RECEIVED
MAR 26 2020
Secretary of State
Tre Hargett

STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 20

AN ORDER AMENDING EXECUTIVE ORDER NO. 15 SUSPENDING PROVISIONS OF CERTAIN STATUTES AND RULES AND TAKING OTHER NECESSARY MEASURES IN ORDER TO FACILITATE THE TREATMENT AND CONTAINMENT OF COVID-19

WHEREAS, on March 19, 2020, I issued Executive Order No. 15, which suspended certain statutes and rules and took other necessary measures to facilitate the treatment and containment of Coronavirus Disease 2019 (COVID-19); and

WHEREAS, taking further measures to limit the opportunities for community spread is necessary to contain COVID-19; and

WHEREAS, it is imperative that essential healthcare services, including mental health services, remain accessible to Tennesseans; and

WHEREAS, providing essential healthcare services in a manner that minimizes the continued spread of COVID-19 requires the use of alternative delivery mechanisms to protect healthcare providers and patients; and

WHEREAS, the resources of the Tennessee Department of Health must be allocated in a way that best enables Tennessee to respond to the COVID-19 pandemic; and

WHEREAS, in addition to the other emergency management powers granted by law, Tennessee Code Annotated, Section 58-2-107(e), provides that during a state of emergency, the Governor is authorized to suspend laws and rules regarding the conduct of state business if necessary to cope with the emergency, order evacuations from certain areas, make orders concerning entry and exit and the occupancy of premises within an emergency area, and take measures concerning the conduct of civilians and the calling of public meetings and gatherings, among other things; and

WHEREAS, the temporary suspension of selected state laws and rules and the other measures contained herein are necessary to facilitate the response to the current emergency.

NOW THEREFORE, I, Bill Lee, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and other applicable law, do hereby declare that a state of emergency continues to exist in Tennessee and order the following:

Effective immediately, Executive Order No. 15, dated March 19, 2020, is amended by adding the following new paragraphs:

7.1 The relevant provisions of Tennessee Code Annotated, Titles 9, 63, and 68, and related rules are hereby suspended to the extent necessary to suspend the requirements that applicants for an initial license pursuant to Titles 63 or 68 pay fees, including any state regulatory fee, as part of the application process. This suspension will apply to initial application fees due to the Department of Health between March 12, 2020, and May 18, 2020. Fees already collected will not be refunded. The deadline to pay initial application fees originally due during this period is hereby extended to June 17, 2020; provided, however, that licenses and fees shall return to their original schedules in subsequent years.

7.2 The relevant provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules, are hereby suspended to the extent necessary to suspend the requirements that license applicants submit notarized application documents and instead allowing applicants to declare, certify, verify, or state under penalty of perjury that each document submitted is a true and correct copy of what it purports to be. Such declarations, certifications, verification, and statements must be signed and dated.

7.3. The provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules and policies are hereby suspended to the extent necessary to give the Commissioner of Health the authority to grant a license, certificate, or registration to a healthcare professional, such as a retired healthcare 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, provided that the individual satisfies all other requirements for licensure, certification, or registration.

7.4. The provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules and policies are hereby suspended to the extent necessary to suspend the requirement that individuals complete or submit proof of completing continuing education requirements or otherwise demonstrate continuing competence as a condition of reinstating a license, certification, or registration. The Commissioner of Health shall reasonably extend the deadline for these requirements as necessary to respond to the effects of COVID-19.

7.5. The provisions of Tenn. Comp. R. & Regs. 1200-06-03-.03(3) and 1200-06-03-.04(2) are hereby suspended to the extent necessary to give the Commissioner of the Department of Health the authority to suspend any required onsite inspections

of laboratories to the extent necessary to allow laboratories to immediately begin testing for COVID-19.

7.6. The provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules and policies are hereby suspended to the extent necessary to suspend 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.

7.7. The provisions of Tennessee Code Annotated, Section 63-1-316(a), and Tenn. Comp. R. & Reg. 1200-34-01-.03(3) and (4) are hereby suspended to the extent necessary to suspend the requirement that the Department of Health inspect a pain management clinic applying for licensure if the applicant clinic will be physically located in the same location as another licensed pain management clinic 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 pain management clinic applying for licensure, such provisions requiring a pain management clinic applying for licensure to be inspected are hereby suspended.

7.8. The provisions of Tennessee Code Annotated, Section 63-1-316(c), are hereby suspended to the extent that they require the Department of Health to conduct inspections of licensed pain management clinics at least every two (2) years to give the Commissioner of Health the discretion to extend the applicable inspection deadline when conducting an inspection would not be appropriate given the risks associated with COVID-19.

7.9. The provisions of Tennessee Code Annotated, Section 68-11-210(a)(1), are hereby suspended to the extent necessary to 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.

7.10. The provisions of Tennessee Code Annotated, Section 68-29-106, are hereby suspended to the extent necessary to suspend the requirement that the Department of Health conduct inspections for medical laboratory applicants for licensure if the applicant laboratory is physically located in the same location where another licensed medical laboratory was located within the thirty (30) days preceding the submission of the new application. In instances where the Department of Health elects to not inspect a medical laboratory applying for licensure, such provision requiring a medical laboratory applying for licensure to be inspected are hereby suspended.

7.11. The provisions of Tenn. Comp. R. & Regs. 1140-01-.08(1) and 1140-16-.02(1) are hereby suspended to the extent necessary to suspend the requirement that the Board of Pharmacy conduct inspections of license applicants with physical locations in Tennessee, including pharmacies, manufacturers, outsourcing facilities, oxygen suppliers, or wholesalers/distributors and warehouses provided by a Third Party Logistics Provider, if the applicant is physically located in the same location as another Department of Health licensee was located within the thirty (30) days preceding the submission of the new application. In instances where the Board of Pharmacy elects to not inspect a license applicant, such provisions requiring a license applicant to be inspected are hereby suspended.

7.12. The provisions of Tenn. Comp R. & Regs. 1730-02-.02 are hereby suspended to the extent necessary to suspend the requirement that the Department of Health conduct inspections for veterinary facility applicants for licensure if the applicant veterinary facility is physically located in the same location as another licensed veterinary facility was located within the thirty (30) days preceding the submission of the new application. In instances where the Department of Health elects to not inspect a veterinary facility applicant for licensure, such provisions requiring a veterinary facility applicant for licensure to be inspected are hereby suspended.

8.1. The provisions of Tenn. Comp. R. & Regs. 1140-02-.02(7) are hereby suspended so that there is no restriction on the ratio of pharmacy technicians to pharmacists while this Order is in effect. All statutes and rules regarding the supervision of a pharmacy technician by a licensed pharmacist remain in full force and effect, including, but not limited to, the requirement that a licensed pharmacist supervise, direct, and verify the accuracy of all pharamacy technician functions pursuant to Tenn. Comp. R. & Regs. 1140-02-.02(9).

9.1. The provisions of Tenn. Comp. R. & Regs. 1200-06-01-.20(5)(c) are hereby suspended to the extent necessary to suspend the requirement that a medical laboratory director make certain 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.

10.1 The provisions of Tennessee Code Annotated, Title 68, are hereby suspended to the extent necessary to enable the Emergency Medical Services Division of the Department of Health to utilize all licensed emergency medical services (EMS), EMS vehicles, and EMS personnel during the COVID-19 pandemic, as follows:

a. The provisions of Tennessee Code Annotated, Section 68-140-306(d), are hereby suspended to the extent necessary to suspend the Department of Health's obligation to annually inspect each ambulance service and emergency medical service and the vehicles of such services, except that newly licensed ambulance services, emergency medical services, and vehicles must still be inspected.

b. The provisions of Tennessee Code Annotated, Section 68-140-306(f), are hereby suspended to the extent necessary to delay the expiration of any EMS service or vehicle license or certificate in good standing set to expire between March 12, 2020, and May 18, 2020. Such licenses and certificates shall instead expire three (3) months from the current date that the license or certificate is set to expire.

c. The provisions of Tennessee Code Annotated, Section 68-140-308(a), are hereby suspended to the extent necessary to delay the expiration of any EMS personnel license or certificate in good standing set to expire between March 12, 2020, and May 18, 2020. Such licenses and certificates shall instead expire three (3) months from the current date that the license or certificate is set to expire.

d. The provisions of Tennessee Code Annotated, Section 68-140-308(b), are hereby suspended to the extent necessary to allow any Emergency Medical Technician student, Advanced Emergency Medical Technician student, or Paramedic student who has successfully completed a Board-approved written exam to practice on a level that is commensurate with the level of examination that the student has successfully completed. Any student granted the ability to practice as a result of this suspension shall, at all times, be supervised by a licensee in the same field who holds an unencumbered license at or above the level of the student.

33.1. The provisions of Tennessee Code Annotated, Section 33-4-108, are hereby suspended to the extent necessary to allow 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 designated pursuant to Tennessee Code Annotated, Sections 33-6-104 and 33-6-427, if the following conditions are met:

a. The mandatory pre-screening agent is not reasonably able to conduct an evaluation in-person or via readily available telehealth services; and

b. The mandatory pre-screening agent determines in the agent's professional judgment that conducting the assessment via telephone with the person is clinically appropriate.

38.1. The provisions of Tennessee Code Annotated, Section 63-1-155(a)(1), are hereby suspended to the extent necessary to allow 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.

41.1. Any state or local law, order, rule, or regulation that would limit the application of this Order is hereby suspended.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 26th day of March, 2020.

GOVERNOR

ATTEST:

SECRETARY OF STATE