

Act 91 (H.742) – Section-by-section summary of Secs. 1-26 with Donahue/Houghton thoughts**Sec. 1. Agency of Human Services; provider sustainability**

- During the COVID-19 state of emergency, directs the Agency of Human Services (AHS) to consider waiving or 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 the importance of the financial viability of providers that rely on public funding.
 - Donahue/Houghton – strike “waiving” and extend through December 31, 2020

Sec. 2. AHS; temporary provider tax flexibility

- During the COVID-19 state of emergency and for six months afterward, allows the AHS Secretary to modify hospital provider taxes and to waive or modify other provider taxes if the action is necessary to enable providers to continue offering necessary health care services and the Secretary has obtained the approval of the Joint Fiscal Committee and, in some cases, of the Emergency Board.
 - Donahue/Houghton – extend through June 30, 2021

Sec. 3. Protections for employees of health care facilities and human service providers

- To protect their non-health care professional employees from COVID-19, requires all health care facilities and human service providers in Vermont to follow guidance from the Department of Health regarding measures to address employee safety, to the extent feasible.
 - Donahue/Houghton – extend through June 30, 2021

Sec. 4. Health care and human service provider regulation; waiver or variance permitted

- During the COVID-19 state of emergency, allows the AHS Secretary to waive or 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 the Department for Children and Families (DCF), and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements.
 - Donahue/Houghton – strike “waive” and “waivers” and extend through December 31, 2020

Sec. 5. Green Mountain Care Board rules; waiver or variance permitted

- During the COVID-19 state of emergency and for six months afterward, allows the Green Mountain Care Board to waive or permit variances from laws, guidance, and standards related to hospital budget review, certificates of need, health insurance rate review, and accountable care organization certification and 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.
 - Donahue/Houghton – no extension (is there a reason to extend?)

Sec. 6. Medicaid and health insurers; provider enrollment and credentialing

- During the COVID-19 state of emergency, requires the Department of Vermont Health Access (DVHA) to relax provider enrollment requirements for Medicaid, and the Department of Financial Regulation (DFR) to direct health insurers to relax provider credentialing

requirements for health insurance plans, to allow providers to deliver and be reimbursed for providing services across health care settings as needed to respond to evolving needs.

- Donahue/Houghton – extend through June 30, 2021

Sec. 7. Involuntary treatment; documentation and reporting requirements; waiver permitted

- During the COVID-19 state of emergency, allows the court or Department of Mental Health (DMH) to waive any financial penalties for a treating health care provider's failure to comply with the statutory documentation and reporting requirements for involuntary treatment.
 - Donahue/Houghton – no extension

Sec. 8. Department of Financial Regulation emergency rulemaking

- During the COVID-19 state of emergency, directs DFR to consider adopting, and allows it to adopt, emergency rules to:
 - 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
 - Expand patients' access to and providers' reimbursement for health care services delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.
 - Donahue/Houghton – extend through June 30, 2021

Sec. 9. Prescription drugs; early refills of maintenance medications

- During the COVID-19 state of emergency, requires all 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.
 - Donahue/Houghton – extend through June 30, 2021

Sec. 10. Prescription drugs; pharmacist extension of maintenance medication

- During the COVID-19 state of emergency, allows a pharmacist to extend a previous prescription for a maintenance medication if the patient does not have any refills left or the refill authorization recently expired and if it is not feasible to get a new prescription or more refills from the prescriber.
- The pharmacist must notify the prescriber of the extension in a timely manner.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 11. Prescription drugs; pharmacist substitution for unavailability

- During the COVID-19 state of emergency, allows a pharmacist, with the patient's informed consent, to substitute an available prescription drug for an unavailable one in the same therapeutic class if the available one would have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent drug.
- The pharmacist must notify the prescriber of the actual drug, dose, and quantity dispensed to the patient as soon as reasonably possible.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 12. Buprenorphine; prescription renewal

- During the COVID-19 state of emergency, allows a health care professional to authorize renewal of an existing buprenorphine prescription without an office visit.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 13. Medicaid reimbursement to 24-hour facilities and programs for bed-hold days

- During the COVID-19 state of emergency, allows AHS to reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days.
 - Donahue/Houghton – extend through June 30, 2021

Sec. 14. Office of Professional Regulation; temporary licenses during state of emergency

- Allows professional regulatory boards attached to the Office of Professional Regulation (OPR) to issue a temporary license during a declared state of emergency to a graduate of an approved education program if licensing examinations are not reasonably available.
- Also specifies that temporary licenses issued during a state of emergency may be reissued if the declared state of emergency continues longer than 90 days.
 - Donahue/Houghton – no (statutory change applies to any state of emergency)

Sec. 15. Board of Medical Practice; state of emergency; temporary license for out-of-state licensees; physician assistant practice flexibility

- Allows the Board of Medical Practice (BMP) to issue a temporary license during a declared state of emergency to a physician, physician assistant, or podiatrist licensed in another jurisdiction, free of charge, for 90 days or until the state of emergency ends, whichever occurs first, and allows the BMP to reissue the temporary license if the state of emergency continues for longer than 90 days.
- Also allows the BMP to waive supervision and scope of practice requirements for physician assistants during a declared state of emergency.
 - Donahue/Houghton – no (statutory change applies to any state of emergency)

Sec. 16. OPR; waiver of APRN collaborative provider agreement during state of emergency

- Allows Board of Nursing to waive or modify a collaborative provider agreement requirement as needed to allow APRNs to practice independently during a declared state of emergency.
 - Donahue/Houghton – no (statutory change applies to any state of emergency)

Sec. 17. OPR and BMP; out-of-state health care professionals

- During the COVID-19 state of emergency, deems a 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 the staff of a licensed facility.
- An out-of-state health care professional who plans to provide services in Vermont as part of the staff of a licensed facility must submit his or her name, contact information, and the locations where he or she will be practicing to the BMP or OPR, as applicable.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 18. Retired health care professionals; OPR and BMP

- During the COVID-19 state of emergency, allows a former health care professional who retired from practice in Vermont not more than three years ago to provide health care services to patients in Vermont by telehealth or as part of the staff of a licensed facility after submitting his or her name, contact information, and the locations where he or she will be practicing to the BMP or OPR, as applicable.
- During the COVID-19 state of emergency, allows OPR and BMP to issue temporary licenses, free of charge, to former health care professionals who retired from practice in Vermont between three and 10 years ago and allows OPR or BMP to impose limitations on their scope of practice as appropriate.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 19. OPR and BMP; imputed jurisdiction

- Deems a practitioner of a profession regulated by Title 26 of the V.S.A. who provides regulated professional services in Vermont but is not licensed here as consenting to, and as being subject to, the regulatory and disciplinary jurisdiction of OPR or BMP, as applicable.
 - Donahue/Houghton – extend through December 31, 2020

Sec. 20. OPR and BMP; emergency authority to act for regulatory boards

- During the COVID-19 state of emergency, if the Director of OPR or the Executive Director of the BMP finds that any of their respective boards cannot reasonably, safely, and expeditiously convene a quorum, allows the Director of OPR or Executive Director of BMP to exercise the full powers and authorities of their respective boards, including disciplinary authority.
- Records of actions taken by the Director of OPR must be posted on the website of the regulatory board on whose behalf the Director took the action, and records of actions taken by the Executive Director of BMP must be posted on the BMP's website.
 - Donahue/Houghton – no extension (checking to make sure boards can meet remotely)

Sec. 21. OPR and BMP; emergency regulatory orders

- During the COVID-19 state of emergency, the Director of OPR and the Commissioner of Health may issue orders governing regulatory professional activities and practices as needed to protect the public health, safety, and welfare.
 - Donahue/Houghton – no extension (probably, unless hear of compelling reason)

Sec. 22. Isolation/quarantine for COVID-19 not seclusion

- Specifies that it is not the emergency involuntary procedure of seclusion for a voluntary patient, or an involuntary patient in the care and custody of the DMH Commissioner, to be placed in quarantine if the patient has been exposed to COVID-19 or in isolation if the patient has tested positive for COVID-19.
- Specifies that it is not seclusion for a child in a residential treatment facility to be placed in quarantine if the child has been exposed to COVID-19 or in isolation if the child has tested positive for COVID-19.
 - Donahue/Houghton – no extension in mental health context; leave to DCF/House Human Services whether to extend for child in residential treatment facility

Sec. 23. Legislative intent regarding telehealth expansion

- Expresses legislative intent to expand telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers in rural Vermont.
 - Donahue/Houghton – no extension necessary

Sec. 24. Health insurance coverage for telehealth

- Expands existing health insurance coverage requirements for health care services delivered by telemedicine to include dental services.
- Requires health insurance plans to reimburse providers the same amount for the same services whether provided in person or through telemedicine.
 - This requirement would sunset on January 1, 2026 (per Sec. 27).
 - This requirement does not apply to services provided through an insurance plan's contract with a third-party telemedicine vendor.
- Requires health insurance plans to reimburse for services delivered by store-and-forward means.
 - Only one cost-sharing requirement can be imposed on the patient for services delivered by store-and-forward means.
- Specifies that receiving services by telemedicine or store and forward does not limit a patient's ability to receive additional covered in-person services for the same condition.
 - Donahue/Houghton – no extension necessary

Sec. 25. Health care professionals using telehealth

- Revises informed consent requirements for services delivered by store-and-forward means.
 - Donahue/Houghton – no extension necessary

Sec. 26. Waiver of certain telehealth requirements in emergency

- During the COVID-19 state of emergency, allows for waiver of telehealth requirements relating to HIPAA-compliant connections if it is not practicable to use such a connection under the circumstances and for waiver of informed consent requirements if it is not practicable to obtain or document informed consent under the circumstances.
 - Donahue/Houghton – no extension necessary (this may need more discussion)

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Sec. 38. Effective dates

- Health care and human services sections take effect on passage, except that the Sec. 24 requirement for health insurance coverage of services delivered by store-and-forward means takes effect on January 1, 2021.