

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[Act 85](#) extends until March 31, 2023 certain emergency COVID-19 response provisions originally enacted in Acts 91 and 140 of 2020.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 (OPR), 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

The Budget Adjustment Act is an annual mid-year adjustment to the current fiscal year state budget. This year's Budget Adjustment Act included several items of interest to home health and hospice agencies including:

- 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

The House approved an \$8.14 billion FY2023 budget for consideration by the Senate. The bill, [H.740](#), would appropriate funds for the operations of state government, including the Medicaid budget. H.740 included:

- A **7 percent rate increase to the base Medicaid rates for home-and community-based long-term care services**, including the Choices for Care program and assistive community care services (ACCS). The long-term care service increases impact home health agencies, adult day centers, area agencies on aging, enhanced residential care (ERC) and ACCS providers, and designated mental health agencies, among other providers.
- Funding of the American Rescue Plan Act (ARPA) HCBS [spending plan](#) (enhanced FMAP) in the amount of \$149.5 million.
- Authorization for the Secretary of AHS to seek an extension or renewal of the Global Commitment 1115 Waiver, which currently expires June 30, 2022.

In addition, the bill funds a series of workforce initiatives passed as part of H. 703 and health care reform provisions described in other sections of this document

A Joint Fiscal Office fiscal summary of the bill is available [here](#).

Workforce

The Budget Adjustment Act 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.

[H. 703](#) and the House version of the SFY23 budget together fund a series of **health care workforce initiatives including:**

- \$2 million for nurse and physician assistant loan repayment.
- \$100,000 for nurse scholarships, added to the \$2 million appropriated as part of Act 155 of 2020. When combined with unspent monies in the program, it makes \$1.1 million available for SFY23.
- \$500,000 for nurse faculty forgivable loan program (a.k.a. scholarships).
- \$3 million in grant funding to nursing schools to increase nurse faculty and staff compensation.
- A \$3 million grant program administered by Vermont Student Assistance Corporation (VSAC) for grants to health care employers to develop partnerships between providers and nursing schools to "upskill" existing staff, including personal care attendants, licensed nursing assistants, licensed practical nurses and others to higher-levels credentials. The program will be designed to cover tuition, fees and assistance with living costs for enrolled workers. Funds will be awarded through a criteria-based application process.
- \$2.4 million for hospital nurse preceptor grants.
- \$1 million for the creation and administration of the Health Care Workforce Data Center located within the Agency of Human Services (AHS). This provision also creates and funds a full-time position within AHS to manage the data center, as well as a limited, three-year service position to support the initiatives in the [Health Care Workforce Strategic Plan](#) (2021).

[H.739](#), the FY2022 Capital Bill Adjustment bill includes \$4 million in American Rescue Plan Act (ARPA) funding to provide **capital grants to nursing school programs for renovation or expansion of simulation laboratories**.

Health Care Reform

The Senate passed [S.239](#), a bill originally introduced to create an open enrollment period for Medicare supplemental insurance policies. As passed by the Senate, the bill removes

the open enrollment language and requires the Department of Financial Regulation (DFR) to conduct a study that would outline health plan options available to Vermonters in retirement. **The bill requires DFR to convene stakeholders to consider issues on enrollment in and the use of Medicare supplemental insurance policies or a Medicare Advantage (MA) plan** (Part C), the affordability of these plans, and the extent to which the state can regulate these products, including the marketing and advertising of Medicare Advantage plans. DFR will report its findings by January 15, 2023. DFR and Blue Cross and Blue Shield of Vermont support the bill as passed by the Senate.

The Senate approved [S.285](#), a bill related to **health care reform initiatives, data collection, and access to home- and community-based services with a \$5 million appropriation, much of it provisional**. The bill provides an initial \$1 million in funding to the GMCB, with an additional \$3.45 million dollars potentially available for the effort only after the board demonstrates progress to the legislative Health Reform Oversight Committee. The bill directs the Green Mountain Care Board to:

- Develop a process for establishing hospital value-based payments, a methodology for establishing rates of growth and a process to "improve hospital financial health" (section 1).
- Support a "community engagement" process for "system transformation" in consultation with the Agency of Human Services. The relationship between existing IRS-directed hospital community needs assessments and this new effort is not clear. This section of the bill also references a requirement that the process will "**consider the capacity of Vermont's community-based health care and social service providers** to effectively implement the plan as it relates to community providers while providing the appropriate level of services to consumers" (section 2).
- The bill also provides for \$550,000 in funding to the Agency of Human Services to develop the next iteration of Vermont's all-payer model. This section of the bill includes a provision that the plan explore "alternative payment models" for home- and community-based providers and "ensure reasonable and adequate rates of payments and a reasonable and predictable schedule for rate updates" (section 3).
- The remaining sections of the bill call for a study expanding the moderate needs program, a recommendation from the Agency of Human Services on Blueprint per-person-per-month payments to primary care providers, and some provisions related to Vermont's health information exchange.

A related provision in the House-passed budget includes \$4 million to the Green Mountain Care Board (GMCB) for consultants to facilitate a redesign of the health care system to ensure sustainability and support delivery system transformation; develop a methodology and proposed rules for establishing fixed payments for hospitals; and to support the GMCB and AHS in negotiating an agreement for payment and delivery system reform with the Center for Medicare and Medicaid Innovation (CMMI). The language in the budget bill and in S. 285 will need to be reconciled before the end of the session.

End-of-Life

The Senate passed [S.74](#), a bill that modifies Vermont's patient-choice-at-end-of-life laws. The original law passed in 2013. As passed by the Senate, the bill would allow patients to request the death-hastening prescription via telemedicine instead of in the physical presence of the physician, if clinically appropriate. It also 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.