

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 654  
3 entitled “An act relating to extending COVID-19 health care regulatory  
4 flexibility” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 2020 Acts and Resolves No. 91, as amended by 2020 Acts and  
8 Resolves No. 140, Sec. 13, 2020 Acts and Resolves No. 159, Sec. 10, 2021  
9 Acts and Resolves No. 6, Secs. 1 and 3, and 2021 Acts and Resolves No. 69,  
10 Sec. 19, is further amended to read:

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

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

14 Through March 31, ~~2022~~ 2023, the Agency of Human Services shall  
15 consider modifying existing rules or adopting emergency rules to protect  
16 access to health care services, long-term services and supports, and other  
17 human services under the Agency’s jurisdiction. In modifying or adopting  
18 rules, the Agency shall consider the importance of the financial viability of  
19 providers that rely on funding from the State, federal government, or Medicaid,  
20 or a combination of these, for a major portion of their revenue.

21 \* \* \*



1 patient care, support children and families who receive benefits and services  
2 through the Department for Children and Families, and allow for continuation  
3 of operations with a reduced workforce and with flexible staffing arrangements  
4 that are responsive to evolving needs, to the extent such waivers or variances  
5 are permitted under federal law:

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

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

3 Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR  
4 VARIANCE PERMITTED

5 (a) Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8  
6 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain  
7 Care Board’s administrative rules, guidance, or standards to the contrary,  
8 ~~during a declared state of emergency in Vermont as a result of COVID-19 and~~  
9 ~~for a period of six months following the termination of the state of emergency~~  
10 through March 31, 2023, the Green Mountain Care Board may waive or permit  
11 variances from State laws, guidance, and standards with respect to the  
12 following regulatory activities, to the extent permitted under federal law, as  
13 necessary to prioritize and maximize direct patient care, safeguard the stability  
14 of health care providers, and allow for orderly regulatory processes that are  
15 responsive to evolving needs related to the COVID-19 pandemic:

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

20 (b) As part of any proceeding conducted on or after February 1, 2022 to  
21 establish or enforce a hospital’s fiscal year 2022 or 2023 budget, the Green

1 Mountain Care Board shall consider the hospital’s extraordinary labor costs  
2 and investments, as well as the impacts of those costs and investments on the  
3 affordability of health care.

4 Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER

5 ENROLLMENT AND CREDENTIALING

6 Until March 31, ~~2022~~ 2023, and to the extent permitted under federal law,  
7 the Department of Vermont Health Access shall relax provider enrollment  
8 requirements for the Medicaid program, and the Department of Financial  
9 Regulation shall direct health insurers to relax provider credentialing  
10 requirements for health insurance plans, in order to allow for individual health  
11 care providers to deliver and be reimbursed for services provided across health  
12 care settings as needed to respond to Vermonters’ evolving health care needs.

13 \* \* \*

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

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

19 (b)(1) Until April 1, ~~2022~~ 2023, and notwithstanding any provision of  
20 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall

1 consider adopting, and shall have the authority to adopt, emergency rules to  
2 address the following through March 31, ~~2022~~ 2023:

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

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

13 (2) Any rules adopted in accordance with this subsection shall remain in  
14 effect until not later than April 1, ~~2022~~ 2023.

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

16 \* \* \*

17 Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;

18 EARLY REFILLS

19 (a) As used in this section, “health insurance plan” means any health  
20 insurance policy or health benefit plan offered by a health insurer, as defined in

1 18 V.S.A. § 9402. The term does not include policies or plans providing  
2 coverage for a specified disease or other limited benefit coverage.

3 (b) Through March 31, ~~2022~~ 2023, all health insurance plans and Vermont  
4 Medicaid shall allow their members to refill prescriptions for chronic  
5 maintenance medications early to enable the members to maintain a 30-day  
6 supply of each prescribed maintenance medication at home.

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

11 \* \* \*

12 \* \* \* Regulation of Professions \* \* \*

13 \* \* \*

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

17 (a) Notwithstanding any provision of Vermont’s professional licensure  
18 statutes or rules to the contrary, through March 31, ~~2022~~ 2023, a health care  
19 professional, including a mental health professional, who holds a valid license,  
20 certificate, or registration to provide health care services in any other U.S.  
21 jurisdiction shall be deemed to be licensed, certified, or registered to provide

1 health care services, including mental health services, to a patient located in  
2 Vermont ~~using telehealth~~; as a volunteer member of the Medical Reserve  
3 Corps; or as part of the staff of a licensed facility, other health care facility as  
4 defined in 18 V.S.A. § 9432, or federally qualified health center, provided the  
5 health care professional:

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

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

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

13 (b) A health care professional who plans to provide health care services in  
14 Vermont as a volunteer member of the Medical Reserve Corps or as part of the  
15 staff of a licensed facility, other health care facility as defined in 18 V.S.A.  
16 § 9432, or federally qualified health center shall submit or have submitted on  
17 the individual's behalf the individual's name, contact information, and the  
18 location or locations at which the individual will be practicing to:

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

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

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

8           (d)(1) This section shall remain in effect through March 31, ~~2022~~ 2023,  
9 provided the health care professional remains licensed, certified, or registered  
10 in good standing.

11           (2) The Board of Medical Practice and Office of Professional  
12 Regulation shall provide appropriate notice of the March 31, ~~2022~~ 2023  
13 expiration date of this section to:

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

16           (B) the Medical Reserve Corps; and

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

19           (e) Nothing in this section is intended to limit, restrict, or modify the  
20 application of existing or future federal waivers of health care professional  
21 licensure requirements to licensed and certified facilities.





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

4           (a)(1) Through March 31, ~~2022~~ 2023, if the Director of Professional  
5           Regulation finds that a regulatory body attached to the Office of Professional  
6           Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously  
7           convene a quorum to transact business, the Director may exercise the full  
8           powers and authorities of that regulatory body, including disciplinary  
9           authority.

10           (2) Through March 31, ~~2022~~ 2023, if the Executive Director of the  
11           Board of Medical Practice finds that the Board cannot reasonably, safely, and  
12           expeditiously convene a quorum to transact business, the Executive Director  
13           may exercise the full powers and authorities of the Board, including  
14           disciplinary authority.

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

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



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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, ~~2022~~ 2023, 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.

(b) 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

1 Vermont as a result of COVID-19, a health care provider shall not be required  
2 to obtain and document a patient’s oral or written informed consent for the use  
3 of telemedicine or store-and-forward technology prior to delivering services to  
4 the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or  
5 documenting such consent, or both, is not practicable under the circumstances.

6 \* \* \*

7 Sec. 2. 2020 Acts and Resolves No. 140, Sec. 15, as amended by 2021 Acts  
8 and Resolves No. 6, Sec. 2, is further amended to read:

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

12 (a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary,  
13 the Board of Medical Practice or its Executive Director may issue a temporary  
14 license through March 31, ~~2022~~ 2023 to an individual who is licensed to  
15 practice as a physician, physician assistant, or podiatrist in another jurisdiction,  
16 whose license is in good standing, and who is not subject to disciplinary  
17 proceedings in any other jurisdiction. The temporary license shall authorize  
18 the holder to practice in Vermont until a date not later than April 1, ~~2022~~ 2023,  
19 provided the licensee remains in good standing.

20 (b) Through March 31, ~~2022~~ 2023, the Board of Medical Practice or its  
21 Executive Director may waive requirements for physician assistants, including

1 scope of practice requirements and the requirement for documentation of the  
2 relationship between a physician assistant and a physician pursuant to  
3 26 V.S.A. § 1735a. The Board or Executive Director may impose limitations  
4 or conditions when granting a waiver under this subsection.

5 Sec. 3. 2020 Acts and Resolves No. 178, Sec. 12a, as amended by 2021 Acts  
6 and Resolves No. 6, Sec. 2a, is further amended to read:

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

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

11 Sec. 4. 2021 Acts and Resolves No. 6, Sec. 8 is amended to read:

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

14 Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the  
15 Department of Financial Regulation shall consider adopting, and shall have the  
16 authority to adopt, emergency rules to address health insurance coverage of  
17 and reimbursement for telephone calls used to determine whether an office  
18 visit or other service is needed. Emergency rules adopted pursuant to this  
19 section shall remain in effect until not later than April 1, ~~2022~~ 2023.

20 Sec. 5. TEMPORARY TELEHEALTH REGISTRATION FOR OUT-OF-  
21 STATE HEALTH CARE PROFESSIONALS

1        Notwithstanding any provision of Vermont’s professional licensure statutes  
2        or rules to the contrary, for the period from April 1, 2022 through June 30,  
3        2023, the Office of Professional Regulation and Board of Medical Practice  
4        shall register a health care professional who is not licensed or registered to  
5        practice in Vermont but who seeks to provide health care services to patients or  
6        clients located in Vermont using telehealth, provided:

7                (1) the health care professional completes an application in the manner  
8                specified by the Director of the Office of Professional Regulation or the Board  
9                of Medical Practice, as applicable; and

10                (2)(A) the health care professional holds an active, unencumbered  
11                license, certificate, or registration in at least one other U.S. jurisdiction to  
12                practice the health care profession for which the health care professional seeks  
13                to provide telehealth services in Vermont;

14                (B) the health care professional’s license, certificate, or registration is  
15                in good standing in all other U.S. jurisdictions in which the health care  
16                professional is licensed, certified, or registered to practice; and

17                (C) the health care professional provides verification of licensure,  
18                certification, or registration to the Office or the Board, as applicable.

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1 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE