

SB 640-FN - AS AMENDED BY THE SENATE

03/12/2026 1051s

2026 SESSION

26-2088

09/08

SENATE BILL **640-FN**

AN ACT relative to the use of artificial intelligence to provide services requiring a professional license.

SPONSORS: Sen. Pearl, Dist 17; Sen. Lang, Dist 2; Sen. Gannon, Dist 23; Sen. Watters, Dist 4; Sen. Avard, Dist 12; Sen. Rosenwald, Dist 13; Sen. McGough, Dist 11; Sen. Perkins Kwoka, Dist 21; Sen. Murphy, Dist 16; Sen. Innis, Dist 7; Sen. Birdsell, Dist 19; Rep. Moffett, Merr. 4; Rep. Schmidt, Straf. 14

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill:

I. Prohibits the use of artificial intelligence or other means to provide services requiring a professional license unless those services are provided by someone with such a license.

II. Allows the office of professional licensure and certification to collect fees for the costs of enforcement of the prohibition on unlicensed practice.

III. Establishes specific requirements for the use of artificial intelligence for psychologists, mental health practitioners, and alcohol and other drug use professionals.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the use of artificial intelligence to provide services requiring a professional license.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Office of Professional Licensure and Certification; Unlicensed Practice. RSA 310:13 is
2 repealed and reenacted to read as follows:

3 310:13 Unlicensed Practice; Use of Artificial Intelligence.

4 I. Whoever, including but not limited to individuals and entities, not being licensed or
5 otherwise authorized to practice according to the laws of this state, advertises oneself as engaging in
6 a profession licensed by the office of professional licensure and certification, engages in activity
7 requiring professional licensure, or in any way holds oneself out as qualified to do so, or calls oneself
8 a licensed professional, or provides goods or services requiring professional licensure, or whoever
9 does such acts after receiving notice that such person's license to practice has been suspended or
10 revoked, is engaged in unlawful practice. The office may, for purposes of verifying licensure, request
11 to see the license of anyone who advertises oneself as engaging in a profession licensed by the office,
12 engages in activity requiring professional licensure, or in any way holds oneself out as qualified to do
13 so, or calls oneself a licensed professional, or whoever does such acts after receiving notice that such
14 person's license to practice has been suspended or revoked, at the place of business, or where such
15 business is being conducted, of such individual. After providing notice and opportunity to be heard
16 in accordance with RSA 310:10, and upon making an affirmative finding of unlawful practice, the
17 office shall impose a civil penalty of \$10,000 per violation. Each violation of unlicensed or unlawful
18 practice shall be deemed a separate offense. The board, the attorney general, or a prosecuting
19 attorney of any county or municipality where the act of unlawful practice takes place may maintain
20 an action to enjoin any person or entity from continuing to do acts of unlawful practice. The action
21 to enjoin shall not replace any other civil, criminal, or regulatory remedy. An injunction without
22 bond is available to any board.

23 II. For any order issued in resolution of a disciplinary proceeding by the board, where the
24 board has found unlawful practice, the board may require the respondent who is the subject of such
25 finding to pay the office the reasonable cost of investigation and prosecution of the proceeding, but
26 which shall not exceed \$10,000. This sum may be imposed in addition to any otherwise authorized
27 administrative fines levied by the board as part of the penalty. The investigative and prosecution
28 costs shall be assessed by the office and any sums recovered shall be credited to the office's fund and
29 disbursed by the office for any future investigations of complaints and activities that violate this
30 chapter or rules adopted under this chapter.

1 III. No individual, corporation, or other entity or person may provide, advertise, or otherwise
2 offer mental health services requiring professional licensure to the public in this state through
3 artificial intelligence unless those services are provided by a New Hampshire licensed mental health
4 professional. Artificial intelligence shall not independently provide therapeutic communication
5 directly to a client without the involvement of a New Hampshire licensed mental health professional.
6 This paragraph does not preclude a New Hampshire licensed mental health professional, operating
7 within their scope of practice, from utilizing FDA-authorized and/or HIPPA compliant artificial
8 intelligence tools for a client under their care provided the New Hampshire licensed professional
9 exercises due diligence.

10 IV.(a) For the purposes of this paragraph:

11 (1) "Artificial intelligence" means any computer-based system, software, or
12 algorithm designed to perform tasks that typically require human cognitive functions, including but
13 not limited to natural language processing, pattern recognition, decision-making, or predictive
14 analytics.

15 (2) "Licensed professional" means a person holding a valid license in this state, or
16 through a license compact, to provide therapy or psychotherapy services.

17 (3) "Peer support" means nonclinical services provided by individuals with lived
18 experience of mental health conditions or recovery from substance use disorders, intended to offer
19 encouragement, understanding, and guidance without clinical intervention.

20 (4) "Religious counseling" means faith-based counseling provided by clergy, pastoral
21 counselors, or other religious leaders acting within the scope of their religious duties, provided the
22 services are not represented as clinical therapy or psychotherapy.

23 (5) "Therapeutic communication" means any verbal, nonverbal, or written
24 interaction intended to diagnose, treat, or address an individual's mental, emotional, or behavioral
25 health concerns, including but not limited to:

26 (i) Direct interactions with clients for the purpose of understanding or
27 reflecting their thoughts, emotions, or experiences.

28 (ii) Providing guidance, therapeutic strategies, or interventions designed to
29 achieve mental health outcomes.

30 (iii) Offering emotional support, reassurance, or empathy in response to
31 psychological distress.

32 (iv) Collaborating with clients to develop or modify treatment plans or
33 therapeutic goals.

34 (v) Delivering behavioral feedback intended to promote psychological growth
35 or address mental health conditions.

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1 (6) "Therapy or psychotherapy services" means services provided to diagnose, treat,
2 or improve an individual's mental health or behavioral health, but does not include religious
3 counseling or peer support.

4 (b) No person, corporation, or entity may provide, advertise, or otherwise offer therapy
5 or psychotherapy services or therapeutic communication, including through Internet-based artificial
6 intelligence, to the public in this state unless those services are provided by a New Hampshire
7 licensed mental health professional.

8 (c) This paragraph does not apply to:

9 (1) Religious counseling; or

10 (2) Peer support.

11 V.(a) A commission is established to continue reviewing the implementation of this section
12 to better understand the impacts of this section.

13 (b) Notwithstanding RSA 14:49, the commission shall be comprised of:

14 (1) Two members of the senate, appointed by the president of the senate.

15 (2) Three members of the house of representatives, appointed by the speaker of the
16 house of representatives.

17 (3) A member appointed by the National Association of Social Workers New
18 Hampshire.

19 (4) A member appointed by the American Association of Marriage and Family
20 Therapy.

21 (5) A member appointed by the New Hampshire Psychological Association.

22 (6) A member appointed by the New Hampshire Community Behavioral Health
23 Association.

24 (c) Legislative members of the commission shall receive mileage at the legislative rate
25 when attending to the duties of the commission.

26 (d) The commission shall review the implementation of the policy changes induced by
27 this section to better understand the impacts.

28 (e) The members of the study commission shall elect a chairperson from among the
29 members. The first meeting of the commission shall be called by the first-named senate member.
30 The first meeting of the commission shall be held within 30 days of the effective date of this section.
31 Five members of the commission shall constitute a quorum.

32 (f) The commission shall report its findings and any recommendations for proposed
33 legislation to the speaker of the house of representatives, the president of the senate, the house
34 clerk, the senate clerk, the governor, and the state library on or before November 1, 2026.

35 2 Repeal. RSA 310:13, V, relative to commission to study the implementation of the section, is
36 repealed.

37 3 Effective Date.

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- 1 I. Section 2 of this act shall take effect November 1, 2026.
- 2 II. The remainder of this act shall take effect upon its passage.

LBA
26-2088
3/18/26

SB 640-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2026-1051s)

AN ACT relative to the use of artificial intelligence to provide services requiring a professional license.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2026 through 2029.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification