

2020 Acts and Resolves Nos. 91 and 140 and 2021 Acts and Resolves No. 6: Time-limited provisions related to COVID-19

Prepared by Jennifer Carbee, Office of Legislative Counsel

Last updated January 19, 2022

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 1	Directs Agency of Human Services (AHS) to consider modifying existing rules or adopting emergency rules to protect access to health care services, long-term services and supports, and other human services and to consider importance of financial viability of providers that rely on public funding	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	<u>Provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023
2020 Act 91, Sec. 2	Allows AHS Secretary to modify hospital provider taxes and waive or modify other provider taxes if action is necessary to enable providers to continue offering necessary health care services and Secretary gets approval of Joint Fiscal Committee and, in some cases, Emergency Board	Expired (valid during COVID-19 state of emergency and for six months afterward; state of emergency ended on June 15, 2021, so expired on December 15, 2021)		
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 3	To protect non-health care professional employees from COVID-19, requires all health care facilities and human service providers to follow guidance from Department of Health regarding measures to address employee safety, to extent feasible	Through March 31, 2022 Through March 31, 2021 (no date specified)	<u>Provider coalition:</u> Through March 31, 2023 <u>HHC:</u> and expand to say “State and federal public health guidance”	<u>HHC:</u> Through March 31, 2023 and expanded to say “State and federal public health guidance”
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 4	Allows AHS Secretary to waive/permit variances from AHS’s health care and human service provider rules as necessary to prioritize and maximize direct patient care, support children and families receiving benefits and services through Department for Children and Families (DCF), and allow for continuation of operations with reduced workforce and flexible staffing arrangements	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	<u>Provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
2020 Act 91, Sec. 5	Allows Green Mountain Care Board (GMCB) to waive/permit variances from laws, guidance, and standards on hospital budget review, certificates of need, health insurance rate review, and accountable care organization certification/budget review as needed to prioritize and maximize direct patient care, safeguard health care provider stability, and allow for orderly regulatory processes responsive to evolving COVID-19-related needs	Expired (valid during COVID-19 state of emergency and for six months afterward; state of emergency ended on June 15, 2021, so expired on December 15, 2021)	<u>Provider coalition:</u> Through March 31, 2023; want hospital budget review exemption for workforce costs <u>GMCB:</u> Through December 31, 2022?	<u>HHC:</u> Through March 31, 2023, with directive to GMCB to consider labor costs and investments and their impact on affordability in FY22 and FY23 hospital budget proceedings
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 6	Requires Department of Vermont Health Access (DVHA) to relax Medicaid provider enrollment requirements, and Department of Financial Regulation (DFR) to direct health insurers to relax health insurance plans' provider credentialing requirements, to allow providers to deliver/be reimbursed for services across health care settings as needed to respond to evolving needs	Until March 31, 2022 Until last to terminate of Vermont's state of emergency, federal public health emergency, and national emergency During COVID-19 state of emergency	<u>Provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023
2020 Act 91, Sec. 7	Allows courts/Department of Mental Health to waive financial penalties for treating provider's failure to comply with documentation and reporting requirements for involuntary treatment	Expired (valid during COVID-19 state of emergency)		
2021 Act 6, Secs. 3, 8 2020 Act 159, Sec. 10; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 8	Directs DFR to consider adopting, and allows it to adopt, emergency rules to: <ul style="list-style-type: none"> Expand health insurance coverage for, and waive or limit cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention; Modify or suspend health insurance plan deductible requirements for all prescription drugs 	Through March 31, 2022 Through June 30, 2021 During COVID-19 state of emergency	<u>Provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
	<ul style="list-style-type: none"> Expand patients' access to and providers' reimbursement for health care services delivered remotely through telehealth, audio-only telephone, and brief telecommunication services (In 2021, Act 6, Sec. 3 eliminated this provision in light of the coverage requirement for audio-only telephone enacted in Act 6, Sec. 4) Address health insurance coverage of and reimbursement for telephone triage services (Added by 2021, Act 6, Sec. 8) 			
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 9	Requires health insurance plans and Medicaid to allow members to refill prescriptions for chronic maintenance medications early so they can maintain a 30-day supply of each medication at home	Through March 31, 2022 Through June 30, 2021 During COVID-19 state of emergency	OPR/provider coalition: Through March 31, 2023	HHC: Through March 31, 2023
2020 Act 140, Sec. 13; 2020 Act 91, Sec. 10	Allows pharmacists to extend previous prescription for maintenance medication if patient has no refills left or refill authorization recently expired and not feasible to get new prescription or more refills from prescriber; pharmacist must notify prescriber of extension in timely manner	Expired – was through June 30, 2021 During COVID-19 state of emergency		
2020 Act 140, Sec. 13; 2020 Act 91, Sec. 11	Allows pharmacists, with patient's informed consent, to substitute available prescription drug for unavailable one in same therapeutic class if available drug would have substantially equivalent therapeutic effect even though not a therapeutic equivalent drug; pharmacist must notify prescriber of actual drug, dose, and quantity dispensed as soon as reasonably possible	Expired – was through March 31, 2021 During COVID-19 state of emergency		
2021 Act 6, Sec. 1;	Allows health care professional to authorize renewal of existing buprenorphine prescription without office visit	Through March 31, 2022 Through March 31, 2021	Provider coalition: Through March 31, 2023	[HHS jurisdiction]

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
2020 Act 140, Sec. 13; 2020 Act 91, Sec. 12		During COVID-19 state of emergency	Specify allowable through telehealth? (clarify telemedicine or all telehealth)	
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 13	Allows AHS to reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days	Through March 31, 2021 During COVID-19 state of emergency	<u>Provider coalition:</u> Through March 31, 2023	[HHS jurisdiction]
2021 Act 69, Sec. 19; 2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 17	<ul style="list-style-type: none"> • Deems health care professional who is licensed, certified, or registered to provide health care services in any other U.S. jurisdiction as licensed, certified, or registered to provide health care services to patients in Vermont using telehealth or as part of staff of licensed facility <ul style="list-style-type: none"> ○ Act 6 added authorization to provide services as volunteer member of Medical Reserve Corps or as part of staff of a federally qualified health center (FQHC) <u>and Act 69 added or of other health care facility as defined in 18 V.S.A. § 9432</u> • Out-of-state health care professional who plans to provide services in Vermont as part of Medical Reserve Corps or as part of staff of licensed facility, other health care facility, or FQHC must submit to Board of Medical Practice (BMP)/Office of Professional Regulation (OPR) name, contact information, and locations where will be practicing 	Through March 31, 2021 During COVID-19 state of emergency	<u>OPR/provider coalition:</u> <ul style="list-style-type: none"> • MRC/facility staff through March 31, 2023 • Adopt Act 21 telehealth recommendations <u>Provider coalition:</u> <ul style="list-style-type: none"> • Clarify no impact on federal temporary nurse aide waiver for SNFs 	<u>HHC:</u> <ul style="list-style-type: none"> • MRC/facility staff through March 31, 2023 • Adopting Act 21 temporary telehealth registration provision; H.655 to address other Act 21 recommendations • Clarifying no impact on application of federal waivers of health care professional requirements to facilities

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
	<ul style="list-style-type: none"> Act 6 requires OPR/BMP to provide notice of expiration date to relevant stakeholders 			
2021 Act 69, Sec. 20; 2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 18	<ul style="list-style-type: none"> Allows former health care professional whose Vermont license, certificate, or registration became inactive not more than three years ago to provide health care services to patients in Vermont by telehealth or as part of staff of licensed facility after submitting to BMP/OPR name, contact information, and locations where will be practicing <ul style="list-style-type: none"> Act 6 added providing services as a volunteer member of the Medical Reserve Corps or as part of staff of a federally qualified health center (FQHC) and Act 69 added or of other health care facility as defined in 18 V.S.A. § 9432 Act 6 requires OPR/BMP to provide notice of expiration date to relevant stakeholders Allows OPR and BMP to issue free, temporary licenses to health care professionals whose Vermont license, certificate, or registration became inactive between three and 10 years ago; OPR/BMP may impose limitations on their scope of practice as appropriate 	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	<u>OPR/provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 20	<ul style="list-style-type: none"> If OPR Director or BMP Executive Director finds that their boards cannot reasonably, safely, and expeditiously convene a quorum, Director/Executive Director of BMP may exercise full powers and authorities of respective boards, including disciplinary authority 	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	<u>OPR/provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
	<ul style="list-style-type: none"> Records of actions taken by OPR Director must be posted on website of regulatory board on whose behalf Director took action; records of actions taken by BMP Executive Director must be posted on BMP's website 			
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 21	OPR Director and Commissioner of Health may issue orders governing regulatory professional activities and practices as needed to protect public health, safety, and welfare	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	OPR/provider coalition: Through March 31, 2023	HHC: Through March 31, 2023
2020 Act 91, Sec. 22	<ul style="list-style-type: none"> It is not emergency involuntary procedure of seclusion for voluntary patient, or involuntary patient in care and custody of DMH Commissioner, to be placed in quarantine if patient has been exposed to COVID-19 or in isolation if patient has tested positive for COVID-19 It is not seclusion for child in residential treatment facility to be placed in quarantine if child has been exposed to COVID-19 or in isolation if child has tested positive for COVID-19 	Not time-limited per se but specific to COVID-19 exposure or positive test		
2021 Act 6, Sec. 1; 2020 Act 140, Sec. 13; 2020 Act 91, Sec. 26	Allows waiver of telehealth requirements relating to HIPAA-compliant connections if not practicable to use such a connection under circumstances, and <u>until 60 days following a declared state of emergency in Vermont as a result of COVID-19 (added by 2021 Act 6)</u> for waiver of informed consent requirements if not practicable to obtain or document informed consent under circumstances	Through March 31, 2022 Through March 31, 2021 During COVID-19 state of emergency	Provider coalition: Through March 31, 2023 (for waiver of HIPAA-compliant connection) AHS: to extent waiver is permitted by federal law "or guidance regarding enforcement discretion"	HHC: Through March 31, 2023 (for waiver of HIPAA-compliant connection) to extent waiver is permitted by federal law "or guidance regarding enforcement discretion"

Act(s), section(s)	Summary of provision	Duration in existing law	Recommendation(s)	HHC amendment to H.654
2020 Act 140, Sec. 14	Board or profession attached to OPR may issue temporary license to graduate of approved education program if licensing examination required for profession not reasonably available	Expired (now codified in 3 V.S.A. § 129)		
2021 Act 6, Sec. 2; 2020 Act 140, Sec. 15	<ul style="list-style-type: none"> BMP or its Executive Director may issue to individual licensed as a physician, physician assistant, or podiatrist in another jurisdiction a temporary license to practice in Vermont until not later than April 1, 2022 BMP or its Executive Director may waive supervision and scope of practice requirements, <u>including scope of practice requirements</u>, for physician assistants; may impose limitations or conditions when granting waiver 	<u>Through March 31, 2022</u> Through March 31, 2021	<u>Provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023
2021 Act 6, Sec. 2a; 2020 Act 178, Sec. 12a	Sunset on pharmacist authority to order or administer COVID tests pursuant to State protocol approved by Commissioner of Health	<u>Until March 31, 2022</u> Until July 1, 2021	<u>OPR/provider coalition:</u> Through March 31, 2023	<u>HHC:</u> Through March 31, 2023
2021 Act 6, Sec. 10; 2020 Act 127, Sec. 1: 18 V.S.A. § 9721	Authorization for remote witnesses and explainers for advance directives	<u>Through June 30, 2022</u> Through June 30, 2021	<u>Provider coalition:</u> Through March 31, 2023	[HHS jurisdiction]