

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 ***** Emergency Medical Personnel Training *****

8 Sec. 1. EMERGENCY MEDICAL PERSONNEL TRAINING;

9 APPROPRIATION **(keep in this bill?)**

10 (a) The sum of \$450,000.00 is appropriated from the Emergency Medical
11 Services Fund to the Department of Health in fiscal year 2021 for purposes of
12 emergency medical personnel training. The Department, in consultation with
13 the Emergency Medical Services Advisory Committee, shall use the monies to
14 provide funding for live and online training opportunities for emergency
15 medical personnel and for other emergency medical personnel training-related
16 purposes. The Department and the Advisory Committee shall prioritize
17 training opportunities for volunteer emergency medical personnel.

18 (b) The Department of Health, in consultation with the Emergency Medical
19 Services Advisory Committee, shall develop a plan:

20 (1) to ensure that training opportunities for emergency medical
21 personnel are available statewide on an ongoing basis;

1 (2) to simplify the funding application and disbursement processes; and
2 (3) identifying opportunities to increase representation of the
3 perspectives of volunteer emergency medical personnel in decisions affecting
4 the emergency medical services system.

5 (c) On or before January 15, 2021, the Department of Health shall report to
6 the House Committees on Health Care, on Appropriations, and on Government
7 Operations and the Senate Committees on Health and Welfare, on
8 Appropriations, and on Government Operations with an accounting of its use
9 of the funds appropriated to the Department pursuant to subsection (a) of this
10 section and a copy of the plan developed by the Department pursuant to
11 subsection (b) of this section.

12 *** State of Emergency; Legislative Intent *** (No longer applicable)

13 **Sec. 2. STATE OF EMERGENCY; LEGISLATIVE INTENT**

14 **It is the intent of the General Assembly that, if the coronavirus disease**
15 **2019 (COVID-19) pandemic continues its expected spread in the State of**
16 **Vermont, the Governor should exercise the authority granted by 20 V.S.A.**
17 **§ 9 to declare a state of emergency based on the all-hazards event of the**
18 **COVID-19 disease-related emergency. In addition to the emergency**
19 **powers granted to the Governor by 20 V.S.A. §§ 9 and 11 during a state of**
20 **emergency, such a declaration may initiate opportunities to expand access**
21 **to necessary health care and human services. For example, 3 V.S.A. §**

1 ~~129(a)(10) allows certain professional licensing boards to issue temporary~~
2 ~~licenses during a declared state of emergency to health care providers who~~
3 ~~are licensed in good standing in another state to allow them to practice in~~
4 ~~Vermont for up to 90 days. These temporary licensees will likely be~~
5 ~~necessary to help provide critical health care services to Vermonters who~~
6 ~~become afflicted with COVID-19.~~

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

8 Provider Sustainability * * *

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

10 TAX ~~WAIVER~~ ~~MODIFICATION~~ AUTHORITY (DVHA can
11 ~~postpone payments under 33 V.S.A. ch. 19, subch. 2 authority; legislation~~
12 ~~cannot authorize JFC to vote remotely)~~

13 (a) ~~The~~ ~~During a state of emergency in Vermont as a result of COVID-~~
14 ~~19 and for a period of six months following the termination of the state of~~
15 ~~emergency, the~~ Secretary of Human Services may modify ~~or postpone~~
16 payment of all or a prorated portion of the assessment imposed on hospitals by
17 33 V.S.A. § 1953 ~~for fiscal year 2020~~, and may waive, ~~or modify, or~~
18 ~~postpone~~ payment of all or a prorated portion of the assessment imposed by 33
19 V.S.A. chapter 19, subchapter 2 for one or more other classes of health care
20 providers ~~for fiscal year 2020~~, if the following ~~three two~~ conditions are met:

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

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

5 (3)(2) the Secretary has obtained the approval of the Joint Fiscal
6 Committee and the Emergency Board as set forth in subsections (b) and (c)
7 of this section.

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

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

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

16 (2) Upon the Joint Fiscal Committee's Emergency Board's approval
17 of the plan for mitigating the fiscal impact to the State, the Secretary may
18 wave, or modify, or postpone payment of the assessment as proposed unless
19 the mitigation plan includes one or more actions requiring the approval of
20 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~~
3 ~~Emergency Board's approval for the action or actions prior to waiving,~~
4 ~~modifying, or postponing payment of the assessment.~~

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

8 ~~(c) Notwithstanding any provision of 1 V.S.A. chapter 5, subchapter~~
9 ~~2 (Vermont Open Meeting Law) to the contrary, the Emergency Board~~
10 ~~may approve the Secretary's mitigation plan in a meeting that Board~~
11 ~~members attend by telephonic, electronic, or other means without any~~
12 ~~member being physically present at a designated meeting location as long~~
13 ~~as members of the public are able to observe the meeting by telephonic,~~
14 ~~electronic, or other means and the vote, if not unanimous, is taken by roll~~
15 ~~call.~~

16 ~~Sec. 4. AGENCY OF HUMAN SERVICES; PROVIDER PAYMENT~~

17 ~~FLEXIBILITY (Not necessary – within AHS's existing authority)~~

18 ~~(a) Notwithstanding any provision of law to the contrary and upon~~
19 ~~approval from the Joint Fiscal Committee and Emergency Board as set~~
20 ~~forth in subsections (b) and (c) of this section, during a declared state of~~
21 ~~emergency in Vermont as a result of COVID-19, the Agency of Human~~

1 ~~Services may provide payments in fiscal year 2020 to providers of health~~
2 ~~care services, long-term care services and supports, home- and~~
3 ~~community-based services, and child care services in the absence of claims~~
4 ~~or utilization if a provider's patients or clients are not seeking services due~~
5 ~~to the COVID-19 pandemic, even if federal matching funds that would~~
6 ~~otherwise apply are not available, in order to sustain these providers and~~
7 ~~enable them to continue providing services both during and after the~~
8 ~~outbreak of COVID-19 in Vermont.~~

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

12 ~~(A) the Secretary's rationale for exercising the authority,~~
13 ~~including the balance between the fiscal impact of the proposed action on~~
14 ~~the State budget and the needs of the providers to whom the Secretary~~
15 ~~proposes to provide the payments; and~~

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

17 ~~(2) Upon the Joint Fiscal Committee's approval of the plan for~~
18 ~~mitigating the fiscal impact to the State, the Secretary may provide the~~
19 ~~payments as proposed unless the mitigation plan includes one or more~~
20 ~~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~~
3 ~~Emergency Board's approval for the action or actions prior to making the~~
4 ~~payments.~~

5 ~~(2) Upon the Emergency Board's approval of the action or actions,~~
6 ~~the Secretary may provide the payments to providers as proposed.~~

7 ~~Sec. 5. AGENCY OF HUMAN SERVICES; ADVANCE PAYMENTS;~~
8 ~~MEDICAID PARTICIPATING PROVIDERS (Not necessary –~~
9 ~~within AHS's existing authority)~~

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

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

4 ~~Sec. 6. FEDERALLY QUALIFIED HEALTH CENTERS; RURAL~~
5 ~~HEALTH CLINICS; MEDICAID ENCOUNTER RATE~~ (Not
6 necessary – within AHS’s existing authority)

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

1 ***** Protections for Employees of Health Care Facilities *****

2 **Sec. 6a. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE**
3 **FACILITIES (NEW)**

4 In order to protect employees of a health care facility who are not
5 licensed health care professionals from the risks associated with COVID-
6 19, all health care facilities in Vermont, including hospitals, federally
7 qualified health centers, rural health clinics, and long-term care facilities,
8 shall make every effort to:

9 (1) provide personal protection equipment to any employees who
10 come into contact with individuals who may have contracted or been
11 exposed to COVID-19;

12 (2) shield employees who are at higher risk of illness from COVID-
13 19, including employees who have underlying medical conditions, who are
14 60 years of age or older, or who are pregnant, from coming into direct
15 contact with individuals who may have contracted or been exposed to
16 COVID-19;

17 (3) train and redistribute employees to other departments as they
18 are needed or able to fill in for others who are at higher risk; and

19 (4) coordinate hours and assignments with employees who face the
20 challenges of providing child care or schooling for children who are at
21 home temporarily due to school dismissals.

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

13 **Sec. 7a. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR**

14 **VARIANCE PERMITTED (NEW)**

- 15 **(a) Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8**
16 **V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain**
17 **Care Board’s administrative rules, guidance, or standards to the contrary,**
18 **during a declared state of emergency in Vermont as a result of COVID-19**
19 **and for a period of six months following the termination of the state of**
20 **emergency, the Green Mountain Care Board may waive or permit**
21 **variances from State laws, rules, guidance, and standards with respect to**

1 **the following regulatory activities, to the extent permitted under federal**
2 **law, as necessary to prioritize and maximize direct patient care, safeguard**
3 **the stability of health care providers, and allow for orderly regulatory**
4 **processes that are responsive to evolving needs:**

5 **(1) hospital budget review;**

6 **(2) certificates of need;**

7 **(3) health insurance rate review; and**

8 **(4) accountable care organization certification and budget review.**

9 **(b) Notwithstanding any provision of 1 V.S.A. chapter 5, subchapter 2**
10 **(Vermont Open Meeting Law) to the contrary, during a declared state of**
11 **emergency as a result of COVID-19, the Green Mountain Care Board may**
12 **conduct meetings that Board members attend by telephonic, electronic, or**
13 **other means without any member being physically present at a designated**
14 **meeting location as long as members of the public are able to observe the**
15 **meeting by telephonic, electronic, or other means and any votes taken, if**
16 **not unanimous, are taken by roll call.**

17 Sec. 8. TEACHER LICENSURE; SPECIFIC LICENSING

18 ENDORSEMENTS; MODIFICATION **(Do we need legislation for**
19 **this? Schools are closed and AOE/AHS/DCF can adopt emergency rules to**
20 **notwithstanding their own rules)**

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

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

14 **Sec. 10a. 26 V.S.A. § 1613 is amended to read:**

15 **§ 1613. TRANSITION TO PRACTICE (NEW)**

16 * * *

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

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 shall** adopt
11 emergency rules to address the following **for the duration of the state of**
12 **emergency:**

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

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

20 (3) expanding patients' access to and providers' reimbursement for
21 health care services, **including preventive services, consultation services,**

1 **and services to new patients,** delivered remotely **through telemedicine,**
2 **telehealth, audio-only, such as by** telephone **and e-mail, and brief**
3 **telecommunication services.**

4 Sec. 14. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;

5 EARLY REFILLS

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

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

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

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

20 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. 15a. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC**

14 **SUBSTITUTION DUE TO LACK OF AVAILABILITY (NEW)**

15 **(a) During a declared state of emergency in Vermont as a result of**
16 **COVID-19, a pharmacist may, with the informed consent of the patient,**
17 **substitute an available drug or insulin product for an unavailable**
18 **prescribed drug or insulin product in the same therapeutic class if the**
19 **available drug or insulin product would, in the clinical judgment of the**
20 **pharmacist, have substantially equivalent therapeutic effect even though it**
21 **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**
3 **notify the prescribing clinician of the drug or insulin product, dose, and**
4 **quantity actually dispensed to the patient.**

5 Sec. 16. 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. 17. NUTRITION SERVICES; EXPANDED CAPACITY (Do we**
12 **need legislation for this? Language is permissive; AHS should be able to**
13 **do within existing authority)**

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

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

19 **(Do we need legislation for this? Language is permissive.)**

20 During a declared state of emergency in Vermont as a result of COVID-19,
21 the Agency of Human Services may reimburse Medicaid-funded long-term

1 care facilities and other programs providing 24-hour per day services for bed-
2 hold days.

3 * * * Regulation of Professions * * *

4 Sec. 19. OFFICE OF PROFESSIONAL REGULATION; **BOARD OF**
5 **MEDICAL PRACTICE;** EMERGENCY AUTHORITY TO ACT
6 FOR REGULATORY BOARDS

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

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

18 (b) The **Director's** signature **of the Director of the Office of Professional**
19 **Regulation or of the Executive Director of the Board of Medical Practice**
20 shall have the same force and effect as a voted act of **a their respective**
21 boards.

1 (c)(1) A record of the **Director's** actions **of the Director of the Office of**
2 **Professional Regulation taken pursuant to the authority granted by this**
3 **section** shall be published conspicuously on the website of the regulatory body
4 **on whose behalf the Director took the action.**

5 **(2) A record of the actions of the Executive Director of the Board of**
6 **Medical Practice taken pursuant to the authority granted by this section**
7 **shall be published conspicuously on the website of the Board of Medical**
8 **Practice.**

9 Sec. 20. EMERGENCY REGULATORY ORDERS

10 During a declared state of emergency in Vermont as a result of COVID-19,
11 the Director of Professional Regulation and the Commissioner of Health may
12 issue such orders governing regulated professional activities and practices as
13 may be necessary to protect the public health, safety, and welfare. If the
14 Director or Commissioner finds that a professional practice, act, offering,
15 therapy, or procedure by persons licensed or required to be licensed by Title 26
16 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to
17 the public health, safety, or welfare, or a combination of these, the Director or
18 Commissioner may issue an order to cease and desist from the applicable
19 activity, which, after reasonable efforts to publicize or serve the order on the
20 affected persons, shall be binding upon all persons licensed or required to be
21 licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the

1 order shall subject the person or persons to professional discipline, may be a
2 basis for injunction by the Superior Court, and shall be deemed a violation of 3
3 V.S.A. § 127.

4 Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
5 MEDICAL PRACTICE; IMPUTED JURISDICTION

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

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

14 Sec. 22. DEPARTMENT OF MENTAL HEALTH; ISOLATION OR
15 QUARANTINE OF **INVOLUNTARY** PATIENT FOR COVID-19
16 NOT SECLUSION

17 Notwithstanding any provision of statute or rule to the contrary, it shall not
18 be considered the **emergency** involuntary procedure of seclusion for a
19 **voluntary patient, or for** an involuntary patient in the **care and** custody of the
20 Commissioner of Mental Health, to be placed in quarantine if the patient has

1 been exposed to COVID-19 or in isolation if the patient has tested positive for
2 COVID-19.

3 * * * Telehealth * * *

4 Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

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

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

10 § 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
11 THROUGH TELEMEDICINE AND BY STORE-AND-
12 FORWARD MEANS

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

18 (2)(A) A health insurance plan shall provide the same reimbursement
19 rate for services billed using equivalent procedure codes and modifiers, subject
20 to the terms of the health insurance plan and provider contract, regardless of

1 whether the service was provided through an in-person visit with the health
2 care provider or through telemedicine.

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

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

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

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

18 ~~(e) A health insurance plan may reimburse for teleophthalmology or~~
19 ~~teledermatology provided by store and forward means and may require the~~
20 ~~distant site health care provider to document the reason the services are being~~
21 ~~provided by store and forward means~~

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

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

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

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

17 ~~(g)~~(h) In order to facilitate the use of telemedicine in treating substance use
18 disorder, when the originating site is a health care facility, health insurers and
19 the Department of Vermont Health Access shall ensure that the health care
20 provider at the distant site and the health care facility at the originating site are

1 both reimbursed for the services rendered, unless the health care providers at
2 both the distant and originating sites are employed by the same entity.

3 ~~(i) The Commissioner may require a health insurance plan to provide~~
4 ~~coverage and reimbursement for health care services delivered by audio-~~
5 ~~only telephone, by e-mail, by facsimile, or by a combination of these to the~~
6 ~~same extent as coverage and reimbursement are required for telemedicine~~
7 ~~under this section on a temporary basis, not to exceed 180 days, by~~
8 ~~emergency rule if the Commissioner deems it necessary in order to protect~~
9 ~~the public health.~~

10 ~~(h)~~(i) As used in this subchapter:

11 * * *

12 (2) “Health insurance plan” means any health insurance policy or health
13 benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, ~~as well~~
14 ~~as a stand-alone dental plan or policy or other dental insurance plan offered by~~
15 ~~a dental insurer, and~~ Medicaid and any other public health care assistance
16 program offered or administered by the State or by any subdivision or
17 instrumentality of the State. The term does not include policies or plans
18 providing coverage for a specified disease or other limited benefit coverage.

19 * * *

20 (4) “Health care provider” means a person, partnership, or corporation,
21 other than a facility or institution, that is licensed, certified, or otherwise

1 authorized by law to provide professional health care services, including dental
2 services, in this State to an individual during that individual’s medical care,
3 treatment, or confinement.

4 * * *

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

16 (7) “Telemedicine” means the delivery of health care services, including
17 dental services, such as diagnosis, consultation, or treatment through the use of
18 live interactive audio and video over a secure connection that complies with
19 the requirements of the Health Insurance Portability and Accountability Act of
20 1996, ~~Public Law~~ Pub. L. No. 104-191. ~~Telemedicine does not include the use~~
21 ~~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. 25a. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS**

2 **DURING STATE OF EMERGENCY (NEW)**

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

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

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

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

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

3 Sec. 26. ~~TELEMEDICINE REIMBURSEMENT; SUNSET~~

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

6 ~~Sec. 27. DEPARTMENT OF FINANCIAL REGULATION; STORE~~

7 ~~AND FORWARD; EMERGENCY RULEMAKING~~

8 ~~AUTHORITY~~ (covered by DFR's Sec. 13 authority)

9 ~~The Commissioner of Financial Regulation may require a health~~

10 ~~insurance plan to reimburse for health care services and dental services~~

11 ~~delivered by store and forward means to the extent practicable prior to~~

12 ~~January 1, 2021 by emergency rule if the Commissioner deems it~~

13 ~~necessary in order to protect the public health.~~

14 Sec. 28. ~~BOARD OF MEDICAL PRACTICE; OFFICE OF~~

15 ~~PROFESSIONAL REGULATION; OUT-OF-STATE HEALTH~~

16 ~~CARE PROVIDERS; TELEHEALTH; LICENSEES IN STATES~~

17 ~~BORDERING VERMONT~~

18 (a) Notwithstanding any provision of Vermont's professional licensure

19 laws to the contrary, during a declared state of emergency in Vermont as a

20 result of COVID-19, a health care professional who is duly licensed and in

21 good standing in Massachusetts, New Hampshire, or New York may

1 ~~deliver medically necessary health care services related to the diagnosis,~~
2 ~~treatment, or prevention of COVID-19 to a Vermont resident through~~
3 ~~telemedicine or by store-and-forward means~~ it shall not be considered a
4 violation of the provisions of Title 26 of the Vermont Statutes Annotated
5 relating to the unlawful provision of health care services in this State for a
6 health care provider who is licensed, certified, or registered in good
7 standing, and not subject to any disciplinary proceedings, in any other
8 U.S. jurisdiction to practice under that non-Vermont license, certificate,
9 or registration in order to use telehealth to deliver health care services to
10 patients located in Vermont.

11 (b) A provider who delivers health care services using telehealth as set
12 forth in subsection (a) of this section shall be subject to the imputed
13 jurisdiction of the Board of Medical Practice or the Office of Professional
14 Regulation, as applicable based on the provider's profession, in
15 accordance with **Sec. 21** of this act.

16 (c) This section shall remain in effect until the termination of the
17 declared state of emergency in Vermont as a result of COVID-19 and as
18 long as the provider's license, certificate, or registration remains in good
19 standing.

20 ~~Sec. 29. AGENCY OF HUMAN SERVICES; MEDICAID; HEALTH~~

1 Sec. 31. VEHICLE INSPECTION ENFORCEMENT SUSPENSION **(keep?**

2 **Sen. Transportation addressing?)**

3 (a) Notwithstanding any provision of 23 V.S.A. § 1222 to the contrary,
4 beginning on the effective date of this act, law enforcement shall not impose a
5 penalty for operation of a motor vehicle without a valid certificate of
6 inspection affixed to it.

7 (b) Subsection (a) of this section shall continue in effect until the
8 termination of any state of emergency declared by the Governor as a result of
9 COVID-19 or, if no state of emergency was declared, 180 days following the
10 effective date of this act.

11 * * * Effective Dates * * *

12 Sec. 32. EFFECTIVE DATES

13 This act shall take effect on passage, except that:

14 (1) Sec. 1 (emergency medical personnel training; appropriation) shall
15 take effect on July 1, 2020; and

16 (2) in Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services
17 delivered by store-and-forward means) shall take effect on January 1, 2021.

18 **and that after passage the title of the bill be amended to read: “An act**
19 **relating to supporting the health care system in responding to COVID-19”**

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE