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## SUMMARY OF GOVERNOR LEE'S COVID-19 HEALTH CARE EXECUTIVE ORDERS IN EFFECT August 17, 2021

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. Since then, multiple executive orders have been issued and have expired. 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 # 83 (<https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee83.pdf>) is a recommended read for any licensed health care professional because it consolidates all health-related provisions in previous executive orders.

- Executive Order # 84 was effective on August 16, 2021. It expires on October 5, 2021. It is a one paragraph order.
  - 1. – Orders that a student's parent or guardian has the right to opt a student out of any mask mandate imposed for K-12 schools by notifying the local education agency or school personnel in writing.
- Executive Order # 83 was effective on August 6, 2021 and declares a state of emergency for Tennessee. It expires on October 5, 2021.
  - 1. - 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.
  - 2. - 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.
  - 3. – A licensed health care facility, or affiliate, can employ LPNs who graduated within the previous 90 days and has received first authorization to take NCLEX-PN exam subject to being supervised by an RN in the same unit at a one-to-one ratio. Must use "graduate practical nurse" in a clinical setting.



- 4. - Authorizes professionals licensed under Title 63 or Title 68, Chapter 140, to perform tasks outside of their 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.
  
- 5. - Authorizes professionals licensed under Title 63 or Title 68, Chapter 140, to perform tasks outside of their 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.
  
- 6. - 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 and jointly approved by the Commissioner of Health or the Commissioner's designee and the Commissioner of Health or the Commissioner's designee.
  
- 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 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.
  
- 8. - Authorizes the governor to utilize National Guard and State Guard members in connection with certain health care and emergency services operations under certain conditions.
  
- 9. – Allows the Commissioner of Health or her designee to allow for regulatory flexibility of ambulance staffing.



- 10. - Temporary regulatory flexibility measures for ambulance driver qualifications.
- 11. - Department of Health and the Division of TennCare are given the discretion to select, designate, and reimburse certain nursing facilities, or units within certain nursing facilities, as "COVID-19 Skilled Nursing Facilities/Units."
- 12. - Permits the Division of TennCare to implement additional acuity-based payments for Medicaid members in nursing facilities designated as "COVID-19 Skilled Nursing Facilities/Units".
- 13. - Allows hospitals, nursing homes, and home health agencies that would otherwise be subject to certificate of need requirements to temporarily increase their number of licensed hospital beds at any location or temporarily establish hospital, nursing home, home-based, and diagnostic services at any location, if necessary for the treatment of COVID-19 patients, as well as to the extent necessary to facilitate activity authorized by the provisions of executive orders concerning COVID-19.
- 14. - Telephone assessments for involuntary commitment cases are permitted if the mandatory pre-screening agent is not reasonably able to conduct an evaluation in-person or via readily available telehealth services; and the mandatory pre-screening agent determines in the agent's professional judgment that conducting the assessment via telephone with the person is clinically appropriate.
- 15. - Testing for COVID-19 can occur at more medical laboratory facilities.
- 16. - Suspends the requirement that a medical laboratory director make periodic in-person, onsite visits to the facilities the director oversees, so long as the director utilizes other technological means of maintaining and exercising oversight.
- 17. Allows medical laboratory personnel in licensed medical labs to remotely review electronic data and report laboratory results without having a separate laboratory license for each remote location.
- 18. Allows temporary quarantine and isolation facilities to be constructed as directed by the Commissioner of Health and the Director of TEMA in response to COVID-19; provided, that there shall be inspections of such structures to ensure safety
- 19. – Gives the Commissioner of Mental Health and Substance Abuse Services the authority to suspend the required unannounced life safety and environmental inspections of licensed services or facilities, absent the death of a service recipient at the service or facility with an indication of possible abuse or neglect by the service or facility or its employees or a request for placement assistance from law enforcement or state or federal agencies regarding the service or facility.



- 20. - Suspends any requirement that the Department of Health conduct inspections or investigations of a licensee, including, but not limited to, complaint investigations, routine surveys, and site visits. However, the Department of Health retains the authority to conduct any inspection or investigation when, in the Department's sole discretion, the public health, safety, or welfare necessitates such inspection or investigation.
- 21. - suspend the requirement that the Department of Health conduct inspections of facilities applying for licensure if the applicant facility is physically located in the same location as another licensed facility where patients have been seen within the thirty (30) days preceding the submission of the application. In instances where the Department of Health elects to not inspect a facility applying for licensure, such provisions requiring a facility applying for licensure to be inspected are hereby suspended.

