

1 H.411

2 An act relating to extending COVID-19 health care regulatory flexibility

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

4 Sec. 1. 2020 Acts and Resolves No. 91, as amended by 2020 Acts and

5 Resolves No. 140, Sec. 13, 2020 Acts and Resolves No. 159, Sec. 10, 2021

6 Acts and Resolves No. 6, Secs. 1 and 3, 2021 Acts and Resolves No. 69, Sec.

7 19, and 2022 Acts and Resolves No. 85, Sec. 1, is further amended to read:

8 \* \* \*

9 \* \* \* Compliance Flexibility \* \* \*

10 Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER

11 REGULATION; WAIVER OR VARIANCE PERMITTED

12 Notwithstanding any provision of the Agency of Human Services'

13 administrative rules or standards to the contrary, through March 31, ~~2023~~

14 2024, the Secretary of Human Services may waive or permit variances from

15 the following State rules and standards governing providers of health care

16 services and human services as necessary to prioritize and maximize direct

17 patient care, support children and families who receive benefits and services

18 through the Department for Children and Families, and allow for continuation

19 of operations with a reduced workforce and with flexible staffing arrangements

20 that are responsive to evolving needs, to the extent such waivers or variances

21 are permitted under federal law:

22 (1) Hospital Licensing Rule;

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

17 Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR  
18 VARIANCE PERMITTED

- 19 (a) Notwithstanding any provision of 18 V.S.A. chapter 220 or 221,  
20 8 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain  
21 Care Board's administrative rules, guidance, or standards to the contrary,

1 through March 31, ~~2023~~ 2024, the Green Mountain Care Board may waive or  
2 permit variances from State laws, guidance, and standards with respect to the  
3 following regulatory activities, to the extent permitted under federal law, as  
4 necessary to prioritize and maximize direct patient care, safeguard the stability  
5 of health care providers, and allow for orderly regulatory processes that are  
6 responsive to evolving needs related to the COVID-19 pandemic:

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

11 (b) As part of any proceeding conducted on or after February 1, 2022 to  
12 establish or enforce a hospital's fiscal year 2022 or 2023 budget, the Green  
13 Mountain Care Board shall consider the hospital's extraordinary labor costs  
14 and investments, as well as the impacts of those costs and investments on the  
15 affordability of health care.

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

18 Until March 31, ~~2023~~ 2024, and to the extent permitted under federal law,  
19 the Department of Vermont Health Access shall relax provider enrollment  
20 requirements for the Medicaid program, and the Department of Financial  
21 Regulation shall direct health insurers to relax provider credentialing

1 requirements for health insurance plans, in order to allow for individual health  
2 care providers to deliver and be reimbursed for services provided across health  
3 care settings as needed to respond to Vermonters' evolving health care needs.

4 \* \* \*

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

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

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

11 (b)(1) ~~Until April 1, 2023~~ Through March 31, 2024, and notwithstanding  
12 any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial  
13 Regulation shall consider adopting, and shall have the authority to adopt,  
14 emergency rules ~~to address the following through March 31, 2023:~~

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



1 certificate, or registration to provide health care services in any other U.S.  
2 jurisdiction in a profession regulated by the Board of Medical Practice, or in a  
3 profession regulated by the Office of Professional Regulation for which the  
4 Office does not provide a pathway to provisional licensure under 3 V.S.A.  
5 § 130, shall be deemed to be licensed, certified, or registered to provide health  
6 care services, including mental health services, to a patient located in Vermont  
7 as a volunteer member of the Medical Reserve Corps or, for a period not to  
8 exceed six months, as part of the staff of a licensed facility, other health care  
9 facility as defined in 18 V.S.A. § 9432, or federally qualified health center,  
10 provided the health care professional:

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

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

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

18 (b) A health care professional who plans to provide health care services in  
19 Vermont as a volunteer member of the Medical Reserve Corps or as part of the  
20 staff of a licensed facility, other health care facility as defined in 18 V.S.A.  
21 § 9432, or federally qualified health center shall submit or have submitted on

1 the individual's behalf the individual's name, contact information, and the  
2 location or locations at which the individual will be practicing to:

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

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

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

12 (d)(1) This section shall remain in effect through March 31, ~~2023~~ 2024,  
13 provided the health care professional remains licensed, certified, or registered  
14 in good standing throughout the period the health care professional is  
15 practicing in Vermont, which shall not exceed six months for a health care  
16 professional providing health care services as part of the staff of a licensed  
17 facility, other health care facility as defined in 18 V.S.A. § 9432, or federally  
18 qualified health center.

19 (2) The Board of Medical Practice and Office of Professional  
20 Regulation shall provide appropriate notice of the March 31, ~~2023~~ 2024  
21 expiration date of this section to:







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

4           (a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary,  
5           the Board of Medical Practice or its Executive Director may issue a temporary  
6           license through March 31, ~~2023~~ 2024 to an individual who is licensed to  
7           practice as a physician, physician assistant, or podiatrist in another jurisdiction,  
8           whose license is in good standing, and who is not subject to disciplinary  
9           proceedings in any other jurisdiction. The temporary license shall authorize  
10          the holder to practice in Vermont until a date not later than April 1, ~~2023~~ 2024,  
11          provided the licensee remains in good standing.

12          (b) Through March 31, ~~2023~~ 2024, the Board of Medical Practice or its  
13          Executive Director may waive requirements for physician assistants, including  
14          scope of practice requirements and the requirement for documentation of the  
15          relationship between a physician assistant and a physician pursuant to  
16          26 V.S.A. § 1735a. The Board or Executive Director may impose limitations  
17          or conditions when granting a waiver under this subsection.

18          Sec. 3. 2020 Acts and Resolves No. 178, Sec. 12a, as amended by 2021 Acts  
19          and Resolves No. 6, Sec. 2a and 2022 Acts and Resolves No. 85, Sec. 3, is  
20          further amended to read:



1 (B) the health care professional's license, certificate, or registration is in  
2 good standing in all other U.S. jurisdictions in which the health care  
3 professional is licensed, certified, or registered to practice; and

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

6 (b) The temporary telehealth registration option available pursuant to this  
7 section shall continue to be available to out-of-state health care professionals  
8 until the telehealth licensure and registration system established in 26 V.S.A.  
9 chapter 56 by 2022 Acts and Resolves No. 107 is operational. The Office of  
10 Professional Regulation and Board of Medical Practice shall provide  
11 appropriate notice to health care professionals registered under this section of  
12 the expiration date of the temporary telehealth registration option and shall  
13 allow temporary telehealth registrants 90 days following the effective date of  
14 the applicable telehealth licensure and registration rules to transition from  
15 temporary registration to a telehealth license or registration.

16 Sec. 5. 18 V.S.A. § 9721 is amended to read:

17 § 9721. ~~ADVANCE DIRECTIVES; COVID-19; REMOTE WITNESSES~~

18 AND EXPLAINERS FOR A LIMITED TIME

19 \* \* \*

20 (c)(1) Notwithstanding any provision of subsection 9703(b) of this title to  
21 the contrary, an advance directive executed by a principal between June 15,

1 2020 and March 31, ~~2023~~ 2024 shall be deemed to be valid even if the  
2 principal signed the advance directive outside the physical presence of one or  
3 both of the required witnesses, provided all of the following conditions are met  
4 with respect to each remote witness:

5 \* \* \*

6 (d)(1) Notwithstanding any provision of subsection 9703(d) or (e) of this  
7 title to the contrary, an advance directive executed by a principal between  
8 February 15, 2020 and March 31, ~~2023~~ 2024 while the principal was being  
9 admitted to or was a resident of a nursing home or residential care facility or  
10 was being admitted to or was a patient in a hospital shall be deemed to be valid  
11 even if the individual who explained the nature and effect of the advance  
12 directive to the principal in accordance with subsection 9703(d) or (e) of this  
13 title, as applicable, was not physically present in the same location as the  
14 principal at the time of the explanation, provided the individual delivering the  
15 explanation was communicating with the principal by video or telephone.

16 (2) An advance directive executed in accordance with this subsection  
17 shall remain valid as set forth in subsection (b) or (c) of this section, as  
18 applicable.

19 Sec. 6. BOARD OF MEDICAL PRACTICE; PHYSICIAN LICENSURE;

20 REPORT

1        On or before January 15, 2024, the Board of Medical Practice shall report to  
2        the House Committee on Health Care and the Senate Committee on Health and  
3        Welfare regarding options for streamlining and modernizing the physician  
4        licensure process, such as:

5                (1) alternatives to requiring an original birth certificate as a method of  
6        proving identification;

7                (2) the status of obtaining fingerprint-supported background checks and  
8        being able to serve as the State of Principal Licensure for purposes of  
9        participation in the Interstate Medical Licensure Compact;

10               (3) offering provisional licenses pending full document verification; and

11               (4) allowing Board of Medical Practice staff to approve uncomplicated  
12        license applications.

13        Sec. 7. EFFECTIVE DATE

14        This act shall take effect on passage.