

# How Pennsylvania Is Progressing in the Race to Rebuild

The 2021 state budget includes some policy changes to spur recovery and better governance, but much more needs to occur.

## SUMMARY

- Legislators have started their push to rebuild Pennsylvania's economy in the wake of COVID-19. However, more needs to get done to spur hiring and recovery for all Pennsylvanians.
- Moving forward, Pennsylvanians need a health care system that stays prepared. One that responds to and continually improves patient access and outcomes. Emergency waivers put in place to override regulations and streamline the health care sector during the pandemic need to become permanent through legislation.
- Jump-start local small business by reducing regulatory red tape for job creators, offering liability protection, and providing tax reform to overcome business losses from the pandemic.

## MAKING REGULATORY SUSPENSIONS PERMANENT

At the beginning of the COVID-19 pandemic, Governor Tom Wolf took swift actions to waive almost 500 regulations, with most related to increasing the health care sector's ability to respond. These waivers covered vast areas of health care, including licensing reciprocity, reduced supervisory requirements, suspending limits on scope of practice, and overall streamlining Pennsylvania's health care sector.

As Pennsylvania returns to normal, it is crucial that lawmakers do not lose the progress made during the pandemic.

- In June 2021, the governor signed [House Bill 854](#) (Rep. Torren Ecker), which extended active waivers until September unless a government agency acts to end the waiver after notifying the Legislature. A recent analysis estimated some 319 waivers are still in effect. The permanent elimination of the regulations they currently override would benefit Pennsylvanians. These include:
  - Telemedicine: There is no current statute that either authorizes or prohibits the use of telemedicine. Legislation that explicitly allows for telemedicine and provides a framework for its operation would help to facilitate its growth.
  - License reciprocity: During the pandemic, legislators simplified the process for medical practitioners from other states to practice in Pennsylvania. Lawmakers should continue to streamline this process to encourage more health care providers to meet the needs of Pennsylvanians.

- Pharmacy requirements: Pharmacists had supervisory flexibilities as well as increased ability to offer vaccines during the crisis. As vaccine efforts have shown, these professionals can fill a needed role in vaccination access post-COVID.
- [Senate Bill 416](#) (Sen. John Gordner), signed into law as Act 60, officially recognizes nurse anesthetists as a specialty with defined qualifications and an expanded scope of practice. Legal recognition enables better use of their skills during times of crisis. For example, nurse anesthetists—though trained to use ventilators—cannot provide this service outside of surgical settings without legal recognition of their specialty.<sup>1</sup>
- [Senate Bill 115](#) (Sen. Lisa Boscola), signed into law as Act 68, adds Pennsylvania to the Nursing Licensure Compact, giving Pennsylvania nurses the ability to practice in 35 states without seeking separate state licenses.<sup>2</sup> This reciprocity promotes telemedicine and makes Pennsylvania more attractive for recent graduates. However, nurses must still abide by the different state laws based on the location of their patient, creating a challenge for telemedicine providers.

## TELEMEDICINE

- In March 2020, the governor [issued a waiver](#) giving Pennsylvania-licensed physicians “the flexibility” to provide telemedicine services during the COVID-19 pandemic.<sup>3</sup> The waiver also temporarily allows practitioners licensed out-of-state to provide telemedicine services.
- Faced with restricted access to medical facilities, telemedicine proved essential in the fight against COVID-19. Penn Medicine alone, for example, hosted [over a million](#) telemedicine visits since the start of the pandemic, a 9,000% increase from 2019.<sup>4</sup> Moreover, the pandemic spotlighted telemedicine’s importance as a primary means for expanding access to health care in rural areas, for the disabled, and for low-income populations by [reducing cost](#).<sup>5</sup>
- It is imperative that lawmakers pass comprehensive telemedicine legislation to increase access to affordable and effective health care. [Senate Bill 705](#) (Sen. Elder Vogel) would define telemedicine, allow for its regulation by professional licensure boards and require insurance company reimbursements. The bill—passed unanimously by the Banking & Insurance Committee—now waits for a floor vote by the Senate.

## NURSE PRACTITIONERS

- Last year, the governor [issued a waiver](#) to expand the scope of practice and suspend prescription restrictions for Certified Registered Nurse Practitioners.<sup>6</sup> Yet it did not end the mandate for nurse practitioners to have a collaborative agreement with a physician. As a result, the pandemic sidelined many nurse practitioners. [Stephanie Phillips](#) of Chester County found herself jobless in the spring of 2020 as the pandemic ravaged Philadelphia. She explained, “I was furloughed last week due to decreased office visits. Now I am jobless during a pandemic, unable to use my experience to help patients. If I worked in Maryland, New Jersey or New York, I could start a new job tomorrow in a hospital or another practice. But because I work in Pennsylvania, it will be weeks before I see another patient.”<sup>7</sup>

- Nurse practitioners should be able to practice independent of a physician in both pandemic and non-pandemic times. [Twenty-three states](#) already allow independent practice, and [six states](#) still maintain their COVID-related suspensions of the physician collaboration requirement.<sup>8</sup>
- Sen. Camera Bartolotta has introduced [Senate Bill 25](#) to allow certified registered nurse practitioners to fully utilize their training, including the ability to practice without paying a physician after at least three years of experience. The bill passed committee on June 16 and could free over [7,000 nurse practitioners](#) in the state to better serve their patients, while also making the Keystone State more attractive for other nurse practitioners.<sup>9</sup>

## DRINKS TO GO

- Cocktails-to-go are prepared on order and placed in a take-out container for off-site consumption. Before the pandemic, restaurants, bars, and hotels were prohibited from selling these drinks. Similarly, other alcohol retailers, like grocery stores, cannot sell ready-to-drink (RTD) products including bottled or pre-made cocktails. The governor issued a waiver to allow cocktails-to-go during the pandemic, and House Bill 1154 (Rep. Kurt Masser) seeks to make that waiver permanent.
- The bill was expected to become law in June, weeks after the cocktails-to-go waiver expired.<sup>10</sup> The state Senate amended the bill to allow retailers to sell RTD products. RTDs compete against beer products, and Pennsylvania's tax on RTDs (18%) is much higher than our comparatively low beer tax. Additionally, state-owned liquor stores sell very few RTDs. According to modest projections, Pennsylvania would gain tens of millions of dollars in annual revenue through this policy change.<sup>11</sup>
- Governor Wolf, however, opposes all competition to the Pennsylvania Liquor Control Board (PLCB). The United Food and Commercial Workers Union (UFCW)—which represents liquor workers—has donated \$183,200 to the governor's political campaigns. Thanks to UFCW pressure, the House nixed the RTD amendment and sent HB 1154 back to the Senate. Meanwhile, restaurants and bars will have to struggle through the summer without cocktails-to-go. This is one more reason lawmakers should end the state government's wholesale and retail monopoly on liquor.

## SMALL BUSINESS TAX RELIEF ADVANCES

- Independent business drives Pennsylvania's economy. According to an early [2020 business snapshot](#), Pennsylvania had over 1 million small businesses—over 99% of all businesses in the state—employing 2.5 million Pennsylvanians.<sup>12</sup>
- While small business owners report increased sales and [temporary optimism](#), 12% of owners cannot continue operations for six months or less under current economic conditions, and another 13% cannot do so for 7 to 12 months, according to a recent National Federation of Small Business national survey.<sup>13</sup>
- In June, the Pennsylvania Senate Finance Committee passed two bills providing relief to Pennsylvania businesses.
  - [Senate Bill 368](#) (Sen. Camera Bartolotta) allows small businesses to take a net loss against other sources of income, helping business owners forced to use personal resources to save their businesses. Similarly, the bill permits small businesses to take Net Operating Losses

(NOLs) against future years, which corporations already do. Lastly, it *temporarily* allows small businesses to “carry back” losses from previous tax years 2018, 2019, and 2020 for a period of five years—getting tax refund dollars in the hands of small businesses.

- [Senate Bill 347](#) (Sen. John DiSanto), part of a Senate small business reform package, aligns Pennsylvania law with federal tax law by allowing a “like-kind” exchange tax-deferral for property exchanged for similar property. By doing this, Pennsylvania would join every other state in increasing investment in the assets that businesses need to help them remain competitive and create jobs.
- The House Finance Committee is considering similar small business tax relief legislation.
  - [House Bill 105](#) (Rep. Jim Cox) would provide “like-kind” exchange tax deferral.
  - [House Bill 395](#) (Rep. Eric Nelson) extends NOL deductions to small businesses paying the personal income tax.
  - [House Bill 333](#) (Rep. Eric Nelson) grants small businesses the same treatment as corporations in allowing full expense deductions for equipment purchases, creating a smoother path for job creators to invest in their businesses.
  - [House Bill 198](#) (Rep. George Dunbar) would temporarily increase the NOL deductibility limit from 40% to 100% of current-year income, applying only to losses that occurred in 2020 and providing companies a chance to recover.

## SMALL BUSINESS LIABILITY PROTECTION

- [House Bill 101](#) (Rep. Barb Gleim) provides COVID-19 and general liability protection to farm or rural entertainment venues. While it falls short of the broad-based liability protection sought by small businesses, it is a first step toward ensuring entrepreneurs trying to get back on their feet and operating safely do not have to worry about aggressive tort lawyers.
- In 2020, the Legislature passed, and Wolf vetoed, [House Bill 1737](#) (Rep. Barb Gleim), which would have provided COVID-19 liability protections for schools, businesses, manufacturers of personal protective equipment, and health care workers who followed proper CDC regulations. [House Bill 605](#) (Rep. Torren Ecker) provides similar protections and should be a priority in the fall.

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<sup>1</sup> Pennsylvania Association of Nurse Anesthetists, “Governor Wolf Grants Waiver to Suspend CRNA Supervision Requirement,” (May 2020), <https://www.panaforqualitycare.com/single-post/2020/05/06/Gov-Wolf-Grants-Waiver-to-Suspend-CRNA-Supervision-Requirement>.

<sup>2</sup> Matt McCoy, “It’s Time for Nurse Anesthetists to Get Formal Recognition,” Daily Local News, (April 2021), [https://www.dailylocal.com/opinion/its-time-for-nurse-anesthetists-to-get-formal-recognition/article\\_d02574f6-9706-11eb-8bf8-9b5f0be0531c.html](https://www.dailylocal.com/opinion/its-time-for-nurse-anesthetists-to-get-formal-recognition/article_d02574f6-9706-11eb-8bf8-9b5f0be0531c.html).

<sup>3</sup> Pennsylvania Department of State, “Licensed Health Care Practitioners Can Provide Telemedicine Services to Pennsylvanians During Coronavirus Emergency,” (March 2020), <https://www.media.pa.gov/pages/State-details.aspx?newsid=375>.

<sup>4</sup> Max Mester, “Penn Med Millionth Telemed Visit 2021 Covid-19,” The Daily Pennsylvanian, (February 2021), <https://www.thedp.com/article/2021/02/penn-medicine-one-million-telehealth-visits>.

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<sup>5</sup> Navjit Dullet, et al., “Impact of a University-Based Outpatient Telemedicine Program on Time Savings, Travel Costs, and Environmental Pollutants,” *Science Direct*, Vol. 20, Issue 4, (April 2017), <https://www.sciencedirect.com/science/article/pii/S1098301517300839>.

<sup>6</sup> Governor Wolf’s Executive Order to Provide Civil Immunity for Health Care Providers, May 6, 2020, <https://www.governor.pa.gov/wp-content/uploads/2020/05/20200506-GOV-health-care-professionals-protection-order-COVID-19.pdf>.

<sup>7</sup> Pennsylvania Association of Nurse Practitioners, “Please Let More NPs Fight COVID-19,” (April 2020), <https://www.pacnp.org/news/499991/Nurse-Practitioners-to-Governor-Wolf-Please-Let-More-NPs-Fight-COVID-19-.htm>.

<sup>8</sup> American Association of Nurse Practitioners, “COVID-19 State Emergency Response: Temporarily Suspended and Waived Practice Agreement Requirement,” (accessed June 2021), <https://www.aanp.org/advocacy/state/covid-19-state-emergency-response-temporarily-suspended-and-waived-practice-agreement-requirements>; American Association of Nurse Practitioners, “State Practice Environment,” (accessed June 2021), <https://www.aanp.org/advocacy/state/state-practice-environment>.

<sup>9</sup> Kaiser State Health Facts, “Total Number of Nurse Practitioners,” (March 2021), <https://www.kff.org/other/state-indicator/total-number-of-nurse-practitioners/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

<sup>10</sup> Office of the Governor, “Gov. Wolf Urges Senate to Keep Cocktails to go in Place,” (June 2021), <https://www.governor.pa.gov/newsroom/gov-wolf-urges-senate-to-keep-cocktails-to-go-in-place/>.

<sup>11</sup> Distilled Spirits Council, “New Analysis Shows Ready to Drink Cocktail Expansion in Pennsylvania Could Generate More than 148 Million in Tax Revenue to State,” (June 2021), <https://www.distilledspirits.org/news/new-analysis-shows-ready-to-drink-cocktail-expansion-in-pennsylvania-could-generate-more-than-184-million-in-tax-revenue-to-state/>.

<sup>12</sup> Office of Advocacy, “2020 Small Business Profile,” U.S. Small Business Administration, (2019), <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04144152/2020-Small-Business-Economic-Profile-PA.pdf>. This report primarily reflects data collected prior to the pandemic.

<sup>13</sup> “NFIB COVID-19 Survey: Small Business Recovery Working Towards Pre-Crisis Levels,” National Federation of Business, (May 2021), <https://www.nfib.com/content/press-release/coronavirus/nfib-covid-19-survey-small-business-recovery-working-towards-pre-crisis-levels/>.