

Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 679, relative to immunization requirements.

Hearing Date: April 9, 2025

Time Opened: 10:13 a.m.

Time Closed: 11:37 a.m.

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

Members of the Committee Absent: None

Bill Analysis: This bill provides that no childhood immunization requirement shall require a vaccine that has not been shown in clinical trials to prevent transmission of any disease.

Sponsors:

Rep. Potenza

Rep. Belcher

Rep. Comtois

Rep. Kofalt

Rep. Polozov

Rep. Wherry

Rep. Drago

Rep. Terry

Sen. Murphy

Who supports the bill: 252 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: 760 people signed in opposition of 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 signed in neutral to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Summary of testimony presented:

Representative Kelley Potenza, Strafford – District 19

- Representative Potenza explained that New Hampshire has a list of state-mandated vaccines on the childhood schedule, and many of them do not prevent transmission.
- She explained that polio, Haemophilus influenzae type b (Hib), and diphtheria, tetanus, pertussis (DTaP) are the vaccines that do not provide a community benefit.

- Representative Potenza explained that the argument against mandating vaccines on the childhood schedule revolves around several points:
- There is a lack of public health justification. The primary justification of vaccine mandates is to prevent the spread of infectious diseases and to protect the broader community.
- When a vaccine primarily protects an individual rather than reducing community spread, the decision to vaccinate should be left to parents and guardians.
- Mandating a medical intervention, especially for children, raises ethical concerns when the intervention does not provide a community benefit.
- Even the most well-tested vaccines can have side effects, and if they do not prevent transmission, the argument for mandating them is further weakened.
- Mandating vaccines that do not clearly contribute to herd immunity can undermine trust in public health authorities and future vaccine programs.
- If a vaccine does not prevent spread, other strategies may be more appropriate.
- Representative Potenza acknowledged concerns about this resulting in less vaccine uptake and explained these concerns are not true because state law mandates do not impact access.
- They don't change the way that providers recommend vaccines to their patients, as they follow the Centers for Disease Control and Prevention (CDC) schedule.
- Representative Potenza stated that transparency and voluntary participation encourages greater long-term trust.
- She cited the Polio Global Eradication Initiative, which reports that the inactivated polio vaccine (IPV) does not stop transmission of the virus.
- She addressed tetanus and explained that this is not a contagious disease. She noted that it is not currently an option to receive the tetanus vaccine alone, as it is in a combined shot.
- She referenced an article submitted to the Committee on pertussis that finds the whole-cell vaccine is protective only against the clinical disease and not the infection.
- Representative Potenza stated that she believes we can change our schedule in regards to what is mandated by the State by bringing it down from 9 vaccines to 6. She emphasized that this does not change anything because the Department of Health and Human Services (DHHS) and everything is following the CDC schedule.

Representative Yury Polozov, Merrimack – District 10

- Representative Polozov stated that he is a member of the House Health, Human Services, and Elderly Affairs Committee.

- He stated that public immunization was introduced for public good, and public good is based on transmission. He noted that previous challenges to vaccine mandates were based on whether transmission has stopped.
- Representative Polozov emphasized that passing this bill would put New Hampshire in a better legal situation.
- He acknowledged concerns about potentially lowering vaccine uptake and emphasized that mandating vaccines that do not prevent transmission erodes public trust.

Jerry Knirk, Former Representative of Carroll – District 3

- Dr. Knirk stated that he is a retired State Representative and orthopedic spine surgeon.
- He stated this could have a significant impact on vaccine-preventable diseases.
- He expressed concern about the language “prevent transmission” and questioned if this means prevents 100% of transmission or significantly diminishes transmission.
- Dr. Knirk emphasized nothing in medicine works 100% of the time. Furthermore, some vaccines work by preventing severe disease, rather than stopping transmission.
- Dr. Knirk addressed the impacts of this bill on polio and explained that before the vaccination came out, it was a feared disease and major cause of disability in children.
- The first polio vaccine was the inactivated polio vaccine (IPV), and the oral polio vaccine (OPV) came out later. Polio rapidly decreased and was eliminated from the country by 1979.
- Dr. Knirk explained the difference in how these vaccines work and noted that under this bill, IPV would not be required even though it is the superior vaccine that is used in this country.
- He emphasized that polio is one short plane ride away, and in order to adequately protect children we must require IPV even though it does not prevent transmission.

Larisa Trexler

- Ms. Trexler stated that she is a registered nurse speaking in support of this bill. She provided testimony on behalf of Risa Evans, Esq.
- While some people see the right of bodily autonomy as absolute, even people who take a less strict view may agree that as a matter of ethics, a state should not mandate an intervention like a vaccine unless it is safe, necessary to stopping the spread of a dangerous disease that poses a threat to public health, and prevents transmission of that disease.

- Ms. Trexler emphasized that limiting mandates to vaccines that prevent disease makes sense as both a matter of ethics and law.
- She explained that the U.S. Supreme Court case on vaccine mandates, *Jacobson v. Massachusetts*, suggests that the constitution prohibits vaccine mandates unless the required vaccine stops the transmission of a dangerous disease that poses a threat to public health.
- Senator Rochefort asked Ms. Trexler to describe how drugs get approved.
- Ms. Trexler said Risa Evans, Esq. could answer via email.

Laura Condon

- Ms. Condon stated that she is speaking in support of this bill.
- She explained that the State must have a public welfare basis for imposing a medical mandate. Preventing the spread of disease is the public benefit on which vaccine mandates are based.
- In ensuring that there is a public welfare benefit, a vaccine must actually be shown to prevent the spread of disease. Ms. Condon emphasized that if a vaccine does not do this, it is unethical and likely unconstitutional to impose this requirement on children.
- She explained that while these vaccines may be therapeutic and reduce symptoms, it should be a clinical decision between parents and doctors in those cases.
- Ms. Condon stated that vaccines carry the risk of illness, disability, and death. She referenced the 1986 Childhood Vaccine Injury Act and explained that these are not products that manufacturers are willing to stand behind as safe and effective. The risk is borne by children and their parents.
- Ms. Condon explained that the COVID pandemic raised awareness in the public to the misrepresentations of what a vaccine would or would not do. Passing this bill will ensure that parents once again trust recommendations from public health authorities.

Maggie Graul

- Ms. Graul stated that she is a practicing epidemiologist.
- She agrees with the intent of the bill to promote community benefit, but emphasized that because vaccines are developed to fight viruses and bacteria that are constantly changing, it is not realistic to require complete prevention of transmission.
- Ms. Graul said there is still a community benefit from the vaccines on the schedule.
- She explained that she currently has a 3-year-old daughter who attends an early childhood center. Ms. Graul serves as president on that board, and has

talked with others who have expressed concern that changing the schedule could potentially impact access to certain federal funding.

- Senator Long asked if the Child Care and Development Block Grant specifically requires the 9 mandated vaccines.
- Ms. Graul said it does not, but there is requirements for that community benefit of preventing disease within the early childhood population. She is worried that the wording of the bill about preventing transmission is going to impact certain grants.

Cathy Stratton, New Hampshire Medical Society

- Ms. Stratton stated that she is speaking in opposition to this bill.
- New Hampshire Medical Society's members have serious concerns about the impact of this bill.
- Ms. Stratton explained that while the bill's sponsor has clarified which immunizations the bill is targeting, the ambiguity in the bill itself makes it difficult to assess the specific impacts that this would have on public health.
- She emphasized that the potential impact would be significant, putting children and vulnerable populations at risk while increasing healthcare costs, lost school time, and lost wages for families.
- Ms. Stratton said it is important to remember that no vaccine is 100% effective in preventing the transmission of disease, however, vaccines are highly effective at preventing illness and reducing long-term effects associated with preventable diseases.
- She emphasized that the health benefits and cost savings associated with these public health measures are clear and undeniable.

Gary Sobelson, MD

- Dr. Sobelson stated that he is a family physician and a former president of the New Hampshire Medical Society. He is speaking in opposition to this bill.
- He explained that the bill's language misconstrues the scientific basis for vaccine development and disease prevention, posing a meaningful threat to his patients and children across the state.
- He said the argument that vaccines have not been proven to reduce transmissibility flies in the face of the pathophysiology of diseases such as polio, pertussis, and diphtheria.
- Dr. Sobelson emphasized that bills like this will reduce the effectiveness of our vaccine programs that depend on both the safety and efficacy of vaccines, as well as preventing transmissibility whether it has been demonstrated in clinical trials or not.

- He explained that we know mandates work, as the efficacy of getting the influenza and HPV vaccinations into the pediatric population is much lower due to the lack of mandate.
- Senator Rochefort asked when Dr. Sobelson last treated Hib.
- Dr. Sobelson said he believes the vaccine came out in the 1990's, so he treated it for approximately the first 15 years of his career. He treated many cases and while he did not see any deaths, he had many children hospitalized with life-threatening illnesses. He has not seen a case of Hib since the vaccine was mandated.
- Senator Birdsell asked why the tetanus shot cannot be given alone.
- Dr. Sobelson said he is not sure, but he suspects there is a scientific reason. He noted that in some situations, a tetanus toxoid can be given alone.
- Senator Avarad confirmed that this bill is only saying these vaccines are not required, not that they cannot be given. Dr. Sobelson agreed.
- Senator Rochefort inquired about the necessary standards to be met for drug approval, noting that while there is safety and efficacy, transmission is not a part of that approval.
- Dr. Sobelson said he believes transmission is part of efficacy. While there are times when transmissibility may be very evident, there are others when it is much harder to prove.
- He emphasized that transmission is an important part of efficacy, but it is not the whole story. Efficacy can be defined by other obvious things that are important.
- Senator Rochefort inquired about the definition of efficacy and noted that it can sometimes take a while to determine efficacy.
- Dr. Sobelson agreed and emphasized that transmissibility is multi-factorial. He referenced the Ebola vaccine as an example, noting Ebola has a 50% fatality rate in exposed populations. Dr. Sobelson thinks that a vaccine reducing that rate by 10-15% would have a large impact on the population. However, when compared with a less fatal disease such as influenza, that decrease creates less impact to make it a mandatory vaccine.
- Dr. Sobelson emphasized that this is why this bill is potentially dangerous, as it opens up a very specific definition into an area where there is a great deal of nuance.

Kim Danis, New Hampshire Nurses Association

- Ms. Danis stated that she is speaking in opposition to this bill as a registered nurse.
- She explained that the language of this bill is open to broad interpretation, as it does not clearly define which vaccines would be excluded from the requirements or specify what the threshold of evidence is.

- While some vaccine trials do not have all of the information on transmission, we are continuously stepping this out in the real world. Once these vaccines start to be distributed, the impacts become visible. Ms. Danis used polio as an example and noted that we no longer see this disease.
- She emphasized that it is important to remember that when people are immune, it is hard to spread disease. This helps protect people who cannot be vaccinated.

Carlene Ferrier, New Hampshire Nurses Association

- Ms. Ferrier stated that she has been a nurse for over 36 years, and she has witnessed the societal benefits of childhood vaccination in preventing disease and death.
- She explained that over the course of their lifetime, U.S. children born between 1994 and 2018 who are vaccinated according to the recommended immunization schedule will prevent 419 million illnesses, 26.8 million hospitalizations, and 93,000 deaths.
- Ms. Ferrier said research shows that loosening childhood vaccination requirements for school will decrease vaccination rates.
- She emphasized that the New Hampshire healthcare system is already overburdened and questioned how much worse it will get if this were to happen.
- She stated that New Hampshire does not want the distinction as the only state with no school vaccination requirements.
- Senator Long asked if there is a current waiver for any of the mandated vaccines.
- Ms. Ferrier confirmed and explained that people can seek medical or religious exemption.

Kate Frey and Trina Ingelfinger, New Futures

- Ms. Frey stated that they are speaking in opposition to this bill from both a public health perspective and with concerns for childcare federal funding.
- She noted that existing statute allows for medical and religious exemptions, balancing public health protections with individual need.
- She said this bill would jeopardize New Hampshire's eligibility for the Child Care and Development Block Grant, as the Department must ensure that participants comply with immunization requirements that incorporate the latest recommendations for childhood immunizations by the State public health agency.
- She emphasized that approximately \$30 million in funds are at risk.
- Ms. Ingelfinger addressed Senator Long's earlier question and explained that the standard "prevent transmission of disease" is too narrow to meet the federal Child Care Development Fund immunization requirements.

- She noted that the Child Care Development Fund standard addresses both prevention and control of disease.
- Senator Rochefort said that to him, prevention and control sound in line with the standard that the drug must meet for safety and efficacy to be approved by the FDA, and Ms. Frey and Ms. Ingelfinger agreed.
- Senator Rochefort confirmed that we are at risk of losing \$30 million in federal funding and Ms. Frey and Ms. Ingelfinger confirmed, noting that for the biennium it would be approximately \$60 million.

Pam DiNapoli, New Hampshire School Nurses Association

- Ms. DiNapoli stated that she is speaking in opposition to this bill.
- She said evidence shows that if greater than 95% of a community is vaccinated, a sufficient percentage of the population will be immune and thus reduce the likelihood of infection in those who are not immune.
- Ms. DiNapoli explained that if a vaccine requirement were eliminated based on this vague definition, we can expect an increase in childhood vaccine-preventable infection rates.
- She acknowledged this would not preclude the elective use of vaccines, but the threshold will be severely compromised.
- Ms. DiNapoli emphasized that removing the applicability of New Hampshire's school vaccination requirements for vaccines without clinical trial evidence of preventing disease transmission would effectively eliminate the state's school vaccination requirements.

Amy Watson, MD

- Dr. Watson stated that she is a pediatrician speaking in opposition to this bill.
- She said this bill is not grounded in sound medical science and would harm children and communities.
- She referenced previous comments about the whole-cell DTaP vaccine and explained that this vaccine has not been in use since 1996 and has been replaced due to side effects. She believes this shows a general misunderstanding of vaccines and the science in general.
- Dr. Watson emphasized that vaccines are not designed to completely prevent transmission, but rather to reduce suffering, prevent severe illness, hospitalizations, and deaths. She said the fact that they reduce spread is a valuable bonus.
- Dr. Watson explained that vaccines do not need to 100% stop infections to be lifesaving, citing that she has never seen a case of Hib as a younger physician.
- She emphasized that if this bill were to become law, we would be setting policy based on a flawed premise.

- She said we are already seeing the consequences of this thinking around the country, noting that we are seeing diseases once gone coming back. She emphasized that this is not because vaccines failed, but because we failed to use them.
- Senator Avard asked what side effects were of the whole-cell DTaP vaccine.
- Dr. Watson explained that it caused more febrile seizures and there were cases of encephalopathy. She said this was replaced with an acellular version that is less immunogenic and caused less of those side effects.
- Senator Avard asked if this vaccine was mandated.
- Dr. Watson said she is not sure, but it probably was in the 1990's.
- Senator Avard asked if there is a list of side effects for vaccines that are currently mandated.
- Dr. Watson confirmed and explained that for every administered vaccine it is required that the parents are given a vaccine information statement provided by the CDC.
- Senator Rochefort referenced Hib and said he would imagine that because physicians are not seeing this anymore, it may not be in their normal scope to treat it properly.
- Dr. Watson agreed and said it is essentially out of their wheelhouse.
- Senator Rochefort asked if Dr. Watson has treated diseases such as polio, diphtheria, tetanus, rubeola, rubella, or mumps.
- Dr. Watson said she has never treated any of those diseases aside from mumps, as she had one patient who was an international traveler.
- Senator Rochefort asked if it would be safe to conjecture that vaccines are effective in preventing transmission if we are getting these vaccines and not seeing the transmission of these diseases.
- Dr. Watson said she believes so.
- Senator Avard confirmed that this is not preventing people from getting these vaccines, and Dr. Watson confirmed.
- Senator Avard explained that there is a feeling that the country was duped with COVID, and he believes this is probably the push behind this effort.
- Dr. Watson said she understands and emphasized that trust in the medical community has been shaken. She explained that COVID vaccine aside, this should not negate the decades of safety and efficacy behind these vaccinations.

Amanda Morrill, New Hampshire Pharmacists Association

- Dr. Morrill stated that she is speaking in opposition to this bill.
- She explained that there used to be a solo tetanus vaccine, but it was discontinued years ago for a combined shot to have the opportunity to protect against more diseases in less shots. She believes the tetanus alone is still available in other countries, but it is not manufactured in the United States.

- Dr. Morrill stated that vaccines go through a series of phase I-III clinical trials to ensure safety and efficacy. Most of these trials use disease-oriented outcomes, meaning that the level of antibody response to the vaccine is assessed.
- She said the reason there are less studies on transmission and more on antibody response is because antibody response can be measured with a randomized control trial. She emphasized this is the gold standard of trial design.
- Dr. Morrill said the wording of this bill is widely open to interpretation and not in line with evidence-based medicine standards.

Julie Kim, MD, New Hampshire Chapter of the American Academy of Pediatrics

- Dr. Kim stated that she is a pediatric oncologist and the president of the American Academy of Pediatrics' New Hampshire Chapter.
- She agreed with prior testimony given opposing the bill and emphasized that this will change the standardly accepted scientific definition of the efficacy of a vaccine. This would make New Hampshire the first and only state in the country to disregard this standard.
- Dr. Kim emphasized that there are reasons behind this scientific standard, and it was experts who put this together.
- Dr. Kim echoed concerns about the potential risks to the Child Care Development Block Grant and said we would not qualify if we change our vaccine policies.
- Senator Avard emphasized his concerns about the COVID pandemic and its impact. He asked if there is anything in this bill that would prevent doctors from encouraging the vaccinations to their patients and parents.
- Dr. Kim stated that while they can still have that conversation, introducing confusion and increasing hesitancy in parents by challenging some immunizations is not good for the child or public health.
- Senator Long asked if Dr. Kim believes that the number of children getting these vaccines would be reduced, even if they can still have that conversation with parents.
- Dr. Kim said she thinks it may, as studies have shown that any time there is a challenge to vaccines, it does decrease vaccine uptake.

Hon. Betty Gay

- Ms. Gay stated that she is speaking in support of this bill.
- She is not opposed to parents having the right to choose whatever vaccines they want for their children.
- She explained that when she was a child, there were about 5 mandated vaccines to go to first grade. Her children took several more, and today they are recommending over 78 vaccines in combinations.

- Ms. Gay noted that the promise of mandating vaccines is to protect other children and questioned why everyone is mandated when it is really the responsibility of parents to protect their children.
- Ms. Gay addressed clinical trials and explained that while we may like to think childhood vaccinations are tested, results are not necessarily compared to a proper baseline.

Dr. Ben Chan and Colleen Smith, Department of Health and Human Services

- Dr. Chan introduced himself as the State Epidemiologist and Ms. Smith introduced herself as the Chief for the Bureau of Infectious Disease Control. They are speaking in opposition to this bill.
- Dr. Chan described the bill as ambiguous, noting that the intent is unclear regarding which vaccines would be targeted for exclusion from school and childcare requirements.
- He said the threshold that vaccines need to meet to be considered effective at preventing transmission is unclear as well.
- According to the Department's interpretation, they believe this bill will likely prevent them from requiring most, if not all, of the currently listed vaccines for enrollment in childcare and school.
- Dr. Chan explained that the typically studied end points in clinical trials are prevention of symptomatic disease and bad outcomes, such as hospitalization or death.
- He emphasized that even if transmission is not specifically studied in a formal clinical trial, most vaccines do prevent transmission of disease to some varying degree.
- He cited the measles vaccines as an example. While it is one of the most effective vaccines, people that are fully vaccinated can still rarely get the disease and transmit it to other people.
- Dr. Chan stated that even if a vaccine is not 100% effective in preventing disease or transmission, high vaccination rates in schools and childcare facilities are important and effective in preventing outbreaks and keeping staff and children healthy.
- Senator Rochefort referenced the threshold of evidence and asked if it would be fair to say that when Dr. Chan evaluates something as the State Epidemiologist that he only looks at one study.
- Dr. Chan said it would not. He explained that when a vaccine gets licensed and recommended medically, the process primarily looks at the clinical endpoints of preventing symptomatic disease or preventing hospitalizations and death. Those are the formal clinical trials that are required for a vaccine to get approved and recommended, but over time vaccines get studied in other ways as well.

- Senator Rochefort asked Dr. Chan if he agrees that if Senator Rochefort hypothetically wanted to find a study for anything and looked hard enough, he could find the outcome that he wants to see.
- Dr. Chan agreed and explained that when they assess vaccine safety and efficacy, they are assessing the whole of evidence.
- Senator Prentiss referenced lines 3-4 of the bill and asked how this would be implemented by the Department and who would be making those decisions.
- Dr. Chan agreed that this is part of the lack in clarity. He said it is not ultimately clear how or who would make that decision, but lawyers would have to be involved.
- Senator Prentiss referenced pertussis and noted that we have had outbreaks of whooping cough. She asked if DTaP is the primary tool in preventing the transmission of pertussis.
- Dr. Chan said that is correct. The vaccine is 80-85% effective in preventing more severe forms of pertussis, but it is possible that vaccinated people can develop more mild illness. Once identified, antibiotics can be used to stop the spread.
- He emphasized that this combination of tools is important, and it starts with ensuring high vaccination rates.
- Senator Prentiss noted that DTaP is a combined shot and asked if there is a standalone version.
- Dr. Chan said there is not, and he believes part of the reason is these are vaccines that require some periodic boosting, so it makes sense to combine them from a pharmacology standpoint.
- Ms. Smith referenced comments made about it being difficult to get the tetanus vaccine alone and noted that there was a shortage that has since been remedied.

Karen Hebert, Department of Health and Human Services

- Ms. Hebert stated that she is the Director of the Division of Economic Stability at DHHS. She is speaking in opposition to this bill.
- The state is currently receiving approximately \$40.1 million in federal funding for childcare subsidy.
- This funding is conditioned on federal regulations that require that the State certify that its law or other requirements are designed to protect the health and safety of children, and to certify that state law requires that children receive services under the childcare and development fund that are age appropriate based on recommendations from public health authorities.
- Ms. Hebert stated that this language puts receipt of the expected \$80 million in funding in the next biennium at risk.

Tory Shaheen, New Hampshire Families for Vaccines

- Ms. Shaheen stated that she is speaking in opposition to this bill.

- Vaccines are rigorously tested in clinical trial for safety and efficacy. To Ms. Shaheen's knowledge, it is not possible or practical to include transmission blocking as a clinical endpoint in a trial.
- She said this bill seems to require something that can't be done to create an impossible standard that no vaccine could potentially meet.
- Ms. Shaheen emphasized that vaccines are meant to prepare bodies to fight infections off quickly and efficiently, not to stop people from getting infected.