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	<b>REGULATION; WAIVER OR VARIANCE PERMITTED</b>
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;

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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 <del>; and</del>

1	(B) modifying or suspending health insurance plan deductible
2	requirements for all prescription drugs, except to the extent that such an action
3	would disqualify a high-deductible health plan from eligibility for a health
4	savings account pursuant to 26 U.S.C. § 223.
5	(2) Any rules adopted in accordance with this subsection shall remain in
6	effect until not later than April 1, <del>2023</del> 2024.
7	* * *
8	Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS
9	Through March 31, $\frac{2023}{2024}$ , to the extent permitted under federal law, a
10	health care professional authorized to prescribe buprenorphine for treatment of
11	substance use disorder may authorize renewal of a patient's existing
12	buprenorphine prescription without requiring an office visit.
13	* * *
14	* * * Regulation of Professions * * *
15	* * *
16	Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
17	MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
18	PROFESSIONALS
19	(a) Notwithstanding any provision of Vermont's professional licensure
20	statutes or rules to the contrary, through March 31, 2023 2024, a health care
21	professional, including a mental health professional, who holds a valid license,

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	<u>§ 130,</u> 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, $\frac{2023}{2024}$
21	expiration date of this section to:

1	(A) health care professionals providing health care services in
2	Vermont under this section;
3	(B) the Medical Reserve Corps; and
4	(C) health care facilities and federally qualified health centers at
5	which health care professionals are providing services under this section.
6	(e) Nothing in this section is intended to limit, restrict, or modify the
7	application of existing or future federal waivers of health care professional
8	licensure requirements to licensed and certified facilities.
9	(f) Health care facilities, health insurers, and Vermont Medicaid shall
10	consider deemed licensure, certification, or registration pursuant this section as
11	sufficient to meet applicable Vermont licensure, certification, or registration
12	requirements for the purpose of health care professional credentialing and
13	enrollment; provided, however, that this deemed satisfaction of the licensure,
14	certification, and registration requirements shall have no impact on any other
15	credentialing or enrollment requirement.
16	* * *
17	* * * Telehealth * * *
18	* * *
19	Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS
20	FOR A LIMITED TIME

1	Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to
2	the contrary, through March 31, 2023 2024, the following provisions related to
3	the delivery of health care services through telemedicine or by store-and-
4	forward means shall not be required, to the extent their waiver is permitted by
5	federal law or guidance regarding enforcement discretion:
6	(1) delivering health care services, including dental services, using a
7	connection that complies with the requirements of the Health Insurance
8	Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance
9	with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use
10	such a connection under the circumstances;
11	(2) representing to a patient that the health care services, including
12	dental services, will be delivered using a connection that complies with the
13	requirements of the Health Insurance Portability and Accountability Act of
14	1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not
15	practicable to use such a connection under the circumstances.
16	* * *
17	Sec. 2. 2020 Acts and Resolves No. 140, Sec. 15, as amended by 2021 Acts
18	and Resolves No. 6, Sec. 2 and 2022 Acts and Resolves No. 85, Sec. 2, is
19	further amended to read:

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.
11 12	<ul><li>provided the licensee remains in good standing.</li><li>(b) Through March 31, <del>2023</del> <u>2024</u>, the Board of Medical Practice or its</li></ul>
12	(b) Through March 31, <del>2023</del> <u>2024</u> , the Board of Medical Practice or its
12 13	<ul> <li>(b) Through March 31, 2023 2024, the Board of Medical Practice or its</li> <li>Executive Director may waive requirements for physician assistants, including</li> </ul>
12 13 14	(b) Through March 31, <del>2023</del> <u>2024</u> , the Board of Medical Practice or its Executive Director may waive requirements for physician assistants, including scope of practice requirements and the requirement for documentation of the
12 13 14 15	(b) Through March 31, <del>2023</del> <u>2024</u> , the Board of Medical Practice or its Executive Director may waive 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
12 13 14 15 16	(b) Through March 31, <del>2023</del> <u>2024</u> , the Board of Medical Practice or its Executive Director may waive 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
12 13 14 15 16 17	(b) Through March 31, <del>2023</del> <u>2024</u> , the Board of Medical Practice or its Executive Director may waive 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. 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 March 31, 2023.
[Deleted.]
Sec. 4. 2022 Acts and Resolves No. 85, Sec. 6 is amended to read:
Sec. 6. TEMPORARY TELEHEALTH REGISTRATION FOR OUT-OF-
STATE HEALTH CARE PROFESSIONALS
(a) Notwithstanding any provision of Vermont's professional licensure
statutes or rules to the contrary, from the period from beginning on April 1,
2022 through June 30, 2023, the Office of Professional Regulation and Board
of Medical Practice shall register a health care professional who is not licensed
or registered to practice in Vermont but who seeks to provide health care
services to patients or clients located in Vermont using telehealth, provided:
(1) the health care professional completes an application in the manner
specified by the Director of the Office of Professional Regulation or the Board
of Medical Practice, as applicable; and
(2)(A) the health care professional holds an active, unencumbered license,
certificate, or registration in at least one other U.S. jurisdiction to practice the
health care profession for which the health care professional seeks to provide
telehealth services in Vermont;

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.