

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill
3 No. 742 entitled “An act relating to grants for emergency medical personnel
4 training” respectfully reports that it has considered the same and recommends
5 that the Senate propose to the House that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 * * * Supporting Health Care and Human Service Provider Sustainability * * *

8 Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND HUMAN
9 SERVICE PROVIDER SUSTAINABILITY

10 During a declared state of emergency in Vermont as a result of COVID-19,
11 the Agency of Human Services shall consider waiving or modifying existing
12 rules, or adopting emergency rules, to protect access to health care services,
13 long-term services and supports, and other human services under the Agency’s
14 jurisdiction. In waiving, modifying, or adopting rules, the Agency shall
15 consider the importance of the financial viability of providers that rely on
16 funding from the State, federal government, or Medicaid, or a combination of
17 these, for a major portion of their revenue.

18 Sec. 2. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER
19 TAX MODIFICATION AUTHORITY

20 (a) During a declared state of emergency in Vermont as a result of COVID-
21 19 and for a period of six months following the termination of the state of

1 emergency, the Secretary of Human Services may modify payment of all or a
2 prorated portion of the assessment imposed on hospitals by 33 V.S.A. § 1953,
3 and may waive or modify payment of all or a prorated portion of the
4 assessment imposed by 33 V.S.A. chapter 19, subchapter 2 for one or more
5 other classes of health care providers, if the following two conditions are met:

6 (1) the action is necessary to preserve the ability of the providers to
7 continue offering necessary health care services; and

8 (2) the Secretary has obtained the approval of the Joint Fiscal
9 Committee and the Emergency Board as set forth in subsections (b) and (c) of
10 this section.

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

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

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

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

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

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

7 * * * Protections for Employees of Health Care Facilities
8 and Human Service Providers * * *

9 Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE
10 FACILITIES AND HUMAN SERVICE PROVIDERS

11 In order to protect employees of a health care facility or human service
12 provider who are not licensed health care professionals from the risks
13 associated with COVID-19, all health care facilities and human service
14 providers in Vermont, including hospitals, federally qualified health centers,
15 rural health clinics, residential treatment programs, homeless shelters, home-
16 and community-based service providers, and long-term care facilities, shall
17 follow guidance from the Vermont Department of Health regarding measures
18 to address employee safety, to the extent feasible.

19 * * * Compliance Flexibility * * *

20 Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER
21 REGULATION; WAIVER OR VARIANCE PERMITTED

1 Notwithstanding any provision of the Agency of Human Services’
2 administrative rules or standards to the contrary, during a declared state of
3 emergency in Vermont as a result of COVID-19, the Secretary of Human
4 Services may waive or permit variances from the following State rules and
5 standards governing providers of health care services and human services as
6 necessary to prioritize and maximize direct patient care, support children and
7 families who receive benefits and services through the Department for
8 Children and Families, and allow for continuation of operations with a reduced
9 workforce and with flexible staffing arrangements that are responsive to
10 evolving needs, to the extent such waivers or variances are permitted under
11 federal law:

- 12 (1) Hospital Licensing Rule;
- 13 (2) Hospital Reporting Rule;
- 14 (3) Nursing Home Licensing and Operating Rule;
- 15 (4) Home Health Agency Designation and Operation Regulations;
- 16 (5) Residential Care Home Licensing Regulations;
- 17 (6) Assisted Living Residence Licensing Regulations;
- 18 (7) Home for the Terminally Ill Licensing Regulations;
- 19 (8) Standards for Adult Day Services;
- 20 (9) Therapeutic Community Residences Licensing Regulations;
- 21 (10) Choices for Care High/Highest Manual;

1 (11) Designated and Specialized Service Agency designation and
2 provider rules;
3 (12) Child Care Licensing Regulations;
4 (13) Public Assistance Program Regulations;
5 (14) Foster Care and Residential Program Regulations; and
6 (15) other rules and standards for which the Agency of Human Services
7 is the adopting authority under 3 V.S.A. chapter 25.

8 Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR
9 VARIANCE PERMITTED

10 Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A.
11 § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care
12 Board’s administrative rules, guidance, or standards to the contrary, during a
13 declared state of emergency in Vermont as a result of COVID-19 and for a
14 period of six months following the termination of the state of emergency, the
15 Green Mountain Care Board may waive or permit variances from State laws,
16 guidance, and standards with respect to the following regulatory activities, to
17 the extent permitted under federal law, as necessary to prioritize and maximize
18 direct patient care, safeguard the stability of health care providers, and allow
19 for orderly regulatory processes that are responsive to evolving needs related to
20 the COVID-19 pandemic:

21 (1) hospital budget review;

- 1 (2) certificates of need;
- 2 (3) health insurance rate review; and
- 3 (4) accountable care organization certification and budget review.

4 Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER

5 ENROLLMENT AND CREDENTIALING

6 During a declared state of emergency in Vermont as a result of COVID-19,
7 to the extent permitted under federal law, the Department of Vermont Health
8 Access shall relax provider enrollment requirements for the Medicaid program,
9 and the Department of Financial Regulation shall direct health insurers to relax
10 provider credentialing requirements for health insurance plans, in order to
11 allow for individual health care providers to deliver and be reimbursed for
12 services provided across health care settings as needed to respond to
13 Vermonters' evolving health care needs.

14 Sec. 7. INVOLUNTARY TREATMENT; DOCUMENTATION AND

15 REPORTING REQUIREMENTS; WAIVER PERMITTED

16 (a) Notwithstanding any provision of statute or rule to the contrary, during
17 a declared state of emergency in Vermont as a result of COVID-19, the court
18 or the Department of Mental Health may waive any financial penalties
19 associated with a treating health care provider's failure to comply with one or
20 more of the documentation and reporting requirements related to involuntary

1 treatment pursuant to 18 V.S.A. chapter 181, to the extent permitted under
2 federal law.

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

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

7 Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF
8 FINANCIAL REGULATION; EMERGENCY RULEMAKING

9 It is the intent of the General Assembly to increase Vermonters' access to
10 medically necessary health care services during a declared state of emergency
11 in Vermont as a result of COVID-19. During such a declared state of
12 emergency, the Department of Financial Regulation shall consider adopting,
13 and shall have the authority to adopt, emergency rules to address the following
14 for the duration of the state of emergency:

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

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

1 (3) expanding patients’ access to and providers’ reimbursement for
2 health care services, including preventive services, consultation services, and
3 services to new patients, delivered remotely through telehealth, audio-only
4 telephone, and brief telecommunication services.

5 Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;

6 EARLY REFILLS

7 (a) As used in this section, “health insurance plan” means any health
8 insurance policy or health benefit plan offered by a health insurer, as defined in
9 18 V.S.A. § 9402. The term does not include policies or plans providing
10 coverage for a specified disease or other limited benefit coverage.

11 (b) During a declared state of emergency in Vermont as a result of COVID-
12 19, all health insurance plans and Vermont Medicaid shall allow their members
13 to refill prescriptions for chronic maintenance medications early to enable the
14 members to maintain a 30-day supply of each prescribed maintenance
15 medication at home.

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

20 Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF

21 PRESCRIPTION FOR MAINTENANCE MEDICATION

1 (a) During a declared state of emergency in Vermont as a result of COVID-
2 19, a pharmacist may extend a previous prescription for a maintenance
3 medication for which the patient has no refills remaining or for which the
4 authorization for refills has recently expired if it is not feasible to obtain a new
5 prescription or refill authorization from the prescriber.

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

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

13 Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC

14 SUBSTITUTION DUE TO LACK OF AVAILABILITY

15 (a) During a declared state of emergency in Vermont as a result of COVID-
16 19, a pharmacist may, with the informed consent of the patient, substitute an
17 available drug or insulin product for an unavailable prescribed drug or insulin
18 product in the same therapeutic class if the available drug or insulin product
19 would, in the clinical judgment of the pharmacist, have substantially equivalent
20 therapeutic effect even though it is not a therapeutic equivalent.

1 (b) As soon as reasonably possible after substituting a drug or insulin
2 product pursuant to subsection (a) of this section, the pharmacist shall notify
3 the prescribing clinician of the drug or insulin product, dose, and quantity
4 actually dispensed to the patient.

5 Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

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

11 Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

12 During a declared state of emergency in Vermont as a result of COVID-19,
13 to the extent permitted under federal law, the Agency of Human Services may
14 reimburse Medicaid-funded long-term care facilities and other programs
15 providing 24-hour per day services for their bed-hold days.

16 * * * Regulation of Professions * * *

17 Sec. 14. 3 V.S.A. § 129 is amended to read:

18 § 129. POWERS OF BOARDS; DISCIPLINE PROCESS

19 (a) In addition to any other provisions of law, a board may exercise the
20 following powers:

21 * * *

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

2 The person to be issued a temporary license must be:

3 (i) currently licensed, in good standing, and not subject to
4 disciplinary proceedings in any other jurisdiction; or

5 (ii) a graduate of an approved education program during a period
6 when licensing examinations are not reasonably available.

7 (B) The temporary license shall authorize the holder to practice in
8 Vermont until the termination of the declared state of emergency or 90 days,
9 whichever occurs first, ~~as long as~~ provided the licensee remains in good
10 standing, and may be reissued by the board if the declared state of emergency
11 continues longer than 90 days.

12 (C) Fees shall be waived when a license is required to provide
13 services under this subdivision.

14 * * *

15 Sec. 15. 26 V.S.A. § 1353 is amended to read:

16 § 1353. POWERS AND DUTIES OF THE BOARD

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

18 * * *

19 (11) During a declared state of emergency:

20 (A) The Board or the Executive Director of the Board may issue a
21 temporary license to an individual who is currently licensed to practice as a

1 physician, physician assistant, or podiatrist in another jurisdiction, whose
2 license is in good standing, and who is not subject to disciplinary proceedings
3 in any other jurisdiction. The temporary license shall authorize the holder to
4 practice in Vermont until the termination of the declared state of emergency or
5 90 days, whichever occurs first, provided the licensee remains in good
6 standing, and may be reissued by the Board if the declared state of emergency
7 continues longer than 90 days. Fees shall be waived when a license is required
8 to provide services under this subdivision (A).

9 (B) The Board or the Executive Director of the Board may waive
10 supervision and scope of practice requirements for physician assistants,
11 including the requirement for documentation of the relationship between a
12 physician assistant and a physician pursuant to section 1735a of this title. The
13 Board or Executive Director may impose limitations or conditions when
14 granting a waiver under this subdivision (B).

15 Sec. 16. 26 V.S.A. § 1613 is amended to read:

16 § 1613. TRANSITION TO PRACTICE

17 * * *

18 (c) The Board may waive or modify the collaborative provider agreement
19 requirement as necessary to allow an APRN to practice independently during a
20 declared state of emergency.

21 Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF

1 MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
2 PROFESSIONALS

3 (a) Notwithstanding any provision of Vermont’s professional licensure
4 statutes or rules to the contrary, during a declared state of emergency in
5 Vermont as a result of COVID-19, a health care professional, including a
6 mental health professional, who holds a valid license, certificate, or registration
7 to provide health care services in any other U.S. jurisdiction shall be deemed to
8 be licensed, certified, or registered to provide health care services, including
9 mental health services, to a patient located in Vermont using telehealth or as
10 part of the staff of a licensed facility, provided the health care professional:

11 (1) is licensed, certified, or registered in good standing in the other U.S.
12 jurisdiction or jurisdictions in which the health care professional holds a
13 license, certificate, or registration;

14 (2) is not subject to any professional disciplinary proceedings in any
15 other U.S. jurisdiction; and

16 (3) is not affirmatively barred from practice in Vermont for reasons of
17 fraud or abuse, patient care, or public safety.

18 (b) A health care professional who plans to provide health care services in
19 Vermont as part of the staff of a licensed facility shall submit or have
20 submitted on the individual’s behalf the individual’s name, contact

1 information, and the location or locations at which the individual will be
2 practicing to:

3 (1) the Board of Medical Practice for medical doctors, physician
4 assistants, and podiatrists; or

5 (2) the Office of Professional Regulation for all other health care
6 professions.

7 (c) A health care professional who delivers health care services in Vermont
8 pursuant to subsection (a) of this section shall be subject to the imputed
9 jurisdiction of the Board of Medical Practice or the Office of Professional
10 Regulation, as applicable based on the health care professional’s profession, in
11 accordance with Sec. 19 of this act.

12 (d) This section shall remain in effect until the termination of the declared
13 state of emergency in Vermont as a result of COVID-19 and provided the
14 health care professional remains licensed, certified, or registered in good
15 standing.

16 Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF
17 MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
18 REGULATION

19 (a)(1) During a declared state of emergency in Vermont as a result of
20 COVID-19, a former health care professional, including a mental health
21 professional, who retired not more than three years earlier with the individual’s

1 Vermont license, certificate, or registration in good standing may provide
2 health care services, including mental health services, to a patient located in
3 Vermont using telehealth or as part of the staff of a licensed facility after
4 submitting, or having submitted on the individual’s behalf, to the Board of
5 Medical Practice or Office of Professional Regulation, as applicable, the
6 individual’s name, contact information, and the location or locations at which
7 the individual will be practicing.

8 (2) A former health care professional who returns to the Vermont health
9 care workforce pursuant to this subsection shall be subject to the regulatory
10 jurisdiction of the Board of Medical Practice or the Office of Professional
11 Regulation, as applicable.

12 (b) During a declared state of emergency in Vermont as a result of COVID-
13 19, the Board of Medical Practice and the Office of Professional Regulation
14 may permit former health care professionals, including mental health
15 professionals, who retired more than three but less than 10 years earlier with
16 their Vermont license, certificate, or registration in good standing to return to
17 the health care workforce on a temporary basis to provide health care services,
18 including mental health services, to patients in Vermont. The Board of
19 Medical Practice and Office of Professional Regulation may issue temporary
20 licenses to these individuals at no charge and may impose limitations on the

1 scope of practice of returning health care professionals as the Board or Office
2 deems appropriate.

3 Sec. 19. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
4 MEDICAL PRACTICE; IMPUTED JURISDICTION

5 A practitioner of a profession or professional activity regulated by Title 26
6 of the Vermont Statutes Annotated who provides regulated professional
7 services to a patient in the State of Vermont without holding a Vermont
8 license, as may be authorized in a declared state of emergency, is deemed to
9 consent to, and shall be subject to, the regulatory and disciplinary jurisdiction
10 of the Vermont regulatory agency or body having jurisdiction over the
11 regulated profession or professional activity.

12 Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
13 MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT
14 FOR REGULATORY BOARDS

15 (a)(1) During a declared state of emergency in Vermont as a result of
16 COVID-19, if the Director of Professional Regulation finds that a regulatory
17 body attached to the Office of Professional Regulation by 3 V.S.A. § 122
18 cannot reasonably, safely, and expeditiously convene a quorum to transact
19 business, the Director may exercise the full powers and authorities of that
20 regulatory body, including disciplinary authority.

1 (2) During a declared state of emergency in Vermont as a result of
2 COVID-19, if the Executive Director of the Board of Medical Practice finds
3 that the Board cannot reasonably, safely, and expeditiously convene a quorum
4 to transact business, the Executive Director may exercise the full powers and
5 authorities of the Board, including disciplinary authority.

6 (b) The signature of the Director of the Office of Professional Regulation
7 or of the Executive Director of the Board of Medical Practice shall have the
8 same force and effect as a voted act of their respective boards.

9 (c)(1) A record of the actions of the Director of the Office of Professional
10 Regulation taken pursuant to the authority granted by this section shall be
11 published conspicuously on the website of the regulatory body on whose
12 behalf the Director took the action.

13 (2) A record of the actions of the Executive Director of the Board of
14 Medical Practice taken pursuant to the authority granted by this section shall
15 be published conspicuously on the website of the Board of Medical Practice.

16 Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF

17 MEDICAL PRACTICE; EMERGENCY REGULATORY ORDERS

18 During a declared state of emergency in Vermont as a result of COVID-19,
19 the Director of Professional Regulation and the Commissioner of Health may
20 issue such orders governing regulated professional activities and practices as
21 may be necessary to protect the public health, safety, and welfare. If the

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

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

13 Sec. 22. ISOLATION OR QUARANTINE FOR COVID-19 NOT

14 SECLUSION

15 (a) Notwithstanding any provision of statute or rule to the contrary, it shall
16 not be considered the emergency involuntary procedure of seclusion for a
17 voluntary patient, or for an involuntary patient in the care and custody of the
18 Commissioner of Mental Health, to be placed in quarantine if the patient has
19 been exposed to COVID-19 or in isolation if the patient has tested positive for
20 COVID-19.

1 (b) Notwithstanding any provision of statute or rule to the contrary, it shall
2 not be considered seclusion, as defined in the Department for Children and
3 Families’ Licensing Regulations for Residential Treatment Programs in
4 Vermont, for a child in a residential treatment facility to be placed in
5 quarantine if the child has been exposed to COVID-19 or in isolation if the
6 child has tested positive for COVID-19.

7 * * * Telehealth * * *

8 Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

9 It is the intent of the General Assembly to increase Vermonters’ access to
10 health care services through an expansion of telehealth services without
11 increasing social isolation or supplanting the role of local, community-based
12 health care providers throughout rural Vermont.

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

14 § 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
15 THROUGH TELEMEDICINE AND BY STORE-AND-
16 FORWARD MEANS

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

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

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

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

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

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

1 ~~(e) A health insurance plan may reimburse for teleophthalmology or~~
2 ~~tele dermatology provided by store and forward means and may require the~~
3 ~~distant site health care provider to document the reason the services are being~~
4 ~~provided by store and forward means.~~

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

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

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

18 (g) Nothing in this section shall be construed to require a health insurance
19 plan to reimburse the distant site health care provider if the distant site health
20 care provider has insufficient information to render an opinion.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

* * *

(6) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty ~~and by which.~~ In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) “Telemedicine” means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, ~~Public Law~~ Pub. L. No. 104-191. ~~Telemedicine does not include the use of audio only telephone, e-mail, or facsimile.~~

1 Sec. 25. 18 V.S.A. § 9361 is amended to read:

2 § 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE
3 SERVICES THROUGH TELEMEDICINE OR BY ~~STORE AND~~
4 ~~FORWARD~~ STORE-AND-FORWARD MEANS

5 * * *

6 (c)(1) A health care provider delivering health care services or dental
7 services through telemedicine shall obtain and document a patient’s oral or
8 written informed consent for the use of telemedicine technology prior to
9 delivering services to the patient.

10 (A) The informed consent for telemedicine services shall be provided
11 in accordance with Vermont and national policies and guidelines on the
12 appropriate use of telemedicine within the provider’s profession and shall
13 include, in language that patients can easily understand:

14 (i) an explanation of the opportunities and limitations of delivering
15 health care services or dental services through telemedicine;

16 (ii) informing the patient of the presence of any other individual
17 who will be participating in or observing the patient’s consultation with the
18 provider at the distant site and obtaining the patient’s permission for the
19 participation or observation; and

20 (iii) assurance that all services the health care provider delivers to
21 the patient through telemedicine will be delivered over a secure connection that

1 complies with the requirements of the Health Insurance Portability and
2 Accountability Act of 1996, Pub. L. No. 104-191.

3 * * *

4 (e) ~~A patient receiving teleophthalmology or teledermatology by store and~~
5 ~~forward means shall be informed of the right to receive a consultation with the~~
6 ~~distant site health care provider and shall receive a consultation with the distant~~
7 ~~site health care provider upon request. If requested, the consultation with the~~
8 ~~distant site health care provider may occur either at the time of the initial~~
9 ~~consultation or within a reasonable period of time following the patient’s~~
10 ~~notification of the results of the initial consultation. Receiving teledermatology~~
11 ~~or teleophthalmology by store and forward means.~~

12 (1) A patient receiving health care services or dental services by store-
13 and-forward means shall be informed of the patient’s right to refuse to receive
14 services in this manner and to request services in an alternative format, such as
15 through real-time telemedicine services or an in-person visit.

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

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

1 Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS
2 DURING STATE OF EMERGENCY

3 Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to
4 the contrary, during a declared state of emergency in Vermont as a result of
5 COVID-19, the following provisions related to the delivery of health care
6 services through telemedicine or by store-and-forward means shall not be
7 required, to the extent their waiver is permitted by federal law:

8 (1) delivering health care services, including dental services, using a
9 connection that complies with the requirements of the Health Insurance
10 Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance
11 with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use
12 such a connection under the circumstances;

13 (2) representing to a patient that the health care services, including
14 dental services, will be delivered using a connection that complies with the
15 requirements of the Health Insurance Portability and Accountability Act of
16 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not
17 practicable to use such a connection under the circumstances; and

18 (3) obtaining and documenting a patient's oral or written informed
19 consent for the use of telemedicine or store-and-forward technology prior to
20 delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if

1 obtaining or documenting such consent, or both, is not practicable under the
2 circumstances.

3 Sec. 27. TELEMEDICINE REIMBURSEMENT; SUNSET

4 8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on
5 January 1, 2026.

6 * * * Child Care Programs; Extraordinary Financial Relief * * *

7 Sec. 28. SUPPLEMENTAL CHILD CARE GRANTS; TEMPORARY
8 SUSPENSION OF CAP

9 Notwithstanding the provision in 33 V.S.A. § 3505(a) that enables the
10 Commissioner for Children and Families to reserve not more than one-half of
11 one percent of the Child Care Financial Assistance Program (CCFAP)
12 appropriation for extraordinary financial relief to assist child care programs
13 that are at risk of closing due to financial hardship, the Commissioner may
14 direct a greater percentage of the fiscal year 2020 CCFAP appropriation for
15 this purpose while the state of emergency related to COVID-19 is in effect.

16 * * * Effective Dates * * *

17 Sec. 29. EFFECTIVE DATES

18 This act shall take effect on passage, except that in Sec. 24, 8 V.S.A.
19 § 4100k(e) (coverage of health care services delivered by store-and-forward
20 means) shall take effect on January 1, 2021.

1 and that after passage the title of the bill be amended to read: “An act
 2 relating to Vermont’s response to COVID-19”

- 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE