

Amendment to HB 701-FN

1 Amend the bill by replacing section 3 with the following:

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

5 III. Notwithstanding any provision of law to the contrary, a manufacturer of a drug,  
6 biologic, or device, a pharmacist, a health care facility, a health care provider, or a person or entity  
7 involved in the care of a patient using a drug, biologic, or device is immune from suit for any harm  
8 done to a patient resulting from the drug, biologic, or device if:

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

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

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

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

21 (e) If the drug, biologic, or device is an individualized investigational treatment, it is  
22 administered by a health care provider in cooperation with an eligible facility.