

December 22, 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, COVID-19 cases in Tennessee continue to rise daily. Due to the rising case counts and the increasing burden of maintaining vital 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 signed Executive Order No. 73](#) which provides new flexibility for inpatient psychiatric facilities, behavioral health residential facilities, and crisis service providers, licensed under Title 33. Paragraph 10.8 of the order provides temporary regulatory flexibility to permit 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, 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 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 health services despite limits on available staff or other impacts due to COVID-19.

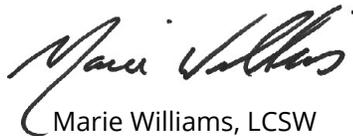
A submitted plan must include the following:

- Specific types of programs in which a student must be enrolled to perform tasks pursuant to Paragraph 10.8 of Executive Order 73,
- The number of students the facility or provider will utilize to perform tasks pursuant to Paragraph 10.8 of Executive Order 73,
- The specific tasks within the relevant scope of practice or restricted under Title 33 that the student is permitted to perform,
- The specific circumstances and directives under which such tasks are permitted,
- Timeline for implementation,
- Additional training provided, and
- Supervisory structure for those students performing tasks pursuant to Paragraph 10.8 of Executive Order 73.

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. Further, students performing tasks pursuant to Paragraph 10.8 of Executive Order 73 may be subject to disciplinary actions upon applying for a license for actions inconsistent with the practice act for the licensed scope of practice in which they are operating. This authorization of graduate school program or undergraduate respiratory care program students under the plan of delegation to perform tasks within the relevant scope of practice or restricted under Title 33 terminates immediately upon expiration of applicable executive orders or a plan being rescinded.

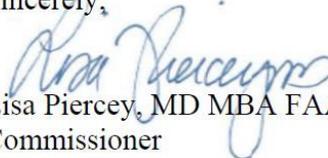
If your facility or agency determines to submit such a plan for consideration, please email the plan to behavioralhealth.covid@tn.gov. We hope that this additional flexibility may assist you and your staff in continuing to provide excellent services to your patients during this challenging time.

Sincerely,



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

Sincerely,



Lisa Piercey, MD MBA FAAP
Commissioner
Department of Health