

2022 Acts and Resolves No. 85: Time-limited provisions related to COVID-19

Provider Association Coalition Recommendations

February 8, 2023

| Act(s), section(s) | Summary of provision | Recommendation(s) |
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| 2022 Act 85 Sec. 1 | Directs Agency of Human Services (AHS) to consider modifying existing rules or adopting emergency rules to protect access to health care services, long-term services and supports, and other human services and to consider importance of financial viability of providers that rely on public funding | <u>Provider coalition</u> : Allow to expire |
| 2022 Act 85 Sec. 3 | To protect non-health care professional employees from COVID-19, requires all health care facilities and human service providers to follow guidance from Department of Health regarding measures to address employee safety, to extent feasible | <u>Provider coalition</u> : Allow to expire |
| 2022 Act 85 Sec. 4 | Allows AHS Secretary to waive/permit variances from AHS's health care and human service provider rules as necessary to prioritize and maximize direct patient care, support children and families receiving benefits and services through Department for Children and Families (DCF), and allow for continuation of operations with reduced workforce and flexible staffing arrangements | <u>Provider coalition</u> : Extend through March 31, 2024 |

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| 2022 Act 85 Sec. 5 | Allows Green Mountain Care Board (GMCB) to waive/permit variances from laws, guidance, and standards on hospital budget review, certificates of need, health insurance rate review, and accountable care organization certification/budget review as needed to prioritize and maximize direct patient care, safeguard health care provider stability, and allow for orderly regulatory processes responsive to evolving COVID-19- related needs | <u>Provider coalition:</u> Extend through March 31, 2024; Add the following: allow GMCB to waive/permit variances from laws, guidance, and standards on certificate of need to respond to capacity needs. |
| 2022 Act 85 Sec. 6 | Requires Department of Vermont Health Access (DVHA) to relax Medicaid provider enrollment requirements, and Department of Financial Regulation (DFR) to direct health insurers to relax health insurance plans' provider credentialing requirements, to allow providers to deliver/be reimbursed for services across health care settings as needed to respond to evolving needs | <u>Provider coalition:</u> Extend through March 31, 2024 |
| 2022 Act 85 Sec. 8 | Directs DFR to consider adopting, and allows it to adopt, emergency rules to: <ul style="list-style-type: none"> • Expand health insurance coverage for, and waive or limit cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention • Modify or suspend health insurance plan deductible requirements for all prescription drugs | <u>Provider coalition:</u> Extend first bullet through March 31, 2024; consider making permanent and changing “shall consider adopting to” to “shall adopt.” See background at: https://www.kff.org/coronavirus-covid-19/issue-brief/what-happens-when-covid-19-emergency-declarations-end-implications-for-coverage-costs-and-access/# and https://dfr.vermont.gov/reg-bul-ord/access-health-care-services-related-covid-19 |

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| 2022 Act 85 Sec. 9 | Requires health insurance plans and Medicaid to allow members to refill prescriptions for chronic maintenance medications early so they can maintain a 30-day supply of each medication at home | <u>Provider coalition</u> : Allow to expire |
| 2022 Act 85 Sec. 12 | Allows health care professional to authorize renewal of existing buprenorphine prescription without office visit, to the extent permitted under federal law | <u>Provider coalition</u> : Make permanent; see current DEA flexibilities at https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-023)(DEA075)Decision_Tree_(Final)_33120_2007.pdf |
| 2022 Act 85 Sec. 13 | Allows AHS to reimburse Medicaid-funded long- term care facilities and other programs providing 24-hour per day services for their bed-hold days | <u>Provider coalition</u> : Allow to expire |
| 2022 Act 85 Sec. 17 | <ul style="list-style-type: none"> Deems health care professional who is licensed, certified, or registered to provide health care services in any other U.S. jurisdiction as licensed, certified, or registered to provide health care services to patients in Vermont using telehealth or as part of staff of licensed facility | <ul style="list-style-type: none"> <u>Provider coalition</u>: <ul style="list-style-type: none"> Extend for licensed facilities through March 31, 2024 to allow OPR more time to advertise permanent flexibilities and implement for professions beyond nurses; and for Board of Medical Practice to explore licensure streamlining (see below) Add the following: Deeming is the equivalent of licensure and shall be considered sufficient by payers and health care facilities to meet credentialing and enrollment licensure requirements. Add the following: The Board of Medical Practice shall update the House Health Care and Senate Health & Welfare Committees by January 15, 2024 on options to streamline and modernize the licensure process for physicians, such as alternatives to requiring original birth certificates as a method of proving identification; the status of obtaining finger print-supported background checks and being able to serve as the State of Principle Licensure for purposes of participating in the |

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| | | <p>Interstate Medical Licensure Compact; offering provisional licenses pending full document verification; and staff rather than Board-approval of uncomplicated license applications.</p> |
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| 2022 Act 85 Sec. 18; | <ul style="list-style-type: none"> Allows former health care professional whose Vermont license, certificate, or registration became inactive not more than three years ago to provide health care services to patients in Vermont by telehealth or as part of staff of licensed facility after submitting to BMP/OPR name, contact information, and locations where will be practicing Allows OPR and BMP to issue free, temporary licenses to health care professionals whose Vermont license, certificate, or registration became inactive between three and 10 years ago; OPR/BMP may impose limitations on their scope of practice as appropriate | <u>Provider coalition</u> : Allow to expire |
| 2022 Act 85 Sec. 20; | If OPR Director or BMP Executive Director finds that their boards cannot reasonably, safely, and expeditiously convene a quorum, Director/Executive Director of BMP may exercise full powers and authorities of respective boards, including disciplinary authority | <u>Provider coalition</u> : Defer to OPR and Board of Medical Practice |
| 2022 Act 85 Sec. 21 | OPR Director and Commissioner of Health may issue orders governing regulatory professional activities and practices as needed to protect public health, safety, and welfare | <u>Provider coalition</u> : Defer to OPR and Board of Medical Practice |
| Telehealth Provisions Page 14 | Waiver of certain requirements | <u>Provider coalition</u> : Extend ability to use technologies that are not HIPAA compliant through March 31, 2024 to remain consistent with federal flexibilities |

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| Page 15 of Act 85 2021 Act 6, Sec. 2; 2020 Act 140, Sec. 15 | <ul style="list-style-type: none"> • BMP or its Executive Director may issue to individual licensed as a physician, physician assistant, or podiatrist in another jurisdiction a temporary license to practice in Vermont until not later than April 1, 2022 • BMP or its Executive Director may waive requirements, including scope of practice requirements, for physician assistants; may impose limitations or conditions when granting waiver | <u>Provider coalition:</u> Extend through March 31, 2024 to be consistent with provisions for other professions |
| Page 16-18 of Act 85 | <ul style="list-style-type: none"> • Sunset on pharmacist authority to order or administer COVID tests pursuant to State protocol approved by Commissioner of Health • Telephone Triage • OPR/BOM Out of State Professionals • Temporary Telehealth Registration | <u>Provider coalition:</u> Allow to expire |
| Page 19 of Act 85 2021 Act 6, Sec. 10; 2020 Act 127, Sec. 1: 18 V.S.A. § 9721 | Authorization for remote witnesses and explainers for advance directives | <u>Provider coalition:</u> Make permanent – see recommendations of Palliative Care and Pain Management Task Force: https://legislature.vermont.gov/assets/Legislative-Reports/Annual-Report-from-Palliative-Care-Pain-Management-Task-Force-2023.pdf |

Health Care Association Provider Coalition Association Members: Vermont Medical Society, Vermont Health Care Association, Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bi-State Primary Care Association, Vermont Care Partners: VT Council, HealthFirst Independent Practice, Association, Vermont State Dental Society, Vermont Association of Area Agencies on Aging, Vermont Association of Adult Days