S.117

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 2020 Acts and Resolves No. 91, as amended by 2020 Acts and Resolves No. 140, Sec. 13, is further amended to read:

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

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

Through March 31, ~~2021~~ 2022, the Agency of Human Services shall consider modifying existing rules or adopting emergency rules to protect access to health care services, long-term services and supports, and other human services under the Agency's jurisdiction. In modifying or adopting rules, the Agency shall consider the importance of the financial viability of providers that rely on funding from the State, federal government, or Medicaid, or a combination of these, for a major portion of their revenue.

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

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

In order to protect employees of a health care facility or human service

provider who are not licensed health care professionals from the risks associated with COVID-19, through March 31, ~~2021~~ 2022, all health care facilities and human service providers in Vermont, including hospitals, federally qualified health centers, rural health clinics, residential treatment programs, homeless shelters, home- and community-based service providers, and long-term care facilities, shall follow guidance from the Vermont Department of Health regarding measures to address employee safety, to the extent feasible.

* * * Compliance Flexibility * * *

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

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, through March 31, ~~2021~~ 2022, the Secretary of Human Services may waive or permit variances from the following State rules and standards governing providers of health care services and human services as necessary to prioritize and maximize direct patient care, support children and families who receive benefits and services through the Department for Children and Families, and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs, to the extent such waivers or variances are permitted under federal law:

(1) Hospital Licensing Rule;

(2) Hospital Reporting Rule;

(3) Nursing Home Licensing and Operating Rule;

(4) Home Health Agency Designation and Operation Regulations;

(5) Residential Care Home Licensing Regulations;

(6) Assisted Living Residence Licensing Regulations;

(7) Home for the Terminally Ill Licensing Regulations;

(8) Standards for Adult Day Services;

(9) Therapeutic Community Residences Licensing Regulations;

(10) Choices for Care High/Highest Manual;

(11) Designated and Specialized Service Agency designation and provider rules;

(12) Child Care Licensing Regulations;

(13) Public Assistance Program Regulations;

(14) Foster Care and Residential Program Regulations; and

(15) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25.

* * *

Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER ENROLLMENT AND CREDENTIALING

~~(a)~~ Until ~~the last to terminate of a declared state of emergency in Vermont as a result of COVID-19, a declared federal public health emergency as a result of COVID-19, and a declared national emergency as a result of COVID-19~~ March 31, 2022, and to the extent permitted under federal law, the Department of Vermont Health Access shall relax provider enrollment requirements for the Medicaid program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs.

~~(b) In the event that another state of emergency is declared in Vermont as a result of COVID-19 after the termination of the State and federal emergencies, the Departments shall again cause the provider enrollment and credentialing requirements to be relaxed as set forth in subsection (a) of this section.~~

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

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Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS; EARLY REFILLS

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

(b) Through ~~June 30, 2021~~ March 31, 2022, all health insurance plans and Vermont Medicaid shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

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

* * *

Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

Through March 31, ~~2021~~ 2022, to the extent permitted under federal law, a health care professional authorized to prescribe buprenorphine for treatment of substance use disorder may authorize renewal of a patient's existing buprenorphine prescription without requiring an office visit.

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

Through March 31, ~~2021~~ 2022, to the extent permitted under federal law, the Agency of Human Services may reimburse Medicaid-funded long-term

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

* * * Regulation of Professions * * *

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Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, ~~2021~~ 2022, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth, as a volunteer member of the Medical Reserve Corps, or as part of the staff of a licensed facility or federally qualified health center, provided the health care professional:

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

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

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

(b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

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

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

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

(d)(1) This section shall remain in effect through March 31, ~~2021~~ 2022, provided the health care professional remains licensed, certified, or registered in good standing.

(2) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services in Vermont under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

Sec. 18. ~~RETIRED HEALTH CARE PROFESSIONALS~~ INACTIVE LICENSEES; BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL REGULATION

(a)(1) Through March 31, ~~2021~~ 2022, a former health care professional, including a mental health professional, ~~who retired~~ whose Vermont license, certificate, or registration became inactive not more than three years earlier ~~with the individual's Vermont license, certificate, or registration~~ and was in good standing at the time it became inactive may provide health care services, including mental health services, to a patient located in Vermont using telehealth, as a volunteer member of the Medical Reserve Corps, or as part of the staff of a licensed facility or federally qualified health center after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the

individual's name, contact information, and the location or locations at which the individual will be practicing.

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

(3) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(b) Through March 31, ~~2021~~ 2022, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, ~~who retired~~ whose Vermont license, certificate, or registration became inactive more than three but less than 10 years earlier ~~with their Vermont license, certificate, or registration~~ and was in good standing at the time it became inactive to return to the health care workforce on a temporary basis to provide health care services,

including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

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

(a)(1) Through March 31, ~~2021~~ 2022, if the Director of Professional Regulation finds that a regulatory body attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Director may exercise the full powers and authorities of that regulatory body, including disciplinary authority.

(2) Through March 31, ~~2021~~ 2022, if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

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

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

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

Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF MEDICAL PRACTICE; EMERGENCY REGULATORY ORDERS

Through March 31, ~~2021~~ 2022, the Director of Professional Regulation and the Commissioner of Health may issue such orders governing regulated professional activities and practices as may be necessary to protect the public health, safety, and welfare. If the Director or Commissioner finds that a professional practice, act, offering, therapy, or procedure by persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to the public health, safety, or welfare, or a combination of these, the Director or Commissioner may issue an order to

cease and desist from the applicable activity, which, after reasonable efforts to publicize or serve the order on the affected persons, shall be binding upon all persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the order shall subject the person or persons to professional discipline, may be a basis for injunction by the Superior Court, and shall be deemed a violation of 3 V.S.A. § 127.

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* * * Telehealth * * *

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Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS FOR A LIMITED TIME

(a) Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, through March 31, ~~2021~~ 2022, the following provisions related to the delivery of health care services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law:

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

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

(b)~~(3) obtaining and documenting~~ Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, until 60 days following a declared state of emergency in Vermont as a result of COVID-19, a health care provider shall not be required to obtain and document a patient's oral or written informed consent for the use of telemedicine or store-and-forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.

* * *

Sec. 2. 2020 Acts and Resolves No. 140, Sec. 15 is amended to read:

Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS, AND PODIATRISTS

(a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary, the Board of Medical Practice or its Executive Director may issue a temporary license through March 31, ~~2021~~ 2022 to an individual who is licensed to

practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until a date not later than April 1, ~~2021~~ 2022, provided the licensee remains in good standing.

(b) Through March 31, ~~2021~~ 2022, the Board of Medical Practice or its Executive Director may waive ~~supervision and scope of practice~~ requirements for physician assistants, including scope of practice requirements and the requirement for documentation of the relationship between a physician assistant and a physician pursuant to 26 V.S.A. § 1735a. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subsection.

Sec. 2a. 2020 Acts and Resolves No. 178, Sec. 12a is amended to read:

Sec. 12a. SUNSET OF PHARMACIST AUTHORITY TO ORDER OR ADMINISTER SARS-COV TESTS

In Sec. 11, 26 V.S.A. § 2023(b)(2)(A)(x) (clinical pharmacy prescribing; State protocol; SARS-CoV testing) shall be repealed on ~~July 1, 2021~~ March 31, 2022.

Sec. 3. 2020 Acts and Resolves No. 91, Sec. 8, as amended by 2020 Acts and Resolves No. 140, Sec. 13 and 2020 Acts and Resolves No. 159, Sec. 10, is further amended to read:

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

(a) It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19.

(b)(1) Until ~~July 1, 2021~~ April 1, 2022, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following through ~~June 30, 2021~~ March 31, 2022:

~~(1)~~(A) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, the diagnosis of COVID-19, including tests for influenza, pneumonia, and other respiratory viruses performed in connection with making a COVID-19 diagnosis; the treatment of COVID-19 when it is the primary or a secondary diagnosis; and the prevention of COVID-19; and

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

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

~~services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services~~.

(2) Any rules adopted in accordance with this subsection shall remain in effect until not later than April 1, 2022.

Sec. 4. 8 V.S.A. chapter 107, subchapter 14 is amended to read:

Subchapter 14. ~~Telemedicine~~ Telehealth

* * *

§ 4100l. COVERAGE OF HEALTH CARE SERVICES DELIVERED BY AUDIO-ONLY TELEPHONE

(a) As used in this section:

(1) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual's medical care, treatment, or confinement.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402; Medicaid, to the extent permitted by the Centers for Medicare and Medicaid Services; and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(b)(1) A health insurance plan shall provide coverage for all medically necessary, clinically appropriate health care services delivered remotely by audio-only telephone to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subdivision shall include services that are covered when provided in the home by home health agencies.

(2) A health insurance plan may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered by audio-only telephone provided that it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(3) A health insurance plan shall not require a health care provider to have an existing relationship with a patient in order to be reimbursed for health care services delivered by audio-only telephone.

Sec. 5. 18 V.S.A. chapter 219 is amended to read:

CHAPTER 219. HEALTH INFORMATION TECHNOLOGY AND ~~TELEMEDICINE~~ TELEHEALTH

* * *

Subchapter 2. ~~Telemedicine~~ Telehealth

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§ 9362. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES BY AUDIO-ONLY TELEPHONE

(a) As used in this section, "health insurance plan" and "health care provider" have the same meaning as in 8 V.S.A. § 4100l and "telemedicine" has the same meaning as in 8 V.S.A. § 4100k.

(b)(1) Subject to the limitations of the license under which the individual is practicing and, for Medicaid patients, to the extent permitted by the Centers for Medicare and Medicaid Services, a health care provider may deliver health care services to a patient using audio-only telephone if the patient elects to receive the services in this manner and it is clinically appropriate to do so. A health care provider shall comply with any training requirements imposed by the provider's licensing board on the appropriate use of audio-only telephone in health care delivery.

(2) A health care provider delivering health care services using audio-only telephone shall include or document in the patient's medical record:

(A) the patient's informed consent for receiving services using audio-only telephone in accordance with subsection (c) of this section; and

(B) the reason or reasons that the provider determined that it was clinically appropriate to deliver health care services to the patient by audio-only telephone.

(3)(A) A health care provider shall not require a patient to receive health care services by audio-only telephone if the patient does not wish to receive services in this manner.

(B) A health care provider shall deliver care that is timely and complies with contractual requirements and shall not delay care unnecessarily if a patient elects to receive services through an in-person visit or telemedicine instead of by audio-only telephone.

(c) A health care provider delivering health care services by audio-only telephone shall obtain and document a patient's oral or written informed consent for the use of audio-only telephone prior to the appointment or at the start of the appointment but prior to delivering any billable service.

(1) The informed consent for audio-only telephone services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telephone services within the provider's profession and shall include, in language that patients can easily understand:

(A) that the patient is entitled to choose to receive services by audio-only telephone, in person, or through telemedicine, to the extent clinically appropriate;

(B) that receiving services by audio-only telephone does not preclude the patient from receiving services in person or through telemedicine at a later date;

(C) an explanation of the opportunities and limitations of delivering and receiving health care services using audio-only telephone;

(D) informing the patient of the presence of any other individual who will be participating in or listening to the patient's consultation with the provider and obtaining the patient's permission for the participation or observation;

(E) whether the services will be billed to the patient's health insurance plan if delivered by audio-only telephone and what this may mean for the patient's financial responsibility for co-payments, coinsurance, and deductibles; and

(F) informing the patient that not all audio-only health care services are covered by all health plans.

(2) For services delivered by audio-only telephone on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(3) If the patient provides oral informed consent, the provider shall offer to provide the patient with a written copy of the informed consent.

(4) Notwithstanding any provision of this subsection to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of audio-only telephone services in the case of a medical emergency.

(5) A health care provider may use a single informed consent form to address all telehealth modalities, including telemedicine, store and forward, and audio-only telephone, as long as the form complies with the provisions of section 9361 of this chapter and this section.

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telephone consultation with a patient.

(e) Audio-only telephone services shall not be used in the following circumstances:

(1) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(2) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

Sec. 6. AUDIO-ONLY TELEPHONE; MEDICAL BILLING; DATA COLLECTION; REPORT

(a)(1) On or before July 1, 2021, the Department of Financial Regulation, in consultation with the Department of Vermont Health Access, the Green Mountain Care Board, representatives of health care providers, health insurers, and other interested stakeholders, shall determine the appropriate codes or modifiers, or both, to be used by providers and insurers, including Vermont Medicaid to the extent permitted by the Centers for Medicare and Medicaid

Services, in the billing of and payment for health care services delivered using audio-only telephone in order to allow for consistent data collection, identify appropriate codes for services that do not have in-person equivalents, and minimize the administrative burden on providers. To the extent possible, the use of codes or modifiers, or both, shall be done in a manner that allows data on the use of audio-only telephone services to be identified using the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES).

(2) Not later than January 1, 2022, all Vermont-licensed health care providers and health insurers offering major medical health insurance plans in Vermont shall use the codes and modifiers determined by the Department of Financial Regulation pursuant to subdivision (1) of this subsection when delivering services by audio-only telephone. Vermont Medicaid shall participate to the extent permitted by the Centers for Medicare and Medicaid Services.

(b) On or before December 1, 2023, the Department of Financial Regulation, the Vermont Program for Quality in Health Care, and, to the extent VHCURES data are available, the Green Mountain Care Board shall present information to the House Committee on Health Care and the Senate Committee on Health and Welfare regarding the use of audio-only telephone services in Vermont during calendar year 2022. The Department shall consult with interested stakeholders in order to include in its presentation information on

utilization of audio-only telephone services, quality of care, patient satisfaction with receiving health care services by audio-only telephone, the impacts of coverage of audio-only telephone services on health care costs and on access to health care services, and how best to incorporate audio-only telephone services into value-based payments.

Sec. 7. AUDIO-ONLY TELEPHONE REIMBURSEMENT AMOUNTS FOR PLAN YEARS 2022, 2023, AND 2024

The Department of Financial Regulation, in consultation with the Department of Vermont Health Access, the Green Mountain Care Board, representatives of health care providers, health insurers, and other interested stakeholders, shall determine the amounts that health insurance plans shall reimburse health care providers for delivering health care services by audio-only telephone during plan years 2022, 2023, and 2024. In determining the reimbursement amounts, the Department shall seek to find a reasonable balance between the costs to patients and the health care system and reimbursement amounts that do not discourage health care providers from delivering medically necessary, clinically appropriate health care services by audio-only telephone. The Department may determine different reimbursement amounts for different types of services and may modify the

rates that will apply in different plan years as appropriate but shall finalize its determinations not later than April 1 for plan years after 2022.

Sec. 8. TELEPHONE TRIAGE SERVICES; DEPARTMENT OF FINANCIAL REGULATION; EMERGENCY RULEMAKING

Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address health insurance coverage of and reimbursement for telephone calls used to determine whether an office visit or other service is needed. Emergency rules adopted pursuant to this section shall remain in effect until not later than April 1, 2022.

Sec. 9. 8 V.S.A. § 4100k(a)(2) is amended to read:

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

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply:

(i) to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services; or

(ii) in the event that a health insurer and health care provider enter into a value-based contract for health care services that include care delivered through telemedicine or by store-and-forward means.

Sec. 10. 18 V.S.A. § 9721 is amended to read:

§ 9721. ADVANCE DIRECTIVES; COVID-19 STATE OF EMERGENCY; REMOTE WITNESSES AND EXPLAINERS

* * *

(c)(1) Notwithstanding any provision of subsection 9703(b) of this title to the contrary, an advance directive executed by a principal between June 15, 2020 and June 30, ~~2021~~ 2022 shall be deemed to be valid even if the principal signed the advance directive outside the physical presence of one or both of the required witnesses, provided all of the following conditions are met with respect to each remote witness:

* * *

(d)(1) Notwithstanding any provision of subsection 9703(d) or (e) of this title to the contrary, an advance directive executed by a principal between February 15, 2020 and June 30, ~~2021~~ 2022 while the principal was being admitted to or was a resident of a nursing home or residential care facility or was being admitted to or was a patient in a hospital shall be deemed to be valid even if the individual who explained the nature and effect of the advance directive to the principal in accordance with subsection 9703(d) or (e) of this

title, as applicable, was not physically present in the same location as the principal at the time of the explanation, provided the individual delivering the explanation was communicating with the principal by video or telephone.

* * *

Sec. 11. [Deleted.]

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.