
SUMMARY OF GOVERNOR LEE'S COVID-19 HEALTH CARE EXECUTIVE ORDERS IN EFFECT

On March 19, 2020, Tennessee Governor Bill Lee issued Executive Order # 15, his first to address the COVID-19 public health crisis after declaring the pandemic a statewide emergency. It contained 42 points, many of which had direct impact on physicians and health care. It had an original expiration date of May 18, but some of its provisions have been amended and extended since it was issued. This report, prepared by the TMA legal department, culls down the Executive Order provisions related to health care that are in effect as of the date of this report. [Here is a link](#) to all of Governor Lee's Executive Orders.

Here are some of the salient health care provisions of the Governor's Executive Orders that are currently in effect. It is by no means exhaustive. [Executive Order # 77](#) is a recommended read for any licensed health care professional because it consolidates all health-related provisions in previous executive orders.

- Executive Order # 77 was effective on February 27, 2021. It expires on May 31, 2021 (as amended by Executive Order # 80).

Section A:

- 2. - Gives the Commissioner of Health discretion to allow health care professionals licensed in another state to practice in Tennessee to assist in the medical response to COVID-19, including treating routine or other medical conditions.
- 7.3. - Gives the Commissioner of Health the authority to grant a license to a health care professional who has been out of practice for a period of time without requiring that individual to demonstrate continued competency or submit to an interview before a licensing board or other licensing authority.
- 7.4. - Suspends the requirement that any continuing education credits and hours be obtained in-person or at a live event for credit (applies to hours earned from March 12, 2020, through the expiration of this Order).
- **TMA Note:** Paragraph 7.4 provides that physicians and other licensed health care professionals are required to timely complete the requisite number of continuing education hours for their profession. Credits obtained after March 12, 2020 do not have to be obtained in-person; they may be obtained online.

CME rules for medical doctors at Tenn. Comp. R. & Regs. 0880-02-.19 specify that acceptable CME must be:



- (3) Acceptable Continuing Education - To be utilized for satisfaction of the continuing education requirements of this rule, the continuing education hours must comply with both of the following:
- (a) They must be sponsored by an organization accredited as a sponsor of continuing medical education by either the Accrediting Council for Continuing Medical Education (ACCME) or by a state medical association recognized by the ACCME as an intrastate accreditor of sponsors of continuing medical education; and
 - (b) They must be designated or certified by the accrediting sponsor as meeting the criteria for Category 1 continuing medical education credit of the American Medical Association's Physician's Recognition Program; or be designated by the AAFP as meeting the criteria of the AAFP's prescribed credit: or
 - (c) If a licensee provides disciplinary case review at the request of the Department, and submits a written report of his or her conclusions regarding such disciplinary case review, the reviewing licensee shall receive one (1) hour of continuing medical education credit for each hour spent reviewing the materials and preparing the report. A maximum of ten (10) hours credits shall be awarded for reviewing disciplinary case materials during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.

TMA Note: Therefore, if a medical doctor's CME is sponsored according to the rule above and designated as Category I or AAFP, such course even if obtained online, will count towards fulfillment of the CME requirement. TMA has online CME that will satisfy the mandatory prescribing course for each renewal cycle. Go to [TMA's Education website](#) and choose *Proper Prescribing Training* to access this class.

- 7.16. – Gives the Commissioner of Health authority to allow a person who has graduated on or after December 1, 2019 from an approved RN or LPN education program and who has applied and fulfilled all other requirements for licensure as a nurse but has yet to take the National Council Licensure Exam (NCLEX), to practice nursing under the supervision of a licensed registered nurse.

TMA Note: Medical practices need to be careful about hiring these nurses. The Executive Order provides that these nurses must be supervised by an RN. It fails to specify that these nurses can be supervised by a physician. Therefore, if your medical practice does not have an RN not subject to this Executive Order to supervise these nurses, the practice could be in violation of law.

- 9.2. - Gives the Commissioner of Health authority to allow persons who have completed or are actively enrolled in a program to obtain a master's degree or doctoral degree in a behavioral or mental health field, or in a field of study required for a license allowing the individual to diagnose behavioral or mental health disorders, to treat diagnosed behavioral or mental health conditions without a license and through use of telemedicine services; provided, that the person is, at all times, supervised by a person



- licensed under Title 63 or Title 68, Chapter 24 with authorization to diagnose a behavioral or mental health condition.
- 9.4 – Gives the Commissioner of Health authority to allow persons who have completed or are actively enrolled in a program to obtain a master's degree or doctoral degree in the field of audiology or speech language pathology to practice without a license and through use of telemedicine services; provided, that the person is, at all times, supervised by a person licensed under Title 63 in that field.
 - 10.2. - Authorizes professionals licensed under Title 63 or Title 68, Chapter 140, to perform tasks outside of their licensed scope of practice if such tasks are performed in a hospital licensed under Title 68 pursuant to a facility-specific, COVID-19-related plan of delegation that has been submitted by the facility's chief medical officer and approved by the Commissioner of Health or the Commissioner's designee.
 - 10.5. - Authorize a registered nurse, licensed in Tennessee or working in Tennessee on a multi-state privilege to practice, to delegate to medical assistants certified or registered by the American Association of Medical Assistants, American Medical Technologists, National Association for Health Professionals, National Center for Competency Testing, or National Health Career Association tasks that would normally be within the practical nurse scope of practice, including, but not limited to, administration of COVID-19 vaccinations, under the supervision of the registered nurse. Tasks delegated to certified medical assistants and performed under the supervision of the delegating registered nurse are required to have been ordered and authorized by a Tennessee licensed practitioner with prescriptive authority.
 - 10.6. - Authorizes professionals licensed under Title 63 or Title 68, Chapter 140, to perform tasks outside of their licensed scope of practice or restricted under Title 33 if such tasks are performed in an inpatient psychiatric facility, in a behavioral health residential facility, or by a behavioral health crisis services provider licensed under Title 33 pursuant to a facility or provider-specific, COVID-19-related plan of delegation that has been submitted by the facility's or provider's chief medical or chief executive officer and jointly approved by the Commissioner of Mental Health and Substance Abuse Services or the Commissioner's designee and the Commissioner of Health or the Commissioner's designee.
 - 10.7. - Authorizes students actively enrolled in a graduate school program or an undergraduate respiratory care program, the educational standards of which meet the training requirements for a license under Title 63 or Title 68, Chapter 140, to perform supervised tasks within the licensed scope of practice of such a license, if such tasks are performed in an inpatient acute care or inpatient rehabilitation setting or emergency department pursuant to a facility-specific, COVID-19-related plan of delegation that has been submitted by the facility's chief medical officer and approved by the Commissioner of Health or the Commissioner's designee.
 - 10.8. - Authorizes students actively enrolled in a graduate school program or an undergraduate respiratory care program, the educational standards of which meet the training requirements for a license under Title 63 or Title 68, Chapter 140, to perform supervised tasks within the licensed scope of practice of such a license or restricted under Title 33, if such tasks are performed in an inpatient psychiatric facility, in a behavioral health residential facility, or by a behavioral health crisis services provider



licensed under Title 33 pursuant to a facility or provider-specific, COVID-19-related plan of delegation that has been submitted by the facility's or provider's chief medical or chief executive officer and jointly approved by the Commissioner of Mental Health and Substance Abuse Services or the Commissioner's designee and the Commissioner of Health or the Commissioner's designee.

- 33.1. - Allows the issuance of a certificate of need under Tennessee Code Annotated, Section 33-6-404, for the emergency involuntary commitment of a person with a mental illness or serious emotional disturbance based upon a telephone assessment of such person by a mandatory pre-screening agent if certain conditions are met.
- 38. – Expands telemedicine:
 - Urges health insurance carriers to provide coverage for the delivery of clinically appropriate, medically necessary covered services via telemedicine to all providers, irrespective of network status or originating site.
 - Urges health insurance carriers not to impose prior authorization requirements on medically necessary treatment related to COVID-19 delivered by in-network providers via telemedicine.
 - Health care professionals licensed in another state who are authorized pursuant to this Order to temporarily practice in this State are permitted to engage in telemedicine services with patients in Tennessee to the extent the scope of practice of the applicable professional license in this State would authorize the professional to diagnose and treat humans.
 - 38.1. - Allows telehealth or telemedicine services to be provided by any provider licensed under Title 63, regardless of the provider's authority to diagnose. This suspension does not otherwise alter or amend any licensee's scope of practice or record keeping requirements.
 - 38.2. - Licensed alcohol and drug abuse counselors can practice telemedicine.
 - 38.3. - Health insurance carriers are urged to provide equivalent inpatient reimbursement to all providers for the delivery of clinically appropriate, medically necessary covered services via programs in which patients receive hospital-level care in home, irrespective of network status or originating site.

Section B – Orders that Originated in Executive Order # 38. It exclusively governs the 89 (non-metro) counties that do not have a locally run county health department.

- 13. – Local Orders
 - No local official or local governmental entity shall issue an order or measure regarding the provision of medical, dental, or oral procedures because of COVID-19 absent authority delegated by the Governor.
 - The six locally run county health departments in Davidson, Hamilton, Knox, Madison, Shelby, and Sullivan counties shall have 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 in those counties or the gathering of persons; provided that no local official or local governmental entity shall issue an order or measure regarding places of



worship or an order or measure that contravenes Paragraphs 6, 9, or 10 of Executive Order No. 38.

Section C: Orders that Originated in Executive Order # 54

- 1. - Persons are urged to wear face coverings in public places.
- 2. - County mayors in the 89 counties that do not have a locally run county health department shall have the authority to issue orders or measures requiring or recommending the wearing of face coverings within their jurisdictions.
- 3. - Lists face covering orders that cannot be ordered by county mayors.

