide crash training programs to provide emergency help when we get swamped.

If a patient will die without medical help, she will care more about the competence than the educational degrees of the person aiding her. We are not suggesting that plumbers be allowed to do surgery, but rather that health systems be able make the call about who can help in the heat of battle.

The times require all qualified hands on deck.
Put a temporary ban on coronavirus malpractice suits.

In the United States and most other countries, anyone who helps out in a roadside accident, earthquake or similar medical crisis is protected from subsequent legal second-guessing by good Samaritan laws. Without such laws, doctors fearing a medical malpractice suit might fail to help.

The same principle should be applied throughout the Covid-19 crisis. Many difficult decisions will have to be made regarding who receives treatment and by whom. Medical workers are already volunteering for hazardous duty; why expose them and their employers to the additional risk of a lawsuit?

To accelerate innovation, suspend patents.

A hospital in Brescia, Italy, had an urgent need for valves necessary to hook up a patient to a ventilator. An enterprising start-up figured out a way to produce the valves with a 3-D printer and made 100 of them in a day, which it donated to the local hospital. Ten patients were treated immediately.

That raw creativity was rewarded with the threat of a lawsuit by the owner of the patent on these valves even though they had been unable to supply them.

Suppliers that cannot meet the demand for their product, be it ventilators, masks or gowns, do not lose any money if others figure out ways to jump in and temporarily fill the gap. Let’s not punish creative heroes.

Patents should be briefly suspended for the production of anything deemed necessary to fight this virus. Each country — including the United States — should look into suspending their patents globally. After the crisis is over, intellectual property rights can be restored, and any firm that decides to stay in the industry should then be required to start paying normal patent license fees. Those Italian valve innovators said they had no intention of continuing in that business. They were just trying to help.

Take a deep breath on privacy worries.

The strict “stay-in-place” rules that have been adopted around the world are imposing enormous economic and emotional costs. It is essential that we fight the spread of the virus as quickly as possible. Tragically, this process has been severely handicapped by a shortage of tests in many places, including much of the United States. Now that testing is beginning at scale, a crucial step to speed the fight is to identify the network of people who have had contact with those who newly tested positive.

One expeditious way to accomplish this task is to give epidemiologists access to anonymized data that is being created by the GPS tracking on our smartphones. If companies can use this data to market services to you, shouldn’t health agencies use it to track the spread of this disease?

One example of how smartphone data could be taken another step forward comes from Singapore, which has been one of the most successful countries in fighting the coronavirus, deploying numerous tools including widespread testing. Lately authorities there have added a new tool to their arsenal. As reported by The Financial Times, the government started TraceTogether, an app that uses Bluetooth technology to record distance between users as well as the duration of their encounters. People consent to give the health ministry the information, which is encrypted and deleted after 21 days. The department can then contact users in case of “probable contact” with an infected individual.

Note that this is a service people opt into. Both of us would gladly sign up. We don’t think anyone should be forced to use it, but we do think it should be legal.

Many countries have adopted data privacy regulations, some of which can prevent the creation of tools that use data to help fight the pandemic. Of course, like all of our other suggestions, we recommend this only as a temporary change, although similar measures might be necessary in another health crisis.

Listen to the folks on the ground.

Although we have tried to educate ourselves about the issues raised here, we are not experts in medicine or health care, so our suggestions might not be the best ones. The people on the front lines are better suited to identify the factors inhibiting their progress.

It is standard practice in the federal government (and some state governments) to request comments before new regulations are issued. This ensures that regulators receive proper feedback before laws are written.

Ideally, governments would do the opposite now: open up sites to request comments not on new regulations, but on existing ones that are limiting our ability to fight the virus. Let people on the front lines report the regulations that are hindering them. Of course, everyone is busy right now, so to help we have set up a website where anyone with a possibly useful idea can make suggestions for ways to eliminate
the red tape that is making it harder for medical workers to do their jobs. We hope readers will submit their ideas and add comments on the ideas of others.

Some of our ideas may seem radical, but crises require new ways of thinking.

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