

1 H.742

2 Representatives Lippert of Hinesburg, Pugh of South Burlington, Brumsted
3 of Shelburne, Christensen of Weathersfield, Cina of Burlington, Cordes of
4 Lincoln, Donahue of Northfield, Durfee of Shaftsbury, Gregoire of Fairfield,
5 Houghton of Essex, McFaun of Barre Town, Nicoll of Ludlow, Noyes of
6 Wolcott, Page of Newport City, Pajala of Londonderry, Redmond of Essex,
7 Reed of Braintree, Rogers of Waterville, Rosenquist of Georgia, Smith of
8 Derby, and Wood of Waterbury move that the bill be amended by striking out
9 Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

10 * * * State of Emergency; Legislative Intent * * *

11 Sec. 2. STATE OF EMERGENCY; LEGISLATIVE INTENT

12 It is the intent of the General Assembly that, if the coronavirus disease 2019
13 (COVID-19) pandemic continues its expected spread in the State of Vermont,
14 the Governor should exercise the authority granted by 20 V.S.A. § 9 to declare
15 a state of emergency based on the all-hazards event of the COVID-19 disease-
16 related emergency. In addition to the emergency powers granted to the
17 Governor by 20 V.S.A. §§ 9 and 11 during a state of emergency, such a
18 declaration may initiate opportunities to expand access to necessary health care
19 and human services. For example, 3 V.S.A. § 129(a)(10) allows certain
20 professional licensing boards to issue temporary licenses during a declared
21 state of emergency to health care providers who are licensed in good standing

1 in another state to allow them to practice in Vermont for up to 90 days. These
2 temporary licensees will likely be necessary to help provide critical health care
3 services to Vermonters who become afflicted with COVID-19.

4 * * * Measures to Support Health Care and Human Service

5 Provider Sustainability * * *

6 Sec. 3. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER

7 TAX WAIVER AUTHORITY

8 (a) The Secretary of Human Services may modify or postpone payment of
9 all or a prorated portion of the assessment imposed on hospitals by 33 V.S.A.
10 § 1953 for fiscal year 2020, and may waive, modify, or postpone payment of
11 all or a prorated portion of the assessment imposed by 33 V.S.A. chapter 19,
12 subchapter 2 for one or more other classes of health care providers for fiscal
13 year 2020, if the following three conditions are met:

14 (1) the Governor has declared a state of emergency as a result of
15 COVID-19;

16 (2) the action is necessary to preserve the ability of the providers to
17 continue offering necessary health care services; and

18 (3) the Secretary has obtained the approval of the Joint Fiscal
19 Committee and the Emergency Board as set forth in subsections (b) and (c) of
20 this section.

1 (b)(1) If the Secretary proposes to waive, modify, or postpone payment of
2 an assessment in accordance with the authority set forth in subsection (a) of
3 this section, the Secretary shall first provide to the Joint Fiscal Committee:

4 (A) the Secretary’s rationale for exercising the authority, including
5 the balance between the fiscal impact of the proposed action on the State
6 budget and the needs of the specific class or classes of providers; and

7 (B) a plan for mitigating the fiscal impact to the State.

8 (2) Upon the Joint Fiscal Committee’s approval of the plan for
9 mitigating the fiscal impact to the State, the Secretary may waive, modify, or
10 postpone payment of the assessment as proposed unless the mitigation plan
11 includes one or more actions requiring the approval of the Emergency Board.

12 (c)(1) If the mitigation plan includes one or more actions requiring the
13 approval of the Emergency Board, the Secretary shall obtain the Emergency
14 Board’s approval for the action or actions prior to waiving, modifying, or
15 postponing payment of the assessment.

16 (2) Upon the Emergency Board’s approval of the action or actions, the
17 Secretary may waive, modify, or postpone payment of the assessment as
18 proposed.

1 Sec. 4. AGENCY OF HUMAN SERVICES; PROVIDER PAYMENT

2 FLEXIBILITY

3 (a) Notwithstanding any provision of law to the contrary and upon approval
4 from the Joint Fiscal Committee and Emergency Board as set forth in
5 subsections (b) and (c) of this section, during a declared state of emergency in
6 Vermont as a result of COVID-19, the Agency of Human Services may
7 provide payments in fiscal year 2020 to providers of health care services, long-
8 term care services and supports, home- and community-based services, and
9 child care services in the absence of claims or utilization if a provider's
10 patients or clients are not seeking services due to the COVID-19 pandemic,
11 even if federal matching funds that would otherwise apply are not available, in
12 order to sustain these providers and enable them to continue providing services
13 both during and after the outbreak of COVID-19 in Vermont.

14 (b)(1) If the Secretary proposes to provide payments in accordance with the
15 authority set forth in subsection (a) of this section, the Secretary shall first
16 provide to the Joint Fiscal Committee:

17 (A) the Secretary's rationale for exercising the authority, including
18 the balance between the fiscal impact of the proposed action on the State
19 budget and the needs of the providers to whom the Secretary proposes to
20 provide the payments; and

21 (B) a plan for mitigating the fiscal impact to the State.

1 (2) Upon the Joint Fiscal Committee’s approval of the plan for
2 mitigating the fiscal impact to the State, the Secretary may provide the
3 payments as proposed unless the mitigation plan includes one or more actions
4 requiring the approval of the Emergency Board.

5 (c)(1) If the mitigation plan includes one or more actions requiring the
6 approval of the Emergency Board, the Secretary shall obtain the Emergency
7 Board’s approval for the action or actions prior to making the payments.

8 (2) Upon the Emergency Board’s approval of the action or actions, the
9 Secretary may provide the payments to providers as proposed.

10 Sec. 5. AGENCY OF HUMAN SERVICES; ADVANCE PAYMENTS;
11 MEDICAID PARTICIPATING PROVIDERS;

12 (a) The Agency of Human Services shall protect access to health care
13 services and long-term services and supports that may be threatened by a
14 COVID-19 outbreak in Vermont by providing financial assistance to Medicaid
15 participating providers in the form of advance payments upon receipt and
16 review of a Medicaid-participating provider’s application for financial
17 assistance. The Agency may request financial documents to verify a
18 provider’s financial hardship and its ability to sustain operations. The Agency
19 shall determine the amounts of the advance payments, which shall be
20 reasonably related to the financial needs of the provider and shall not be
21 limited to the value of the provider’s incurred-but-not-paid claims submitted.

1 (b) The Agency shall request approval from the Centers for Medicare and
2 Medicaid Services to use Medicaid funds for the advance payments provided
3 under this section.

4 Sec. 6. FEDERALLY QUALIFIED HEALTH CENTERS; RURAL HEALTH
5 CLINICS; MEDICAID ENCOUNTER RATE

6 The Department of Vermont Health Access shall measure the number of
7 Medicaid encounters for each federally qualified health center (FQHC) and
8 rural health clinic (RHC) in Vermont for a period of 120 days beginning on
9 March 15, 2020 and compare it to the number of Medicaid encounters for the
10 same FQHC or RHC for the same period in 2019. For any FQHC or RHC for
11 which the number of paid Medicaid encounters during the 2020 measurement
12 period is less than 98 percent of the number of paid Medicaid encounters
13 during the 2019 measurement period, the Commissioner of Vermont Health
14 Access shall propose for election by the FQHC or RHC a temporary alternative
15 payment methodology that would pay the FQHC or RHC the same revenue
16 that it would have earned from Medicaid if the number of paid Medicaid
17 encounters during the 2020 measurement period was equivalent to 98 percent
18 of the number of paid Medicaid encounters during the 2019 measurement
19 period.

- 1 (8) Standards for Adult Day Services;
2 (9) Therapeutic Community Residences Licensing Regulations;
3 (10) Choices for Care High/Highest Manual;
4 (11) Designated and Specialized Service Agency designation and
5 provider rules;
6 (12) Child Care Licensing Regulations;
7 (13) Public Assistance Program Regulations;
8 (14) Foster Care and Residential Program Regulations; and
9 (15) other rules and standards for which the Agency of Human Services
10 is the adopting authority under 3 V.S.A. chapter 25.

11 Sec. 8. TEACHER LICENSURE; SPECIFIC LICENSING
12 ENDORSEMENTS; MODIFICATION

13 The Agency of Education and the Department for Children and Families’
14 Child Development Division shall modify existing teacher licensure
15 requirements pertaining to the need for specific endorsements as necessary to
16 accommodate teacher absences resulting from COVID-19.

17 Sec. 9. MEDICAID AND HEALTH INSURERS; PROVIDER
18 CREDENTIALING

19 During a declared state of emergency in Vermont as a result of COVID-19,
20 to the extent permitted under federal law, the Department of Vermont Health
21 access shall relax provider credentialing requirements for the Medicaid

1 program, and the Department of Financial Regulation shall direct health
2 insurers to relax provider credentialing requirements for health insurance
3 plans, in order to allow for individual health care providers to deliver services
4 across health care settings as needed to respond to Vermonters' evolving health
5 care needs.

6 Sec. 10. 26 V.S.A. § 1353 is amended to read:

7 § 1353. POWERS AND DUTIES OF THE BOARD

8 The Board shall have the following powers and duties to:

9 * * *

10 (11) Issue temporary licenses during a declared state of emergency.

11 The person to be issued a temporary license must be currently licensed, in
12 good standing, and not subject to disciplinary proceedings in any other
13 jurisdiction. The temporary license shall authorize the holder to practice in
14 Vermont until the termination of the declared state of emergency or 90 days,
15 whichever occurs first, as long as the licensee remains in good standing, and
16 may be reissued by the Board if the declared state of emergency continues
17 longer than 90 days. Fees shall be waived when a license is required to
18 provide services under this subdivision.

1 Sec. 11. RETIRED HEALTH CARE PROVIDERS; BOARD OF MEDICAL
2 PRACTICE; OFFICE OF PROFESSIONAL REGULATION

3 During a declared state of emergency in Vermont as a result of COVID-19,
4 the Board of Medical Practice and the Office of Professional Regulation may
5 permit former health care professionals who retired within the past 10 years
6 with their license, certificate, or registration in good standing to return to the
7 health care workforce on a temporary basis to help deliver care in response to
8 COVID-19. The Board of Medical Practice and Office of Professional
9 Regulation may issue temporary licenses to these individuals at no charge and
10 may impose limitations on the scope of practice of returning health care
11 professionals as the Board or Office deems appropriate.

12 Sec. 12. INVOLUNTARY PROCEDURES; DOCUMENTATION AND
13 REPORTING REQUIREMENTS; WAIVER PERMITTED

14 (a) Notwithstanding any provision of law to the contrary, during a declared
15 state of emergency in Vermont as a result of COVID-19, the court or the
16 Department of Mental Health may waive any financial penalties associated
17 with a treating health care provider's failure to comply with one or more of the
18 documentation and reporting requirements related to involuntary treatment
19 pursuant to 18 V.S.A. chapter 181, to the extent permitted under federal law.

1 (b) Nothing in this section shall be construed to suspend or waive any of
2 the requirements in 18 V.S.A. chapter 181 relating to judicial proceedings for
3 involuntary treatment and medication.

4 * * * Access to Health Care Services and Human Services * * *

5 Sec. 13. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF
6 FINANCIAL REGULATION; EMERGENCY RULEMAKING

7 It is the intent of the General Assembly to increase Vermonters' access to
8 medically necessary health care services during a declared state of emergency
9 in Vermont as a result of COVID-19. During such a declared state of
10 emergency, the Department of Financial Regulation may adopt emergency
11 rules to address the following:

12 (1) expanding health insurance coverage for, and waiving or limiting
13 cost-sharing requirements directly related to, COVID-19 diagnosis, treatment,
14 and prevention;

15 (2) modifying or suspending health insurance plan deductible
16 requirements for all prescription drugs, except to the extent that such an action
17 would disqualify a high-deductible health plan from eligibility for a health
18 savings account pursuant to 26 U.S.C. § 223; and

19 (3) expanding patients' access to and providers' reimbursement for
20 health care services delivered remotely, such as by telephone and e-mail.

1 Sec. 14. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;

2 EARLY REFILLS

3 (a) As used in this section, “health insurance plan” means any health
4 insurance policy or health benefit plan offered by a health insurer, as defined in
5 18 V.S.A. § 9402. The term does not include policies or plans providing
6 coverage for a specified disease or other limited benefit coverage.

7 (b) During a declared state of emergency in Vermont as a result of COVID-
8 19, all health insurance plans and Vermont Medicaid shall allow their members
9 to refill prescriptions for chronic maintenance medications early to enable the
10 members to maintain a 30-day supply of each prescribed maintenance
11 medication at home.

12 (c) As used in this section, “maintenance medication” means a prescription
13 drug taken on a regular basis over an extended period of time to treat a chronic
14 or long-term condition. The term does not include a regulated drug, as defined
15 in 18 V.S.A. § 4201.

16 Sec. 15. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF

17 PRESCRIPTION FOR MAINTENANCE MEDICATION

18 (a) During a declared state of emergency in Vermont as a result of COVID-
19 19, a pharmacist may extend a previous prescription for a maintenance
20 medication for which the patient has no refills remaining or for which the

1 authorization for refills has recently expired if it is not feasible to obtain a new
2 prescription or refill authorization from the prescriber.

3 (b) A pharmacist who extends a prescription for a maintenance medication
4 pursuant to this section shall take all reasonable measures to notify the
5 prescriber of the prescription extension in a timely manner.

6 (c) As used in this section, “maintenance medication” means a prescription
7 drug taken on a regular basis over an extended period of time to treat a chronic
8 or long-term condition. The term does not include a regulated drug, as defined
9 in 18 V.S.A. § 4201.

10 Sec. 16. BUPRENORPHINE; PRESCRIPTION RENEWALS

11 During a declared state of emergency in Vermont as a result of COVID-19,
12 to the extent permitted under federal law, a health care professional authorized
13 to prescribe buprenorphine for treatment of substance use disorder may
14 authorize renewal of a patient’s existing buprenorphine prescription without
15 requiring an office visit.

16 Sec. 17. NUTRITION SERVICES; EXPANDED CAPACITY

17 The Agency of Human Services may adapt existing food support programs
18 to the extent permitted under federal law, including expanding support to
19 noneligible individuals who need nutrition services as a result of COVID-19.

1 Sec. 18. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

2 During a declared state of emergency in Vermont as a result of COVID-19,
3 the Agency of Human Services may reimburse Medicaid-funded long-term
4 care facilities and other programs providing 24-hour per day services for bed-
5 hold days.

6 * * * Regulation of Professions * * *

7 Sec. 19. OFFICE OF PROFESSIONAL REGULATION; EMERGENCY
8 AUTHORITY TO ACT FOR REGULATORY BOARDS

9 (a) During a declared state of emergency in Vermont as a result of COVID-
10 19, if the Director of Professional Regulation finds that a regulatory body
11 attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot
12 reasonably, safely, and expeditiously convene a quorum to transact business,
13 the Director may exercise the full powers and authorities of that regulatory
14 body, including disciplinary authority.

15 (b) The Director's signature shall have the same force and effect as a voted
16 act of a board.

17 (c) A record of the Director's actions shall be published conspicuously on
18 the website of the regulatory body.

19 Sec. 20. EMERGENCY REGULATORY ORDERS

20 During a declared state of emergency in Vermont as a result of COVID-19,
21 the Director of Professional Regulation and the Commissioner of Health may

1 issue such orders governing regulated professional activities and practices as
2 may be necessary to protect the public health, safety, and welfare. If the
3 Director or Commissioner finds that a professional practice, act, offering,
4 therapy, or procedure by persons licensed or required to be licensed by Title 26
5 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to
6 the public health, safety, or welfare, or a combination of these, the Director or
7 Commissioner may issue an order to cease and desist from the applicable
8 activity, which, after reasonable efforts to publicize or serve the order on the
9 affected persons, shall be binding upon all persons licensed or required to be
10 licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the
11 order shall subject the person or persons to professional discipline, may be a
12 basis for injunction by the Superior Court, and shall be deemed a violation of 3
13 V.S.A. § 127.

14 Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
15 MEDICAL PRACTICE; IMPUTED JURISDICTION

16 A practitioner of a profession or professional activity regulated by Title 26
17 of the Vermont Statutes Annotated who provides regulated professional
18 services to a patient in the State of Vermont without holding a Vermont
19 license, as may be authorized in a declared state of emergency, is deemed to
20 consent to, and shall be subject to, the regulatory and disciplinary jurisdiction

1 of the Vermont regulatory agency or body having jurisdiction over the
2 regulated profession or professional activity.

3 * * * Quarantine and Isolation for COVID-19 as Exception to Seclusion * * *

4 Sec. 22. DEPARTMENT OF MENTAL HEALTH; ISOLATION OR
5 QUARANTINE OF INVOLUNTARY PATIENT FOR COVID-19
6 NOT SECLUSION

7 Notwithstanding any provision of statute or rule to the contrary, it shall not
8 be considered the involuntary procedure of seclusion for an involuntary patient
9 in the custody of the Commissioner of Mental Health to be placed in
10 quarantine if the patient has been exposed to COVID-19 or in isolation if the
11 patient has tested positive for COVID-19.

12 * * * Telehealth * * *

13 Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

14 It is the intent of the General Assembly to increase Vermonters' access to
15 health care services through an expansion of telehealth services without
16 increasing social isolation or supplanting the role of local, community-based
17 health care providers throughout rural Vermont.

18 Sec. 24. 8 V.S.A. § 4100k is amended to read:

19 § 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
20 THROUGH TELEMEDICINE AND BY STORE-AND-
21 FORWARD MEANS

1 (a)(1) All health insurance plans in this State shall provide coverage for
2 health care services and dental services delivered through telemedicine by a
3 health care provider at a distant site to a patient at an originating site to the
4 same extent that the plan would cover the services if they were provided
5 through in-person consultation.

6 (2)(A) A health insurance plan shall provide the same reimbursement
7 rate for services billed using equivalent procedure codes and modifiers, subject
8 to the terms of the health insurance plan and provider contract, regardless of
9 whether the service was provided through an in-person visit with the health
10 care provider or through telemedicine.

11 (B) The provisions of subdivision (A) of this subdivision (2) shall not
12 apply to services provided pursuant to the health insurance plan’s contract with
13 a third-party telemedicine vendor to provide health care or dental services.

14 (b) A health insurance plan may charge a deductible, co-payment, or
15 coinsurance for a health care service or dental service provided through
16 telemedicine ~~sø~~ as long as it does not exceed the deductible, co-payment, or
17 coinsurance applicable to an in-person consultation.

18 (c) A health insurance plan may limit coverage to health care providers in
19 the plan’s network. A health insurance plan shall not impose limitations on the
20 number of telemedicine consultations a covered person may receive that
21 exceed limitations otherwise placed on in-person covered services.

1 (d) Nothing in this section shall be construed to prohibit a health insurance
2 plan from providing coverage for only those services that are medically
3 necessary and are clinically appropriate for delivery through telemedicine,
4 subject to the terms and conditions of the covered person’s policy.

5 ~~(e) A health insurance plan may reimburse for teleophthalmology or~~
6 ~~tele dermatology provided by store and forward means and may require the~~
7 ~~distant site health care provider to document the reason the services are being~~
8 ~~provided by store and forward means~~

9 (1) A health insurance plan shall reimburse for health care services and
10 dental services delivered by store-and-forward means.

11 (2) A health insurance plan shall not impose more than one cost-sharing
12 requirement on a patient for receipt of health care services or dental services
13 delivered by store-and-forward means. If the services would require cost-
14 sharing under the terms of the patient’s health insurance plan, the plan may
15 impose the cost-sharing requirement on the services of the originating site
16 health care provider or of the distant site health care provider, but not both.

17 (f) A health insurer shall not construe a patient’s receipt of services
18 delivered through telemedicine or by store-and-forward means as limiting in
19 any way the patient’s ability to receive additional covered in-person services
20 from the same or a different health care provider for diagnosis or treatment of
21 the same condition.

1 program offered or administered by the State or by any subdivision or
2 instrumentality of the State. The term does not include policies or plans
3 providing coverage for a specified disease or other limited benefit coverage.

4 * * *

5 (4) “Health care provider” means a person, partnership, or corporation,
6 other than a facility or institution, that is licensed, certified, or otherwise
7 authorized by law to provide professional health care services, including dental
8 services, in this State to an individual during that individual’s medical care,
9 treatment, or confinement.

10 * * *

11 (6) “Store and forward” means an asynchronous transmission of medical
12 information, such as one or more video clips, audio clips, still images, x-rays,
13 magnetic resonance imaging scans, electrocardiograms,
14 electroencephalograms, or laboratory results, sent over a secure connection that
15 complies with the requirements of the Health Insurance Portability and
16 Accountability Act of 1996, Public Law 104–191 to be reviewed at a later date
17 by a health care provider at a distant site who is trained in the relevant
18 specialty ~~and by which~~. In store and forward, the health care provider at the
19 distant site reviews the medical information without the patient present in real
20 time and communicates a care plan or treatment recommendation back to the
21 patient or referring provider, or both.

1 (2) Receipt of services by store-and-forward means shall not preclude a
2 patient from receiving ~~real-time~~ real-time telemedicine ~~or face-to-face~~ services
3 or an in-person visit with the distant site health care provider at a future date.

4 (3) Originating site health care providers involved in the ~~store and~~
5 ~~forward~~ store-and-forward process shall obtain informed consent from the
6 patient as described in subsection (c) of this section.

7 Sec. 26. **TELEMEDICINE REIMBURSEMENT; SUNSET**

8 8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on
9 January 1, 2026.

10 Sec. 27. **DEPARTMENT OF FINANCIAL REGULATION; STORE AND**
11 **FORWARD; EMERGENCY RULEMAKING AUTHORITY**

12 The Commissioner of Financial Regulation may require a health insurance
13 plan to reimburse for health care services and dental services delivered by
14 store-and-forward means to the extent practicable prior to January 1, 2021 by
15 emergency rule if the Commissioner deems it necessary in order to protect the
16 public health.

17 Sec. 28. **TELEHEALTH; LICENSEES IN STATES BORDERING**

18 **VERMONT**

19 Notwithstanding any provision of Vermont’s professional licensure laws to
20 the contrary, during a declared state of emergency in Vermont as a result of
21 COVID-19, a health care professional who is duly licensed and in good

1 standing in Massachusetts, New Hampshire, or New York may deliver
2 medically necessary health care services related to the diagnosis, treatment, or
3 prevention of COVID-19 to a Vermont resident through telemedicine or by
4 store-and-forward means.

5 Sec. 29. AGENCY OF HUMAN SERVICES; MEDICAID; HEALTH CARE
6 SERVICES DELIVERED BY TELEPHONE

7 During a declared state of emergency in Vermont as a result of COVID-19,
8 the Secretary of Human Services shall have the authority, to the extent
9 permitted under federal law, to waive place-of-service requirements and face-
10 to-face or in-person requirements in order to reimburse Medicaid-participating
11 providers for health care services delivered to Medicaid beneficiaries by
12 telephone, including mental health services, as long as the services provided
13 are medically necessary and are clinically appropriate for delivery by
14 telephone.

15 * * * Motor Vehicles * * *

16 Sec. 30. EXTENDED IN-PERSON DRIVERS' LICENSE RENEWAL
17 PERIOD

18 (a) Notwithstanding any provision of 23 V.S.A. § 610(c) to the contrary,
19 beginning on the effective date of this act, a licensee shall be permitted to
20 renew a driver's license with a photograph or imaged likeness obtained not
21 more than 13 years earlier.

