

Rep. Mazur, Hills. 44  
Rep. Layon, Rock. 13  
Rep. Reinfurt, Hills. 29  
March 12, 2025  
2025-0967h  
05/08

Amendment to HB 701-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Paragraphs; Terminal Patients' Right to Try Act; Definitions of Telehealth Prescreening  
4 and Remote Signing Added. Amend RSA 126-Z:1 by inserting after paragraph III the following new  
5 paragraphs:

6 IV. "Telehealth prescreening" means any remote, real-time discussion intended, in part, to  
7 determine whether a person with a life-threatening disease may be:

8 (a) Ineligible for or not selected to participate in a clinical trial; or

9 (b) Ineligible to receive or not be offered a drug, biologic, or device.

10 V. "Remote signing" means the signing of any form, witnessed by a notary public or a  
11 licensed health care provider, providing written informed consent for a person diagnosed by a  
12 physician with a life-threatening disease to participate in a clinical trial or receive a drug, biologic,  
13 or device, by the patient or, if the patient is a minor or lacks the mental capacity to provide consent,  
14 by a parent or legal guardian on the patient's behalf.

15 VI. "Individualized investigational treatment" means drugs, biologics, or devices unique to  
16 and produced exclusively for use for an individual patient, based on their own genetic profile,  
17 including but not limited to individualized gene therapy antisense oligonucleotides (ASO),  
18 individualized neoantigen vaccines, and any other individualized treatment.

19 VII. "Eligible facility" means an institution that is operating under a Federalwide Assurance  
20 ("FWA") for the Protection of Human Subjects under 42 U.S.C. section 289(a) and 45 C.F.R. part 46.  
21 Any eligible facility is subject to the FWA laws, regulations, policies, and guidelines including  
22 renewals or updates.

23 2 Terminal Patients' Right to Try; Definition of Physician. Amend RSA 126-Z:1, III to read as  
24 follows:

25 III. "Physician" means the licensed *allopathic or osteopathic* physician who is providing  
26 medical care or treatment to the eligible patient for the terminal illness.

27 3 New Paragraph; Terminal Patients' Right to Try Act; Liability of Physician. Amend RSA 126-  
28 Z:3 by inserting after paragraph II the following new paragraph:

29 III. Notwithstanding any provision of law to the contrary, a manufacturer of a drug,  
30 biologic, or device, a pharmacist, a health care facility, a health care provider, or a person or entity

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1 involved in the care of a patient using a drug, biologic, or device is immune from suit for any harm  
2 done to a patient resulting from the drug, biologic, or device if:

3 (a) The person has a life-threatening disease as determined by the person's physician  
4 and a consulting physician;

5 (b) The person's physician has determined that the person has no comparable or  
6 satisfactory United States Food and Drug Administration (FDA) approved treatment options  
7 available to treat the disease or condition involved;

8 (c) The patient has given written informed consent for the use of the drug, biologic, or  
9 device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent  
10 or legal guardian has given written informed consent on the patient's behalf and, if the patient is a  
11 legal adult, the consent is not contrary to the prior documented wishes of the patient; and:

12 (d) The manufacturer, pharmacist, facility, provider, or other person or entity has not  
13 engaged in willful misconduct. "Willful misconduct" shall include any conduct intended to hasten  
14 the death of the patient.

15 (e) The drug, biologic, or device is an individualized investigational treatment,  
16 administered by a health care provider in cooperation with an eligible facility.

17 4 Private Cause of Action. Amend RSA 126-Z:4 to read as follows:

18 126-Z:4 Private Cause of Action.

19 *I.* Nothing in this chapter shall be construed to create a private cause of action against [a  
20 ~~manufacturer of an investigational drug, biologic, or device or against any other person or entity~~  
21 ~~involved in the care of an eligible patient using the investigational drug, biologic, or device for any~~  
22 ~~harm done to the eligible patient resulting from the investigational drug, biologic, or device, if the~~  
23 ~~manufacturer or other person or entity is complying in good faith with the terms of this chapter and~~  
24 ~~has exercised reasonable care] **any person or entity except as specified in paragraph II.**~~

25 *II.* **Notwithstanding any provision of law to the contrary, any patient diagnosed by**  
26 **a physician with a life-threatening disease, and who has been treated, is being treated, or**  
27 **otherwise could be treated in New Hampshire with a drug, biologic, or device, and is**  
28 **affected by a violation of this chapter, or a health care facility or a health care provider**  
29 **involved in the treatment of the patient, shall be entitled to petition the superior court for**  
30 **injunctive relief and reasonable attorney's fees against any regulatory or law enforcement**  
31 **authority that violates this chapter.**

32 5 New Sections; Telehealth Prescreening and Remote Signing. Amend RSA 126-Z by inserting  
33 after section 5 the following new sections:

34 126-Z:6 Telehealth Prescreening.

35 I. Notwithstanding any regulation or provision of law to the contrary, any health care  
36 provider, while physically located in New Hampshire, may conduct a telehealth prescreening with

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1 any patient, in any state or jurisdiction, who has been diagnosed by a physician with a life-  
2 threatening disease.

3 II. No regulatory or law enforcement agency or subdivision shall take action against a  
4 health care facility, a health care provider, or a person or entity involved in the care of a patient for  
5 conducting a telehealth prescreening as defined in this chapter and pursuant to paragraph I.

6 III. A health care facility, a health care provider, or a person or entity involved in the care of  
7 a patient shall be immune from suit to the extent that the suit is based upon a telehealth  
8 prescreening.

9 126-Z:7 Remote Signing.

10 I. Notwithstanding any regulation or provision of law to the contrary, a manufacturer of a  
11 drug, biologic, or device, a pharmacist, a health care facility, a health care provider, or a person or  
12 entity involved in the care of a patient using a drug, biologic, or device may obtain consent to treat a  
13 patient using remote signing as defined in this chapter, provided that the manufacturer, pharmacist,  
14 facility, provider, or other person or entity has an office in the state of New Hampshire and has  
15 conducted a telehealth prescreening pursuant to RSA 126-Z:1, IV. The remote signing shall amount  
16 to full and effective consent for treatment under all applicable laws and regulations.

17 II. No regulatory or law enforcement agency or subdivision shall take action against a health  
18 care facility, a health care provider, or a person or entity involved in the care of a patient for  
19 obtaining patient consent through remote signing, as defined in this chapter, if the provider or  
20 facility has complied with paragraph I.

21 III. A health care facility, a health care provider, or a person or entity involved in the care of  
22 a patient shall be immune from suit to the extent that the suit challenges the validity of a remote  
23 signing to effect lawful consent, provided that the person or entity is complying in good faith with  
24 the terms of this chapter and has not engaged in willful misconduct.

25 126-Z:8 Statutory Construction. The general court enacts this chapter to promote maximum  
26 access by removing barriers in state law and indemnifying those involved in providing potentially  
27 life-saving treatments and treatments to improve the quality of patients' remaining life, to  
28 incentivize health care facilities, health care providers, manufacturers of drugs, biologics and/or  
29 devices, and other persons and entities involved in the care of patients, to treat life-threatening  
30 conditions, whether through company-sponsored clinical trial, single-patient protocol, compassionate  
31 use protocol, or any other means of access to drugs, biologics, and/or devices which gathers  
32 information on patient outcomes, and to make New Hampshire a jurisdiction that attracts and  
33 fosters clinical trials and the development of drugs, biologics, and devices intended to treat life-  
34 threatening conditions. This chapter shall be construed consistently with the general court's stated  
35 purpose.

36 6 Effective Date. This act shall take effect January 1, 2026.