HB 701-FN - AS INTRODUCED

2025 SESSION

25-0560
05/08

HOUSE BILL ***701-FN***

AN ACT relative to a health care patient's right to try certain emergency health care treatment options.

SPONSORS: Rep. Mazur, Hills. 44; Rep. Alexander Jr., Hills. 29; Rep. Ammon, Hills. 42; Rep. Giasson, Hills. 29; Rep. Kofalt, Hills. 32; Rep. Layon, Rock. 13; Rep. Reinfurt, Hills. 29; Rep. Seidel, Hills. 29; Rep. Nalevanko, Ches. 9; Sen. Murphy, Dist 16; Sen. Sullivan, Dist 18

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill expands a health care patient's right to try emerging health care treatment options.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to a health care patient's right to try certain emergency health care treatment options.

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

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

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

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

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

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

2 New Paragraph; Liability of Physician; Facility. Amend RSA 126-Z:3 by inserting after paragraph II the following new paragraph:

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

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

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

(c) The patient has given written informed consent for the use of the drug, biologic, or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written informed consent on the patient's behalf; and

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

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

126-Z:4 Private Cause of Action.

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

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

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

126-Z:6 Telehealth Prescreening.

I. Notwithstanding any regulation or provision of law to the contrary, any health care provider, while physically located in New Hampshire, may conduct a telehealth prescreening with any patient, in any state or jurisdiction, who has been diagnosed by a physician with a life-threatening disease.

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

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

126-Z:7 Remote Signing.

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

II. No regulatory or law enforcement agency or subdivision shall take action against a health care facility, a health care provider, or a person or entity involved in the care of a patient for

obtaining patient consent through remote signing, as defined in this chapter, if the provider or facility has complied with paragraph I.

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

126-Z:8 Construction. The legislature's purpose in enacting this chapter is to incentivize health care facilities, health care providers, and other persons and entities involved in the care of patients to treat life-threatening conditions, whether through clinical trials or through other drugs, biologics, and devices, and to make New Hampshire a jurisdiction that attracts and fosters clinical trials and the development of drugs, biologics, and devices intended to treat life-threatening conditions. This chapter shall be construed consistently with the legislature's stated purpose.

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

LBA
25-0560
1/3/25

HB 701-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to a health care patient's right to try certain emergency health care treatment options.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	Indeterminable	Indeterminable	Indeterminable
Revenue Fund(s)	Superior Court filing fees			
Expenditures*	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source(s)	General Fund, filing fees			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill expands upon terminal patients' right to try emerging health care treatments. In addition, the bill allows patients to petition the superior court for injunctive relief in instances in which this right is violated by any regulatory or law enforcement authority. While it is unclear how many cases may be brought as a result of the bill, the Judicial Branch has provided the following cost information with respect to civil cases and related fees:

Judicial Branch Average Civil Case Estimates	**FY 2025**	**FY 2026**
Superior Court Complex Civil Case	$1,430	$1,473
Superior Court Routine Civil Case	$535	$552

Common Superior Court Civil Case Fees	**As of 2/12/2020**
Original Entry Fee	$280
Third-Party Claim	$280
Motion to Reopen	$160

The full fee schedule can be found at the link below::

https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-06/filing_fees_superior.pdf

AGENCIES CONTACTED:

Judicial Branch