

December 4, 2020

Dear Behavioral Health Providers,

Thank you for your continued partnership throughout the COVID-19 pandemic. You have continued to serve vulnerable Tennesseans despite very difficult circumstances, and we appreciate all that you are doing each day to respond to new challenges, while continuing to provide excellent patient care. As you are aware, within the last month, there has been a rise in COVID-19 cases in Tennessee. Due to the rising case counts and the increasing burden of maintaining vital behavioral healthcare services, the Lee Administration has considered additional regulatory flexibilities that may be utilized to help assist behavioral health providers in responding to current needs despite the ongoing pandemic.

To this end, Governor Lee recently signed Executive Order No. 68 ([available at this link](#)), which provides new flexibilities for inpatient psychiatric facilities, behavioral health residential facilities, and crisis service providers, licensed under Title 33. Paragraph 10.6 of the order provides temporary regulatory flexibility to permit licensed inpatient psychiatric facilities, behavioral health residential facilities, and behavioral health crisis service providers to utilize their current staff to perform specific, additional tasks outside their standard scope of practice under Title 63 or Title 68, Chapter 140 or other tasks restricted under Title 33 in an inpatient psychiatric facility, behavioral health residential facility, or by a behavioral health crisis services provider licensed under Title 33 in accordance with a plan submitted by the facility's or provider's chief medical or chief executive officer and approved jointly by the Department of Mental Health and Substance Abuse Services and Department of Health. The intent of this new provision is to enable these facilities and providers increased regulatory flexibility to continue to provide vital behavioral health services despite limits on available staff or other impacts due to COVID-19.

A submitted plan must include the following:

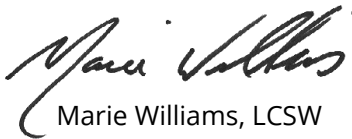
- Specific types of licensees covered,
- The number of licensees with expanded scope included in the staffing plan,
- The specific tasks outside of their licensed scope of practice or restricted under Title 33 that are proposed to be permitted under this plan,
- The specific circumstances and directives under which such tasks are permitted,
- Timeline for implementation,
- Additional training provided, and
- Supervisory structure for those practicing under expanded scope.

To be clear, an inpatient psychiatric facility, behavioral health residential facility, or a behavioral health crisis services provider must not implement any aspect of a proposed plan unless and until approval has been obtained jointly from the Department of Mental Health and Substance Abuse Services and Department of Health. The use of this provision is completely optional and should only be used if your facility or agency finds these flexibilities appropriate, safe, and

necessary. For purposes of regulation and disciplinary action, licensees under Title 63 and Title 68, Chapter 140 performing tasks pursuant to this provision remain subject to regulation and disciplinary action as if they were acting within their licensed scope of practice. This authorization of professionals under the plan of delegation to perform tasks outside their licensed scope of practice terminates immediately upon expiration of applicable executive orders or a plan being rescinded.

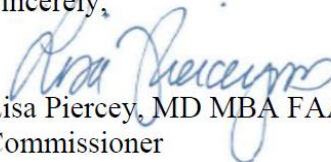
If your facility or agency determines to submit such a plan for consideration, please email the plan to behavioralhealth.covid@tn.gov. We hope that this additional flexibility may assist you and your staff in continuing to provide excellent services to your patients during this challenging time.

Sincerely,



Marie Williams, LCSW
Commissioner
Department of Mental Health
and Substance Abuse Services

Sincerely,



Lisa Piercey, MD MBA FAAP
Commissioner
Department of Health