

At this writing, some bills passed by the legislature in 2022 have been signed into law by the Governor. Those are identified by the assignment of an act number. Others—those with only a bill number—are awaiting his consideration and a veto is possible. That includes the budget and the health care reform bill.

COVID-19

[Act 85](#) **extends until March 31, 2023 certain emergency COVID-19 response provisions** originally enacted in Acts 91 and 140 of 2020. The bill extends the licensing flexibilities for the Office of Professional Regulation, with some new limitations, and the Board of Medical Practice. It also permits the Agency of Human Services (AHS) to grant waivers and variances, consistent with federal requirements, of the Hospital Licensing and Reporting Rules, the Nursing Home Operating and Licensing Rules, Residential Care Home and Assisted Living Residence Licensing Regulations and Home Health Agency Designation and Operating Rules. It is under this flexibility that the Department of Aging and Independent Living (DAIL) has granted waivers to some agencies from the "designation rules" in response to staffing shortages.

Budget Adjustment

[Act 3](#), the budget adjustment, is an annual mid-year adjustment to the current fiscal year state budget. This year's budget adjustment includes several items of interest to home health and hospice agencies:

- 1) A 39 percent increase to the **moderate needs homemaker services reimbursement rate**, matching it to the Choices for Care personal care services rate (effective December 1, 2021).
- 2) An approximately 4.4 percent increase to the **Medicaid rate for skilled home health services** to bring the Medicaid rate closer to the Medicare Low Utilization Payment Adjustment (LUPA) fee schedule, effective January 1, 2022. The proposal will bring the skilled rate up to 82 percent of Medicare LUPA from 78 percent of LUPA.

Budget (not yet enacted)

The legislature approved a \$8.3 billion FY2023 budget bill that has not yet been signed by the Governor. [H.740](#) appropriates funds for the operations of state government, including the Medicaid budget. H.740 includes:

- An **8 percent rate increase to the base Medicaid rates for designated and specialized service agencies and home-and community-based**

long-term care providers. The long-term care increase includes the Choices for Care services and assistive community care services (ACCS).

- Policy language (Sec. E.301.3, page 172) stipulating that:
 - Providers receiving the 8 percent rate "shall be transparent in the use of these funds through timely and accurate reporting" and;
 - The Agency of Human Services provide a preliminary report to the legislature on or before April 15, 2023 on whether the fiscal year 2023 provider rate increase is having an impact on reducing the wait times for community-based services and improving staff vacancy rates.
- \$1.5 million to the Department of Disabilities, Aging, and Independent Living (DAIL) for grants to adult days service providers to support operating costs and program infrastructure.
- \$149.5 million for the American Rescue Plan Act (ARPA) HCBS spending plan (enhanced FMAP) to improve services, promote a high-performing and stable HCBS workforce, and to improve HCBS care through data systems, value-based payment models and oversight. Of the \$149.5 million, \$71.2 million will be allocated in FY2023.
- Authorization for the Secretary of AHS to seek an extension or renewal of the Global Commitment 1115 Waiver, which currently expires June 30, 2022.
- A directive that the Department of Vermont Health Access (DVHA) and DAIL to conduct a rate study of the Medicaid reimbursement rates for those rates that have not already undergone a study, including adult day, adult day rehabilitation, personal care and homemaker services.

Workforce

[Act 3](#), the budget adjustment, includes \$60 million in funding for **recruitment and retention bonuses** for employees of a broad range of health care providers, including home health and hospice agencies. Within the \$60 million, \$15 million is potentially available for a "needs-based" program, but most of the program is directed to the defined employer types. The Agency of Human Services is responsible for developing and implementing an application process.

[S. 11](#) (not yet enacted) includes a series of **health care workforce initiatives**. S. 11 was originally a bill on robocalls. At the very end of the session, it was used as a vehicle for a series of workforce and economic development initiatives, many of which were in the House-passed bill H. 703. The provisions of S. 11 include:

- \$2 million for emergency grants to Vermont's nursing schools to

support nurse faculty and staff compensation over a three-year period.

- \$400,000 for nurse preceptor incentive grants for critical access hospitals to provide a \$5 per preceptor hour payment to nurse preceptors.
- \$2.5 million for a health care employer nursing pipeline and apprenticeship program, grants provided through AHS to nurse employers to establish or expand partnerships with Vermont nursing schools to create a nursing pipeline or apprenticeship program.
- \$227,169 global commitment funds, \$100,000 in general funds and \$127,169 in federal funds for the Vermont Nursing Forgivable Loan Incentive Program administered by Vermont Student Assistance Corporation (VSAC). This program is a continuation of the Act 155 nursing scholarship program created in 2020.
- \$2.5 million to establish the Vermont Health Care Professional Loan Repayment Program administered by the Vermont Area Health Education Centers (AHEC). Eligible individuals include graduates of nursing, medicine, physician assistant, osteopathic and naturopathic programs, or medical technician programs. The individual must work in Vermont as a nurse, physician assistant, medical technician, child psychiatrist or primary care provider.
- \$500,000 to establish the Nurse Faculty Forgivable Loan Program (loan forgiveness) administered by VSAC.
- \$500,000 to establish the Nurse Faculty Loan Repayment Program (loan repayment) administered by AHEC.
- \$1.5 million to establish the Vermont Mental Health Professional Forgivable Loan Incentive Program administered by the Department of Health in collaboration with VSAC.
- \$1.25 million to the designated and specialized services agencies for loan repayment and tuition assistance for recruitment and retention of mental health and substance use disorder treatment professionals.
- A requirement that the Green Mountain Care Board (GMCB) review the hospital's investments in workforce development initiatives as part of its budget review, and to consider hospital executive and clinical leadership salaries in comparison to other New England states.
- Authorization for the GMCB to exclude all or a portion of a hospital's investments in nursing workforce development initiatives from financial limitations on the hospital's budget or budget growth.
- \$170,000 to authorize one classified three-year limited-service Health Care Workforce Coordinator position within AHS, Office of

Health Care Reform to support health care workforce initiatives in S.11 and in the Health Care Workforce Strategic Plan.

- \$750,000 to establish a health care workforce data center within AHS.
- A requirement for the Vermont Department of Labor (DOL) in collaboration with the GMCB to make recommendations on a process, methodology and necessary funding amounts to establish and maintain health care supply and demand modeling.
- A directive to the Department of Financial Regulation to explore the feasibility of requiring health insurers to access clinical data from the Vermont Health Information Exchange (VHIE).
- A directive to health insurers to report prior authorization information to the Department of Financial Regulation and for the department to report back on any statutory changes needed to align and streamline prior authorization processes across insurers.
- A directive to the Vermont Economic Development Authority to create the Short-Term Forgivable Loan Program to provide loans to business with fewer than 500 employees experiencing continued working capital shortfalls due to the public health emergency.
- \$15 million to create a paid leave grant program whereby employers may apply to the Department of Financial Regulation for grants to offset costs associated with paid leave for employees due to COVID-19 related reasons.

[H.739](#), a two-year capital bill not yet enacted includes:

- \$1 million in funding to provide **capital grants to nursing school programs for renovation or expansion of simulation laboratories**
- Directs the Vermont State Colleges, Norwich University and the University of Vermont to provide a **detailed report on their simulation laboratory renovation or construction needs** to expand student enrollment in Vermont nursing programs.

Health Care Reform

[Act 99](#) relates to Medicare supplemental insurance and Medicare Advantage policies. The bill requires the Department of Financial Regulation (DFR) to conduct a study outlining the options available to Vermonters in retirement. The department is directed to convene a stakeholder group to consider issues related to enrollment, use, affordability, access and the extent to which the state can regulate these products and report its findings by January 15, 2023. The bill explicitly says a majority of the stakeholder group "shall not have a financial stake in any Medicare supplemental coverage or Medicare Advantage product."

[Act 113](#) is aimed at planning and support for individuals and families

impacted by **Alzheimer's Disease and related disorders**. The bill incorporates Alzheimer's Disease and related disorders into the existing State Plan on Aging process. As a result of the bill, the State Plan on Aging will address: (1) home-based care or placements and hospital and long-term care placements and transitions to and from care in home, hospital and long-term care settings; (2) support and education for families and caregivers; and (3) strategies to promote affordable and accessible long-term care and home- and community-based services to individuals with Alzheimer's disease and related disorders. The bill also requires the Agency of Human Services (AHS) to submit a plan to the legislature on how to fund a permanent Alzheimer's Disease Coordinator position within existing budgets, grants or other external funding sources.

[S.285](#), a broad health care reform bill, aims to accelerate payment reform for most providers, including home health agencies, and initiate a process to examine which hospital services will be available in each community, under the heading of "hospital transformation." The bill has not yet been enacted.

More specifically, the bill:

- Allocates \$900,000 to AHS to develop a proposal, in collaboration with the GMCB, for a renewed All-Payer Model (APM) Agreement between the state and the Centers for Medicare and Medicaid Innovation (CMMI) to move away from fee-for-service reimbursement to alternative payment models, including value-based payments or hospital global budgets. It requires the Director of Health Care Reform and the GMCB to each report on activities on its negotiations with CMMI by January 15, 2023.
- Appropriates \$4.1 million to the GMCB to engage consultants to facilitate a "patient-focused, community-inclusive plan" for the health care system under the heading "hospital transformation." The language funds an existing GMCB effort to direct which services each hospital should provide, if any. The GMCB and Director of Health Care Reform are directed to report on their use of the funds and the status of delivery system transformation by January 15, 2023.
- Directs the Health Information Exchange Steering Committee to continue implementation of its strategic plan.
- Enhances data-sharing capabilities.
- Requires the Blueprint for Health to support quality improvement activities through use of integrated clinical and claims data.
- Directs the Director of Health Care Reform to report back to legislative committees regarding the amounts by which insurers and Medicaid would need to increase their payments toward the costs of operating the Blueprint community health teams and

supporting quality improvement facilitation.

- Creates a workgroup to evaluate expansion of the moderate needs program and requires DAIL to make recommendations to legislative committees by January 15, 2024.
- Requires the GMCB to summarize reports submitted to the legislature.
- Recommends a methodology for determining the allowable rate of growth in Vermont hospital budgets, which may include the use of national and regional indicators of growth in the health care economy and other appropriate benchmarks, such as the Hospital Producer Price Index, Medical Consumer Price Index, bond-rating metrics, and labor cost indicators.
- Requires the GMCB to report on its use of these funds in value-based payments design by January 15, 2023.

End-of-Life

[Act 97](#) modifies Vermont's existing patient choice at end-of-life laws. The original law passed in 2013. The bill allows patients to request the prescription via telemedicine instead of in the physical presence of the physician and eliminates the current 48-hour waiting period between a patient finishing the request process and obtaining the prescription. The bill also provides immunity for any person on the care team who acts in good faith compliance with the provisions of Vermont's patient choice at end-of-life laws.

Studies and New Initiatives

The following is a list of studies and new initiatives passed during the 2022 legislative session that the VNAs of Vermont will track and participate in over the coming year (or more):

Workforce

S. 11

- AHS grants for nurse employers to establish or expand partnerships with Vermont nursing schools to create a nursing pipeline or apprenticeship program (home health agencies **NOT** explicitly listed)
- Vermont Health Care Professional Loan Repayment Program administered by the Vermont Area Health Education Centers (AHEC)
- Department of Financial Regulation employer grant program to offset costs associated with paid leave for employees due to COVID-19

- GMCB/DO health care supply and demand modeling recommendations

Other

- AHS “recruitment and retention bonus” passed under the budget adjustment bill, [Act 3](#) (in process)

Home Health Agency Reporting

- Budget-directed home health agency “timely and accurate reporting” on the use of the 8 percent increase
- Budget-directed AHS report on the impact of the 8 percent rate increase

Health Care Reform

- Act 99 Department of Financial Regulation study of Medicare supplemental policies and Medicare Advantage policies outlining the options available to Vermonters in retirement
- S. 285 AHS All-Payer Model renewal agreement
- S. 285 GMCB “hospital transformation” initiative

Other Studies of Interest

- Department of Financial Regulation study of Medicare supplemental policies and Medicare Advantage policies outlining the options available to Vermonters in retirement
- Act 113 addition of Alzheimer’s disease and related disorders to the State Plan on Aging including Strategies to promote affordable and accessible long-term care and home and community-based services
- DAIL workgroup to evaluate expansion of the moderate needs program