RECEIVED
OCT 30 2020
Secretary of State
Tre Hargett

STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 67

AN ORDER TO FACILITATE THE CONTINUED RESPONSE TO COVID-19 BY EXTENDING THE PROVISIONS OF EXECUTIVE ORDER NO. 63

WHEREAS, ongoing, regulatory flexibility to address continuing effects, risks, and persistent negative economic conditions is required to assist Tennessee's citizens, health care systems, industries, small businesses, local and state governments, and religious and non-profit institutions to combat and recover from the long-term effects of COVID-19; and

WHEREAS, given the continuing threat from COVID-19, each Tennessean has a personal responsibility to protect themselves and others by following health guidelines to slow the spread of this virus, and therefore, all venues, employers, businesses, and organizations are strongly encouraged and expected to operate in accordance with, and to fulfill the spirit of, applicable operational guidance issued by the Governor's Economic Recovery Group (i.e., the Tennessee Pledge), which are available at the following web address and may be periodically updated: https://www.tn.gov/governor/covid-19/economic-recovery.html; and

WHEREAS, in addition to the other powers granted by law, Tennessee Code Annotated, Section 58-2-107, provides, among other things, that during a state of emergency, the Governor is authorized to suspend laws and rules if necessary to cope with an emergency, utilize all available state and local resources needed to combat an emergency, and take measures concerning the conduct of civilians; and

WHEREAS, pursuant to this authority and the general emergency management powers of the Governor under law, such measures, including the measures contained herein, are necessary to facilitate the response to the ongoing effects of COVID-19.

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 a continuing state of emergency and major disaster in order to facilitate the response to COVID-19 and accordingly order the extension of the provisions of Executive Order No. 63,

subject to minor amendments reflected below, until 11:59 p.m., Central Standard Time, on December 15, 2020, and, to implement this extension, more specifically order the following:

Effective at 11:59 p.m., Central Daylight Time, on October 30, 2020, Paragraph Nos. 23.5 and 23.7 of Executive Order No. 63, dated September 29, 2020, are hereby deleted.

Effective at 11:59 p.m., Central Daylight Time, on October 30, 2020, Paragraph No. 9.2 of Executive Order No. 36, dated May 12, 2020, as extended by Executive Order No. 63, dated September 29, 2020, is hereby deleted and the following language is substituted instead:

9.2 Pre-license, graduate or doctoral level mental or behavioral health professionals can provide telehealth services under supervision. The relevant provisions of Tennessee Code Annotated, Title 63, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the 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 with authorization to diagnose a behavioral or mental health condition. The Commissioner of Health shall provide the requisite form for practicing under this Paragraph 9.2 on the Department of Health's Health Professional Boards webpage.

Effective at 11:59 p.m., Central Daylight Time, on October 30, 2020, Executive Order No. 36, dated May 12, 2020, as extended by Executive Order No. 63, dated September 29, 2020, is amended by adding the following new paragraph:

10.2 Medical professional staffing flexibility is permitted pursuant to an approved plan to relieve the capacity strain on certain staffing functions. In order to relieve the capacity strain on bedside care and support resulting from staffing shortages (nurses, respiratory therapists, etc.), additional temporary regulatory flexibility measures are necessary to cope with the emergency. To this end, the provisions of Title 63 and Title 68, Chapter 140, are hereby suspended to the extent necessary to authorize 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 an emergency room or hospital acute care setting 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. Such a plan of delegation must include the specific types of licensees covered, the specific tasks outside of their licensed scope of practice that are permitted, and the specific circumstances and directives under which such tasks are permitted. The Commissioner or the Commissioner's designee may approve such plan subject to conditions and may rescind such approval in the Commissioner's or Commissioner's designee's sole discretion. For purposes of regulation and disciplinary action, licensees performing tasks pursuant

to this provision remain subject to regulation and disciplinary action as if they were acting within their licensed scope of practice.

Effective at 11:59 p.m., Central Daylight Time, on October 30, 2020, Part D. of Executive Order No. 63, dated September 29, 2020, is hereby deleted and the following language is substituted instead:

Part D. Effectiveness

1. Term and effective date. This Order shall be effective and enforceable as of 11:59 p.m., Central Daylight Time, on October 30, 2020, and shall remain in effect until 11:59 p.m., Central Standard Time, on December 29, 2020.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 30th day of October, 2020.

GOVERNOR

ATTEST:

SECRETARY OF STATE