



Vermont COVID-19 Response Update March 25, 2020

On Friday, March 13, 2020 Governor Scott declared a state of emergency in response to the COVID-19 pandemic. That same day, the Vermont Legislature voted to suspend meeting in person. Before the House adjourned, they passed H.742, a bill that includes several provisions to address the pandemic.

Since March 13th, the Joint Legislative Rules Committee has met telephonically to hear about the Administration's response to the pandemic and to discuss how the Legislature should conduct its business remotely going forward. Senate policy committees also met last week via teleconferencing to discuss H.742 and any additional actions the State can take to address COVID-19.

This week, the House and Senate briefly met to pass H.742, and to approve a temporary rule change to allow for remote voting. House and Senate committees will continue to work remotely going forward. It is expected that the scope of their work will be limited to this crisis and critical fiscal bills for the time being. That may be revised as the weeks progress.

Governor's Executive Order

On Friday, March 13th, Governor Scott declared a State of Emergency and issued Executive Order 01-20 in response to COVID-19. The initial Executive Order included guidance on hospital and long-term care facility visits, a suspension of specific provider regulations to facilitate treatment of COVID-19 patients, and a suspension of out-of-state travel for state employees. As the pandemic has progressed, the Governor has issued several addendums to the Executive Order including mandated school closures and a suspension of dine-in service at restaurants.

The Governor's latest addendum to this order, released yesterday, is titled "Stay Home, Stay Safe." Effective March 25, 2020 at 5:00 p.m., all businesses and not-for-profit entities not expressly exempted in the order must suspend all in-person business operations. Operations that can be conducted online or by phone, or sales that can be facilitated with curbside pickup or delivery only, can continue. These restrictive measures are in place to minimize all unnecessary activities outside the home to slow



the spread of this virus and protect the public. The Stay Home, Stay Safe order will be in effect until April 15, 2020, though may be extended or shortened as needed. Commercial entities, non-profits, employers and others with questions about acceptable continuation of business operations should review the new guidance issued by the Agency of Commerce and Community Development (ACCD) today, March 25, 2020 available at <https://accd.vermont.gov/covid-19-guidance>. Please let us know if you would like to discuss how this may impact your operations in Vermont.

H.742

Amidst escalating concerns regarding COVID-19 in Vermont, the House passed H.742, an omnibus health care and human services bill, before they adjourned on Friday, March 13th. The following week, the Senate Health and Welfare Committee met telephonically to take testimony on the bill. On Tuesday, March 24th, the full Senate approved H.742. In addition to the health care and human services sections of the bill, the Senate included changes to the Unemployment Insurance program. On Wednesday, March 25th, the House approved the Senate amendments. The bill now heads to the Governor's desk. As passed the Legislature, the bill includes:

- Increased flexibility for the Agency of Human Services (AHS) to address the COVID-19 pandemic including:
 - Waiving or modifying existing rules, or adopting emergency rules
 - Modifying hospital provider taxes and to waiving or modifying other provider taxes
 - Waiving or permitting variances from AHS's health care and human service provider rules as necessary to prioritize and maximize direct patient care
 - Reimbursing Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days
- Requires the Department of Vermont Health Access (DVHA) to relax provider enrollment requirements for Medicaid, and the Department of Financial Regulation (DFR) to direct health insurers to relax provider credentialing requirements for health insurance plans
- Directs DFR to consider adopting emergency rules to expand health insurance coverage related to COVID-19, modify or suspend health insurance plan deductible requirements for all prescription drugs, and expand patients' access to and providers' reimbursement for health care services delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.



- **Allows the Green Mountain Care Board to waive or permit variances from laws, guidance, and standards related to hospital budgets, certificates of need, health insurance rate review, and accountable care organization budget review**
- **Makes changes to prescription drug coverage requirements, and prescribing laws including:**
 - **Requiring all 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**
 - **Allowing a pharmacist to extend a previous prescription for a maintenance medication if the patient does not have any refills left or the refill authorization recently expired and if it is not feasible to get a new prescription or more refills from the prescriber.**
 - **Allowing a pharmacist to substitute an available prescription drug for an unavailable one in the same therapeutic class if the available one would have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent drug**
 - **Allowing a health care professional to authorize renewal of an existing buprenorphine prescription without an office visit**
- **Increased health care professional licensing flexibility including:**
 - **Allowing professional regulatory boards attached to the Office of Professional Regulation (OPR) to issue a temporary license during a declared state of emergency to a graduate of an approved education program if licensing examinations are not reasonably available**
 - **Allowing the Board of Medical Practice (BMP) to issue a temporary license during a declared state of emergency to a physician, physician assistant, or podiatrist licensed in another jurisdiction, free of charge, for 90 days or until the state of emergency ends, whichever occurs first, and allows the BMP to reissue the temporary license if the state of emergency continues for longer than 90 days**
 - **Allowing Board of Nursing to waive or modify a collaborative provider agreement requirement as needed to allow APRNs to practice independently during a declared state of emergency**
 - **Allowing OPR and BMP to issue temporary licenses, free of charge, to former health care professionals who retired from practice in Vermont**
- **Expands telehealth insurance coverage by:**
 - **Requiring health insurance plans to reimburse providers the same amount for the same services whether provided in person or through telemedicine.**



- Requiring health insurance plans to reimburse for services delivered by store-and-forward means
- Expanding existing telemedicine coverage to include dental services
- Allowing for waiver of telehealth requirements relating to HIPAA-compliant connections if it is not practicable to use such a connection under the circumstances and for waiver of informed consent requirements if it is not practicable to obtain or document informed consent under the circumstances
- Allows the DCF Commissioner to direct more than statutory limit of 0.5 percent of the fiscal year 2020 Child Care Financial Assistance Program appropriation to assist childcare programs that are at risk of closing due to financial hardship

H.742 was also amended to include a variety of changes to labor law to accommodate a surge in applications for unemployment due to this crisis:

- Employers' UI rates will not increase because of benefits paid to an individual who quits employment for good cause related to:
 - Self-isolation or quarantine at the direction of qualified authorities
 - Caring for or assisting a family member who left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at work; or
 - Caring for a child under 18 years of age because the child's school or childcare has been closed or the childcare provider is unavailable due to COVID-19.
- Provides that employers' UI rates will not increase because of COVID-19 temporary closures, an order issued by the Governor or President, or employees temporarily laid off in order to comply with a quarantine.
- For UI rate relief, the employer must rehire the laid off employees within a reasonable period of time after operations resume or once the employee's period of quarantine is completed. This relief is limited to 8 weeks of benefits or a longer period at the discretion of the Department of Labor.
- Allows an individual to receive benefits if they quit employment for good cause due to:
 - Self-isolation or quarantine at the direction of qualified authorities
 - An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at work.



- Caring for or assisting a family member who is self-isolating or quarantining at the direction of a healthcare provider, public health authority, the Governor, or the President
- Caring for or assisting a family member who left employment because of an unreasonable risk that they could be exposed to or become infected with COVID- 19 at work; or
- Caring for a child under 18 years of age because the child's school or childcare has been closed or the childcare provider is unavailable due to COVID-19.
- Limits individual's ability to receive UI benefits if they are receiving sick pay, or other benefits provided pursuant to federal programs.
- Provides that individuals will transition from State UI benefits to federal wage replacement benefits if and when the federal government makes them available.

