Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 1735-FN, permitting treatment of certain severe illness under the right to try act.

Hearing Date: April 1, 2026

Time Opened: 11:16 a.m. **Time Closed**: 11:52 a.m.

Members of the Committee Present: Senators Rochefort, Avard, Prentiss and Long

Members of the Committee Absent: Senator Birdsell

Bill Analysis: This bill permits treatment of certain severe illness under the right to try act.

Sponsors:

Rep. Cole	Rep. Kesselring	Rep. Layon
Rep. Notter	Rep. Reinfurt	Rep. D. McGuire
Rep. Bernardy	Rep. Ulery	Rep. Morton
Sen. Murphy	Sen. Sullivan	Sen. Innis

Who supports the bill: 36 people signed in support of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (sophie.walsh@gc.nh.gov).

Who opposes the bill: 17 people signed in opposition to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (sophie.walsh@gc.nh.gov).

Who is neutral on the bill: No one.

Summary of testimony presented:

Representative Brian Cole, Hillsborough – District 26

- Representative Cole stated that this bill is intended to clarify and expand the scope of the Right to Try framework.
- RSA 126-Z, the Right to Try Act, makes New Hampshire the best legal jurisdiction in the country for access to experimental treatments for people with life threatening illnesses.
- New Hampshire is already seeing economic growth. Biotech companies represent the innovation and growth that we want to bring into New

Hampshire. Representative Cole noted that he has been in touch with a large biotech company looking for space in Manchester.

- New Hampshire could recreate its entire current gross domestic product by establishing a United States-based hub for experimental biotech. Conservative estimates find that the state stands to attract tens of billions in business for New Hampshire, with other estimates as high as $125 billion per year.
- This bill cleans up and expands the existing Right to Try framework. It incorporates housekeeping changes to make the law easier for innovators to understand and expands protections to people with chronic and debilitating conditions using a definition taken from FDA regulations.
- Representative Cole explained that EpiBone is a biotech company doing innovative research in the state. They use bioreactors to grow grafts of bone or cartilage from a patient's own stem cells, allowing people with grave deformities and injuries to resume a normal quality of life. There is no feasible legal framework for EpiBone's business in any state except Florida.
- Businesses are actively migrating to Montana and Florida because these states have created workable alternatives to existing federal regulatory pathways.
- Right to Try has created a great deal of interest in New Hampshire, but there remains no special protections for gene therapies, grafts, and other treatments for people with debilitating conditions.
- This bill represents a well thought out plan and opportunity for New Hampshire to revolutionize the quality of life for citizens and those that come to New Hampshire for treatment.

Representative Lucy Weber, Cheshire – District 5

- Representative Weber explained that this bill removes all of the guardrails put in place for the protection of terminally ill patients in the Right to Try Act.
- This opens up a great deal of potential for abuse, as there will no longer be a requirement that patients try or not be eligible for FDA-approved treatments.
- There appears to be no requirement for informed consent, as it was struck out of the language.
- This also allows physicians providing access to by paid by both the manufacturer and the patient.
- The bill also appears to remove the requirement for a successful Phase I trial.
- Representative Weber referenced the definitions section on page 2 of the bill and described the definition of "qualifying severe illness" as an issue. If the intent is to use the federal definition, the drafted definition could be struck and replaced with "for purposes of this section, severely debilitating means diseases or conditions that cause major irreversible morbidity."
- Representative Weber emphasized that this bill limits accountability and potentially preys on vulnerable patients.

- Senator Avard asked Representative Weber to share her suggested language with the Committee, and she agreed.

Representative Janet Lucas, Grafton – District 7

- Representative Lucas emphasized the potential for double-dipping in the bill. Physicians employed by experimental treatment centers would not only be paid for providing access to care, but also potentially by the manufacturer of the treatment device or biologic.
- The American Medical Association (AMA) considers it unethical for physicians to accept payment for referring patients to research studies.
- This bill would also prevent disciplinary action from a state medical board for participating in double-dipping.
- If enacted, experimental treatment center physicians would be allowed to offer telemedicine services to any patient diagnosed by a physician with a terminal or qualifying severe illness in any state or jurisdiction. New Hampshire would thus be charged with developing and enforcing a parallel system of regulations, which may potentially be incompatible with the FDA and beyond the reach of legal action by other states and jurisdictions.
- Senator Avard asked where double-dipping is referenced in the bill.
- Senator Prentiss noted page 2 line 23 and Representative Lucas emphasized that she is concerned it would encourage the practice of double-dipping, for which there are ethical reasons why it should not happen.
- Senator Avard asked if Representative Lucas is familiar with informed consent being removed. She confirmed and referenced page 1 line 13 of the bill.

Aydin Gokce

- Mr. Gokce stated that he is speaking in support of the bill.
- His company has a similar process to IVF that installs and corrects genetic variants that cause debilitating and chronic genetic disease. Based on genetic sequencing, one can be sure that a child is guaranteed to have a debilitating genetic disease. At this stage they are not yet suffering or considered terminal, but once they are born it is too late.
- Mr. Gokce emphasized that this is a step in the right direction.
- Last year's HB 701 is not defensible for Mr. Gokce's patients. They should have options to prevent genetically guaranteed disease without having to wait until they are on their deathbed.

Aubrey Freedman

- Mr. Freedman stated that he is speaking in support of the bill.
- He questioned why suffering patients who are not yet terminally ill do not have the same chance to get a better quality of life as terminally ill patients do.

- He emphasized that doctors working with their patients should be the one to decide on offering a not-yet FDA approved treatment to a patient when there is no medically comparable alternatives available.
- He questioned what is wrong with a patient paying for treatment if they have the means and desire to do so. He emphasized that patients should be able to decide what they want to do.
- Senator Avard asked if Mr. Freedman would be amenable to including informed consent, and he agreed it should be included.

Nancy Biederman

- While most rare diseases are not labeled as fatal, they do have fatal comorbidities. As the parent of a child with a rare disease, these possibilities are always on Ms. Biederman's mind.
- Many rare diseases are not diagnosed for over 10 years. Treatments and procedures during this process can cause lifelong, chronic illness or lead to death.
- Ms. Biederman agreed that informed consent should be included in the bill.
- Ms. Biederman explained that advancements in Type 1 Diabetes treatment is being held up in the United States, while other countries are finding a cure.

Maura Weston, New Hampshire Medical Society

- Ms. Weston stated that she is speaking in opposition to the bill.
- The shift proposed by this bill may give patients false hope, open doors to drugs that have not completed rigorous testing, and lead to exploitation by charging patients potentially high costs for potentially ineffective or dangerous treatments.
- Ms. Weston referenced 126-Z:2, relevant to manufacturers being able to both manufacture and provide drugs and devices, noting that it is problematic.
- Ms. Weston referenced 126-Z:3 and emphasized it is problematic, as it removes liability and the authority of the Board of Medicine.
- The New Hampshire Medical Society takes the importance of informed consent seriously. Ms. Weston questioned if informed consent can be truly obtained when this form of treatment is being sought.
- Ms. Weston expressed concern about this potentially undermining the timely accumulation of data, emphasizing the importance of data in clinical trials to prove effectiveness.
- Ms. Weston noted that there appears to be no process in place for the collection of information on outcomes and adverse events.
- Ms. Weston's opposition to this bill is supported by her opposition to HB 1734-FN and HB 1735-FN. When taken together, these bills throw open the gates for an alternative health care regime with no guardrails in place.

Attorney Gretchen Wade, Granite Bio Innovation

- Ms. Wade referenced page 3 lines 25-28 and pointed out that the informed consent piece is included.
- Senator Long referenced the informed consent piece on page 1, noting that "investigational drug" and "biological product" were omitted.
- Ms. Wade said she believes that was purposeful, as this is expanding beyond just investigational treatment. That definition was deleted to help clarify that intent.
- Senator Long asked if it is Ms. Wade's opinion that this is a benefit to the patient, and she confirmed for the patients who would like to advocate for themselves.
- Senator Long inquired about this being helpful for patients understanding "investigational drug" or "biological product."
- Ms. Wade explained that would be a conversation between a patient and their provider and whoever they would be referred to in the biotech community. She emphasized that patients know what they need treatment for, and this is just broadening that scope.
- Senator Avard referenced page 1 lines 17-18 and noted that previous testimony spoke of an ethical issue with double-dipping.
- Ms. Wade explained that there are still anti-kickback statutes in place on the federal level with strict regulations.
- Ms. Wade noted that patients currently have the relatively high burden of bringing medical malpractice cases against providers. She said she knows there were conversations about an immunity provision and what it would do for patients, emphasizing that the burden would not change under this bill.

Trey Goff, Blueprint for America

- Mr. Goff told a personal story about his mother's cystic fibrosis diagnosis and treatment journey. Had this legislation been in place, she could have accessed a life-changing treatment much earlier, potentially retaining up to 20% of the lung function that she lost while waiting for treatment to complete clinical trials.
- He emphasized that there is a profound human impact, as treating patients earlier preserves a longer health span and higher quality of life.

The public hearing for HB 1735-FN was recessed to April 2nd at 2:45 P.M.

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Date Hearing Report completed: April 9, 2026