STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 15

AN ORDER SUSPENDING PROVISIONS OF CERTAIN STATUTES AND RULES AND TAKING OTHER NECESSARY MEASURES IN ORDER TO FACILITATE THE TREATMENT AND CONTAINMENT OF COVID-19

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the SARS-CoV-2 virus that can result in mild or severe symptoms, including fever, cough, and shortness of breath, and can lead to serious illness or death, particularly in the case of older adults and persons with serious chronic medical conditions; and

WHEREAS, the virus causing COVID-19 is frequently spread through close contact between persons and respiratory transmission, and the Centers for Disease Control and Prevention (CDC) has noted that the virus "seems to be spreading easily and sustainably in the community"; and

WHEREAS, in late 2019, a significant outbreak of COVID-19 was identified in China, and this disease has since spread to many other countries; and

WHEREAS, to date, according to the CDC, there have been 10,442 cases of COVID-19 identified in the United States, which have resulted in 150 deaths; and

WHEREAS, on January 16, 2020, the Tennessee Department of Health activated the State Health Operations Center (SHOC), and on January 21, 2020, following CDC guidance, the Department designated COVID-19 as a reportable disease in Tennessee; and

WHEREAS, on January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 4, 2020, I announced the formation of a Coronavirus Task Force to enhance Tennessee's coordinated efforts to prevent, identify, and treat potential cases of COVID-19, and that task force convened its first meeting a few days later; and

WHEREAS, on March 4, 2020, the first case of COVID-19 in the State of Tennessee was identified, and 153 additional confirmed or presumptively positive cases of COVID-19 have since been identified in Tennessee, indicating that the number of cases continues to increase; and

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak a global pandemic; and

WHEREAS, on March 12, 2020, I issued Executive Order No. 14, which declared a state of emergency and waived certain laws to facilitate the response to COVID-19; and

WHEREAS, on March 13, 2020, President Trump issued a proclamation declaring that the COVID-19 outbreak in the United States constitutes a national emergency; and

WHEREAS, nearly all other states have also declared states of emergency to facilitate their responses to COVID-19; and

WHEREAS, the spread and identification of additional cases of COVID-19 in Tennessee is likely to continue, and therefore, taking proactive steps to mitigate to the greatest extent possible the risk to public health and safety is paramount; and

WHEREAS, public and private health care, emergency, and other entities are engaged in efforts throughout the state to treat and prevent the additional spread of COVID-19, and the provisions of this Order are necessary to maximize those efforts and avoid undue strain on the health care system; and

WHEREAS, Tennesseans, businesses, and governmental and nongovernmental entities of all types are working and enduring consequences of efforts to limit the spread of COVID-19, and the provisions of this Order are designed to support those efforts and persons, while also maintaining continuity of state government services; and

WHEREAS, taking further measures to limit the opportunities for community spread is imperative to containing COVID-19 and thereby protecting the health and safety of Tennesseans, including facilitating the uninterrupted delivery of materials, supplies, goods, and services, as well as providing state services and conducting state business remotely or delaying such business or services where appropriate, and such measures are designed to allow Tennesseans to avoid large gatherings to the greatest extent possible to prevent community spread; and

WHEREAS, in addition to the other 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, utilize all available state and local resources and state departments and personnel to combat the emergency, order evacuations, 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, pursuant to this authority and the general emergency management powers of the Governor under law, the temporary suspension of selected state laws and rules and the other measures contained herein are necessary to facilitate the response to the current public health 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 a state of emergency and major disaster exists to facilitate the response to COVID-19 and accordingly order the following:

1. The Commissioner of Health or her designee, in conjunction with the Director of the Tennessee Emergency Management Agency (TEMA) or his designee, shall implement the Tennessee Emergency Management Plan (TEMP) and all applicable annexes to coordinate the State's response to COVID-19.

2. The relevant provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the discretion to allow a health care professional who is licensed in another state, and who would otherwise be subject to the licensing requirements under Title 63 or Title 68, to engage in the practice of such individual's profession in Tennessee, if such individual is a health care professional who is assisting in the medical response to COVID-19, including treating routine or other medical conditions. The Commissioner of Health shall provide the requisite form for practicing under this Paragraph on the Department of Health's Health Professional Boards webpage.

3. The provisions of Tennessee Code Annotated, Section 63-10-207(a) and (c), are hereby suspended to allow a pharmacist to dispense up to a 90-day supply of maintenance prescriptions without proper authorization to persons as is necessary to respond to and prevent the spread of COVID-19 in Tennessee, subject to all other provisions of Tennessee Code Annotated, Sections 63-10-207 and 63-1-164.

4. The provisions of Tennessee Code Annotated, Section 68-11-201(20), are hereby suspended to the extent necessary to allow health care professionals who would otherwise be subject to licensing requirements to provide localized treatment of patients in temporary residences.

5. The provisions of Tennessee Code Annotated, Section 63-7-123, Tenn. Comp. R. & Regs. 1000-04-.04, Tenn. Comp. R. & Regs. 0880-06-.01 through Tenn. Comp. R. & Regs. 0880-06-.03, and Tenn. Comp. R. & Regs. 1050-02-.15 are hereby suspended to the extent necessary to relieve nurse practitioners who have been issued a certificate of fitness to write and sign prescriptions or issue drugs from the following requirements: (1) filing a notice with the Board of Nursing containing the name of the nurse practitioner, the name of the licensed physician collaborating with the nurse practitioner, and a copy of the formulary describing the categories of legend and non-legend drugs to be prescribed or issued by the nurse practitioner;

(2) having charts reviewed; and (3) having remote sites visited by collaborating physicians every thirty (30) days.

6. The provisions of Tennessee Code Annotated, Title 63, Chapter 19, Part 1, Tenn. Comp. R. & Regs. 0880-03-.01 through Tenn. Comp. R. & Regs. 0880-03-.25, and Tenn. Comp. R. & Regs. 0880-02-.18 are hereby suspended to the extent necessary to relieve physician assistants from the following requirements: (1) filing a notice of authorization for prescribing form with the Committee on Physician Assistants containing the name of the physician assistant, the name of the licensed physician collaborating with the physician assistant, and a copy of the formulary describing the categories of legend and non-legend drugs to be prescribed or issued by the physician assistant; (2) having charts reviewed; and (3) having remote sites visited by collaborating physicians every thirty (30) days.

7. The relevant provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules are hereby suspended to the extent necessary to extend the current expiration dates for health care professionals and facilities to renew their license, certificate, or registration set to expire between March 12, 2020, and the date on which this Order terminates for three (3) months, during which time the holder of each license, certification, or registration may continue to legally operate or practice their profession. No fines or penalties shall be assessed or collected if the holder of such license, certification, or registration practices or operates during this extended period. Any renewal application received by the Tennessee Department of Health within three (3) months of the expiration date of the license, certificate, or registration shall be accepted as timely. When each license, certificate, or registration is renewed, its new expiration date shall be twenty-four (24) months after the expiration date it had prior to this Order.

8. The relevant portions of Tennessee Code Annotated, Title 63, Chapter 10, and Tenn. Comp. R. & Regs. 1140-02-.01 through Tenn. Comp. R. & Regs. 1140-02-.02 are hereby suspended to the extent necessary to allow pharmacy technicians and pharmacists to complete computer-based processing of prescriptions at alternative locations, including from the residence of the pharmacy technician or pharmacist. Such computer-based processing shall be conducted utilizing adequate security to ensure all aspects of the Health Insurance Privacy and Accountability Act of 1996 are followed. No laws pertaining to licensed pharmacy practice sites, the storage of drugs, recordkeeping, or dispensing processes are waived or limited by this Order.

9. The relevant portions of Tennessee Code Annotated, Title 68, Chapter 29, and related rules are hereby suspended to the extent necessary to give the Commissioner of Health the discretion to allow individuals to work as medical laboratory technologists, as defined in Tennessee Code Annotated, Section 68-29-103(16), with respect to coronavirus testing only, without a license while employed by a licensed medical laboratory and working under the supervision of a medical laboratory director; provided, that, such an individual must be a postdoctoral fellow

in a biological science field such as pathology, microbiology, chemistry, molecular diagnostics, or immunology. The Commissioner of Health shall provide the requisite form for practicing under this Paragraph on the Department of Health's Health Professional Boards webpage.

10. The provisions of Tennessee Code Annotated, Section 68-11-1607, are hereby suspended to the extent necessary to allow hospitals 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 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 this Order and any subsequent order concerning COVID-19.

11. The provisions of Tenn. Comp. R. & Regs. 1200-06-03-.16 are suspended to allow testing for COVID-19 at alternate testing sites without prior approval by the Medical Laboratory Board; provided, that laboratories shall notify the Medical Laboratory Board of any such alternate testing sites.

12. The provisions of Tennessee Code Annotated, Section 68-11-202(c)(1)-(8), are hereby suspended to allow for the construction of temporary structures, the plans for which would otherwise be subject to review for new construction, additions, or substantial alterations, 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, as necessary.

13. In accordance with Tennessee Code Annotated, Section 47-18-5103, it is hereby declared that in Tennessee an abnormal economic disruption exists, and therefore, persons are prohibited from charging any other person a price for medical supplies, emergency supplies, or consumer food items, as listed in Tennessee Code Annotated, Section 47-18-5103(a)(1)(A), (C), and (D), that is grossly in excess of the price generally charged for the same or similar goods or services in the usual course of business. Paragraph 13 of this Order shall remain in effect until 12:01 a.m., Central Daylight Time, on April 3, 2020.

14. The provisions of Tennessee Code Annotated, Section 55-4-401, through Tennessee Code Annotated, Section 55-4-413, Tennessee Code Annotated, Section 55-7-201, through Tennessee Code Annotated, Section 55-7-209, and Tenn. Comp. R. & Regs. 1680-07-01-.01 through Tenn. Comp. R. & Regs. 1680-07-01-.25 that set forth maximum height, length, and width limitations are hereby suspended in the case of vehicles participating in the response to or preparation for COVID-19, subject to the following conditions:

    a. A vehicle must be transporting emergency goods, supplies, equipment, mobile structures, or other items to affected areas.

b. A vehicle shall be permitted only to travel on (1) Interstate Highways; (2) highways on the National Highway System; and (3) other state-maintained roads as may be required to obtain access to needed services off of the aforementioned highways, without any restrictions on their time of movement except as may otherwise be provided in this Order.

c. A vehicle may transport a divisible or non-divisible load up to a maximum gross vehicle weight of 95,000 pounds and a maximum axle weight of 20,000 pounds, except on any bridge or overpass with a lower posted weight limit.

d. The outer bridge span of any five-axle truck tractor/semi-trailer combination shall be no less than fifty-one feet (51').

e. The overall dimensions of a vehicle and load shall not exceed:

   i. One hundred feet (100') in length;

   ii. Fourteen feet, four inches (14' 4") in height on the Interstate Highway System, except on Interstate 55, and thirteen feet, six inches (13' 6") in height on Interstate 55 and any other highway on the National Highway System; or

   iii. Fourteen feet, six inches (14' 6") in width.

f. Vehicles that do not exceed ten feet (10') in width may travel seven (7) days per week during daylight or nighttime hours without any time restrictions.

g. Any person, firm, company, corporation, or other entity that undertakes the movement of any overweight and/or overdimensional article and/or commodity on the highways of Tennessee shall hold Tennessee and its officers and employees harmless from any claims for damages resulting from the exercise of any of the privileges granted under this Order and, to this end, shall carry liability insurance with an insurer, acceptable to the Tennessee Department of Transportation's Oversize and Overweight Permit Office, in the amount of not less than three hundred thousand dollars ($300,000) for each claimant and one million dollars ($1,000,000) per occurrence. The transporter shall carry the certificate of insurance in the vehicle at all times.

h. Paragraph 14(c) of this Order shall take effect only upon the issuance of and in accordance with an appropriate declaration by the President of the United States.

15. In accordance with 49 C.F.R. § 390.23, as adopted by Tenn. Comp. R. & Regs. 1340-06-01-.08, there is hereby provided a temporary exception from the federal rules and regulations in 49 C.F.R. Part 395 limiting the hours of service for the

operator of a commercial motor vehicle providing supplies, equipment, personnel, and other provisions to assist persons affected by COVID-19, subject to the following conditions:

a. Nothing in this Order shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383, the financial requirements in 49 C.F.R. § 387, or applicable federal size and weight limitations.

b. No motor carrier operating under the terms of this Order shall require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor carrier that he or she needs immediate rest shall be given at least ten (10) consecutive hours off-duty before the driver is required to return to service.

16. The provisions of Tennessee Code Annotated, Section 50-7-303(a)(1)(A), are hereby suspended to the extent necessary to allow the Commissioner of Labor and Workforce Development to authorize the payment of unemployment benefits to a claimant who is unemployed, as defined in Tennessee Code Annotated, Section 50-7-211, because the claimant left work after being directed by a medical professional or health authority to isolate or quarantine due to COVID-19, who intends to return to work, and who is otherwise eligible for benefits.

17. The provisions of Tennessee Code Annotated, Section 50-7-302(a)(3) and (4), which require reporting to an employment office and having the ability and undertaking reasonable efforts to secure work to receive unemployment benefits, are hereby suspended upon receiving appropriate federal guidance. The one-week waiting period imposed by Tennessee Code Annotated, Section 50-7-302(a)(5), is also hereby suspended.

18. The relevant provisions of Tennessee Code Annotated, Title 71, Chapter 3, Part 5, and related rules are hereby suspended to the extent necessary to give the Commissioner of Human Services the discretion to waive the child care licensure requirements to allow suspension of onsite assessment and licensing monitoring visits, permit reviews by desk audit, and extend current licenses, as well as waive other child care licensure requirements, including provisions concerning capacity, care categories, grouping, license transfers, and drop-in centers, if necessary to respond to the effects of COVID-19.

19. The provisions of Tennessee Code Annotated, Section 45-2-1602(a) and Section 45-4-1002(a), and related rules requiring examination of state-chartered banks, trust companies, and credit unions within certain time periods are hereby suspended to the extent necessary to give the Commissioner of Financial Institutions discretion to extend the applicable examination cycle of such institutions when the Commissioner determines that conducting an examination would not be appropriate given the risks associated with COVID-19.

20. The provisions of Tennessee Code Annotated, Section 9-4-301(a), and Tennessee Department of Finance and Administration Policy 25, are hereby suspended to the extent necessary to allow the Commissioner of Revenue to implement processes that will safeguard the health, welfare, and safety of employees handling and processing payment instruments.

21. The provisions of Tennessee Code Annotated, Section 40-28-118(a) and (b), Section 40-28-121(b) and (d), Section 40-28-122(a), (c), and (f), and Section 40-35-503(d), (e), (f), and (h), requiring the Tennessee Board of Parole to take certain actions and conduct certain proceedings, the provisions of Tennessee Code Annotated, Section 40-28-502(a)(1), requiring that hearings be open to the public, the notification requirements of Tennessee Code Annotated, Section 40-28-505(b), (c), (e), and (g), and any related provisions of Tenn. Comp. R. & Regs. 1100-01-01-.01 through Tenn. Comp. R. & Regs. 1100-01-01-.16 and Board of Parole policies adopted pursuant to Tennessee Code Annotated, Section 40-28-104, are hereby suspended. However, the Board of Parole is directed to use all available processes, alternatives, and technology to maintain continuity of services and hearings to the greatest extent practicable while maintaining the health and safety of all persons involved. Paragraph 21 of this Order shall remain in effect until 12:01 a.m., Central Daylight Time, on April 19, 2020.

22. The provisions of Tennessee Code Annotated, Section 55-4-104(a)-(d), are hereby suspended to the extent necessary to delay the expiration of all valid motor vehicle registrations set to expire between March 12, 2020, and May 18, 2020. Such motor vehicle registrations shall instead expire on June 15, 2020; provided, however, that such registrations shall return to their original renewal schedules in subsequent years.

23. The provisions of Tennessee Code Annotated, Sections 55-50-336 and 55-50-337, are hereby suspended to the extent necessary to delay the expiration of all valid Class A, B, C, D, P, and M driver licenses and Class ID photo identification licenses set to expire between March 12, 2020, and May 18, 2020. Such licenses shall instead expire six (6) months from the current date the license is set to expire.

24. The provisions of Tennessee Code Annotated, Section 39-17-1351(n)(1), are hereby suspended to the extent necessary to delay the expiration of a valid enhanced handgun carry permit set to expire between March 12, 2020, and May 18, 2020. Such permits shall instead expire six (6) months from the current date the permit is set to expire.

25. The provisions of Tennessee Code Annotated, Sections 55-10-417(d) and 55-10-425, requiring persons with ignition interlock devices to appear at certain times at the ignition interlock device provider for calibration, monitoring, or inspection of the device, are hereby suspended until June 15, 2020. Any such time periods running as of the effective date of this Order are stayed until June 15, 2020, at which time they shall resume running.

26. Any time limits set forth in Title 40, Chapter 33, Part 2, on taking actions or conducting proceedings are hereby suspended until June 15, 2020. Any such time periods running as of the effective date of this Order are stayed until June 15, 2020, at which time they shall resume running.

27. The provisions governing the initial issuance and renewal of licenses, permits, and certifications issued by the Department of Commerce and Insurance and the boards, commissions, and agencies administratively attached to the Department are suspended to the extent necessary to give the Commissioner of Commerce and Insurance and the boards, commissions, and agencies discretion to reasonably extend the deadline for obtaining the required education, continuing education, or in-service credits as necessary to respond to the effects of COVID-19.

28. The provisions governing building plans review or building code requirements under the purview of the Department of Commerce and Insurance are suspended to the extent necessary to give the Commissioner of Commerce and Insurance discretion to reasonably extend the deadline for compliance with such provisions as necessary to respond to the effects of COVID-19.

29. The provisions of Tennessee Code Annotated, Sections 4-24-112, 4-24-202 and 4-24-205, requiring completion of basic training and in-service credits are suspended to the extent necessary to give the Commission on Firefighting Personnel Standards and Education discretion to reasonably extend the deadline for meeting such requirements as necessary to respond to the effects of COVID-19.

30. The provisions of Tennessee Code Annotated, Sections 38-8-107 and 38-8-111, requiring completion of basic training and in-service credits are suspended to the extent necessary to give the Peace Officer Standards and Training Commission discretion to reasonably extend the deadline for meeting such requirements as necessary to respond to the effects of COVID-19.

31. The provisions of Tenn. Comp. R & Regs. 0780-04-03-.01(4)(d) and 0780-04-03-.01(10)(c) governing eligibility for initial registration with the Securities Division of Department of Commerce and Insurance are suspended to the extent necessary to give the Commissioner of Commerce and Insurance discretion to reasonably extend the time periods for completing certain registration application requirements as necessary to respond to the effects of COVID-19.

32. The provisions of Tennessee Code Annotated, Section 8-50-802, Tenn. Comp. R & Regs. 1120-06-.01 through Tenn. Comp. R & Regs. 1120-06-.26, and related Department of Human Resources policies are to the extent necessary hereby suspended so that executive branch appointing authorities and the Commissioner of Human Resources may grant discretionary leave to an employee subject to Title 8, Chapter 30, who is directed not to report to work because of COVID-19, or because of modified operations due to COVID-19.

33. The provisions of Tennessee Code Annotated, Section 33-2-413(a), are hereby suspended to the extent necessary to give 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.

34. The Division of TennCare is hereby authorized to create policies or modify existing policies as is necessary to ensure that members of the TennCare and CoverKids programs continue to receive medically necessary services without disruption during this state of emergency.

35. Tenn. Comp. R. & Regs. 0465-01-01-.05(3) is hereby suspended to the extent necessary to allow for admission to a state-owned and operated facility under Title 33 without conducting a Statewide Admission Review Committee review within seven (7) days of admission.

36. Tenn. Comp. R. & Regs. 0465-01-03.04(4)(a) and (b) are hereby suspended to the extent necessary to grant the Department of Intellectual and Developmental Disabilities the discretion to extend the medication administration certification of unlicensed personnel when necessary to provide for continuity of care.

37. Pursuant to Tennessee Code Annotated, Section 58-2-107(e)(2), I hereby direct the Tennessee Department of Health and the Tennessee Department of Commerce and Insurance to continue working with health insurance carriers operating in the state to identify and remove any burdens to responding to COVID-19 and improve access to treatment options and medically necessary screening and testing for COVID-19.

38. Health insurance carriers are urged 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. Providers are urged to follow the new guidance from the federal Centers for Medicare and Medicaid Services regarding equipment and everyday communications technologies that may be used for the provision of telemedicine services. Carriers are urged 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. Tennessee Code Annotated, Section 63-1-155(c)(3), is hereby suspended to allow telemedicine services by pain management clinics, as defined in Tennessee Code

Annotated, Section 63-1-301(7), and in the case of chronic nonmalignant pain treatment.

39. The provisions of Tennessee Code Annotated, Title 38, Chapter 6, Part 1, are hereby suspended to the extent necessary to authorize the Tennessee Bureau of Investigation to conduct name-based background checks for applicants, rather than fingerprint-based background checks.

40. Tennessee Code Annotated, Section 40-32-102(b), which imposes upon the Tennessee Bureau of Investigation a sixty-day deadline for removing expunged records from criminal histories, is hereby suspended.

41. This Order shall remain in effect until 12:01 a.m., Central Daylight Time, on May 18, 2020, at which time the suspension of any state laws and rules shall cease and be of no further force or effect.

42. This Order supersedes Executive Order No. 14, dated March 12, 2020, which is hereby repealed.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 19th day of March, 2020.

Bill Lee

GOVERNOR

ATTEST:

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SECRETARY OF STATE

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