



VERMONT LEGISLATIVE  
**Joint Fiscal Office**

1 Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • <https://jfo.vermont.gov>

## Fiscal Note

Updated 5/17/2022

Nolan Langweil

### **H.655 (Act 107) – an act relating to telehealth licensure and registration and to provisional licensure for professions regulated by the Office of Professional Regulation**

*As passed by the General Assembly*

<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT107/ACT107%20As%20Enacted.pdf>

#### **Bill Summary**

The bill proposes to enact regulations pertaining to the licensure and registration of out-of-state health care professionals for the delivery of services to Vermont residents using telehealth. Out-of-state providers usually pay full licensing fees, however these fees have been waived during the pandemic. This waiver ends on March 31, 2022. This bill proposes to create new telehealth license fees which would be equivalent to 75% of the renewal fee, and new telehealth registration fees which would be equivalent to 50% of the renewal fees or the full application fee (whichever is lower).

This bill is estimated to have the following fiscal impacts:

- reduction of license and registration fees due to the reduced rates is \$195,800 over two years
  - FY 2024 = \$76,955 reduction
  - FY 2025 = \$118,845 reduction
- the bill appropriates \$360,000 for one-time administrative costs.
- ongoing annual administrative costs are estimated to be approximately \$53,000 after FY 2023

Based on the same underlying assumptions used to estimate the potential fee revenues and reductions, we estimate it would take an increase of over 200 new telehealth licenses and over 1,800 new telehealth registrations – across the 43 professional license types specified – to offset the estimated \$195,800 revenue difference in biennial fees. Currently there are 9,623 licensed out-of-state health care providers.

#### **Background**

Act 91 of 2020 temporarily waived licensure and registration requirements for out-of-state health care professionals to provide services to patients located in Vermont through telehealth, or as part of the staff of a licensed facility provided they met certain criteria, until the termination of the declared state of emergency.<sup>1</sup> Act 140 of 2020 extended this provision through March 31, 2021.<sup>2</sup> Act 6 of 2021 further

<sup>1</sup> <https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT091/ACT091%20As%20Enacted.pdf>

<sup>2</sup> <https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT140/ACT140%20As%20Enacted.pdf>

extended this provision through March 31, 2022.<sup>3</sup> Prior to these acts, out-of-state health care professionals were required to have a Vermont license to provide these services.

Act 21 of 2021 created the *Facilitation of Interstate Practice Using Telehealth Working Group* to compile and evaluate methods for facilitating the practice of health care professionals throughout the United States using telehealth modalities.<sup>4</sup> The working group recommended both short-term and long-term telehealth policy solutions for facilitating Vermont patients’ and clients’ access to telehealth care from out-of-state providers. H.654 – an act relating to extending COVID-19 health care regulatory authority (as passed by the House) – would address the short-term recommendations of the working group by allowing temporary registration for out-of-state health care professionals at no cost to the provider for the period April 1, 2022 through June 30, 2023.<sup>5</sup> This bill – H.655 – is part of the long-term recommendations of the working group which recommended that “effective July 1, 2023, the General Assembly require out-of-state providers wishing to provide telehealth services in Vermont to obtain a registration, telehealth license, full or compact licenses.”<sup>6</sup> The fees proposed in H.655 are based on recommendation from the Office of Professional Regulation’s (OPR’s) for out-of-state health care providers to register and obtain licenses to practice telehealth services in Vermont beginning July 1, 2023.

**Sec. 1**

- Sec. 1 proposes a biennial telehealth license fee which would be equivalent to 75 percent of the renewal fee for each of the 43 professional license types specified in the bill. It also proposes a late renewal penalty of 75 percent of the late renewal penalty established in 3 V.S.A. § 127 or in Section 1401a of the title as applicable.<sup>7</sup> And it proposes a biennial registration fee which would be equivalent to 50% of the renewal fee or the full application fee (whichever is lower) for the same 43 professional license types.

**Estimated Biennial Fee Revenues from out-of-state providers**

|                      | H.655: % of renewal fees | H.655: Est. Fees | If paid at 100% for Full Vermont License | Difference (lost revenues) |
|----------------------|--------------------------|------------------|--|----------------------------|
| License Revenue      | 75%                      | \$31,590         | \$40,820                                 | (\$9,230)                  |
| Registration Revenue | 50% or full app fee      | \$180,830        | \$367,400                                | (\$186,570)                |
| <b>TOTAL</b>         |                          | <b>\$212,420</b> | <b>\$408,220</b>                         | <b>(\$195,800)</b>         |

- These estimates are based on the current population of out-of-state providers who hold a full Vermont license that may convert to a telehealth license or registration.
  - It is unknown how many of the out-of-state providers would either pursue full Vermont licensure, telehealth licensure only, or stop practicing in Vermont altogether.
  - OPR estimates that 25% of current out-of-state licensees would obtain a telehealth license or registration.
  - Note: At this time, OPR does not know how many out-of-state providers are currently practicing through telehealth only. Under the COVID-19 response regulations mentioned earlier, out-of-state providers who are providing telehealth only to Vermonters are not currently required to register with the state.

<sup>3</sup> <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT006/ACT006%20As%20Enacted.pdf>

<sup>4</sup> <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT021/ACT021%20As%20Enacted.pdf>

<sup>5</sup> <https://legislature.vermont.gov/Documents/2022/Docs/BILLS/H-0654/H-0654%20As%20Passed%20by%20the%20House%20Unofficial.pdf>

<sup>6</sup> <https://sos.vermont.gov/media/3wsps0eq/facilitation-of-interstate-practice-using-telehealth-working-group-final-report-ak.pdf>

<sup>7</sup> <https://legislature.vermont.gov/statutes/section/03/005/00127>

### Sec. 3

- The bill appropriates \$360,000 from the General Fund to the Office of Professional Regulations (OPR) in FY 2023 to develop and implement the telehealth licensure and registration system established in this bill.

### Sec. 4

- Establishes an effective date of July 1, 2022 for the appropriation (in Sec. 3).
- Establishes an effective date of July 1, 2023 for the fees (in Sec. 1).

### Fiscal Impact

- The bill appropriates \$360,000 from the General Fund to OPR.
  - According to OPR, the IT costs of this proposal exceed ordinary modifications and enhancements. Other administrative costs associated with the implementation of this bill include rulemaking and staff time. The following are the estimated administrative costs associated with implementing the new fees in this bill.

**H.655 - Estimated Administrative Costs**

|              | One-Time Costs<br>(FY 2023)  | On-going Costs<br>(annual) |
|--------------|------------------------------|----------------------------|
| Staff Time   | \$125,000                    | \$40,000*                  |
| IT Costs     | \$150,000 - \$200,000        | \$10,000                   |
| Rulemaking   | \$60,000                     | \$3,000                    |
| <b>TOTAL</b> | <b>\$335,000 - \$385,000</b> | <b>\$53,000</b>            |

\* Dependent on the ongoing volume of new telehealth registrations and licenses

Source: Office of Professional Regulations

- The following chart shows the estimated annual revenues and the difference between full license fees and the proposed fees in H.655.

**Estimated Fee Revenues FY 2023 - FY 2025**

|   | FY 2023 | FY 2024           | FY 2025            | Biennium           |
|---|---------|-------------------|--------------------|--------------------|
| <b>H.655 Telehealth License &amp; Registration Fees</b> | -----   | <b>\$82,475</b>   | <b>\$129,945</b>   | <b>\$212,420</b>   |
| Full Vermont License Fees                               | -----   | \$159,430         | \$248,790          | \$408,220          |
| <b>Difference</b>                                       | -----   | <b>(\$76,955)</b> | <b>(\$118,845)</b> | <b>(\$195,800)</b> |

- As mentioned, these estimates do not take into consideration the potential take-up rate of out-of-state providers currently practicing telehealth without a license under the current emergency legislation since it unknown how many are currently practicing or how many might apply for a new telehealth license under this legislation. Currently there are 9,623 out-of-state providers with full Vermont licenses. Based on the same underlying assumptions used to estimate the potential revenues above it would likely take an increase of over 200 new telehealth licenses and over 1,800 new telehealth registrations – across the various 43 professional license types specified – to offset the estimated \$195,800 revenue difference in biennial fees highlighted in the above chart.