

Senate Executive Departments and Administration Committee

Ben Mickens 271-1403

SB 640-FN, relative to the use of artificial intelligence to provide services requiring a professional license.

Hearing Date: January 14, 2026

Time Opened: 2:06 p.m.

Time Closed: 2:43 p.m.

Members of the Committee Present: Senators Pearl, McGough, Gannon and Reardon

Members of the Committee Absent : Senator Altschiller

Bill 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.

Sponsors:

Sen. Pearl

Sen. Lang

Sen. Gannon

Sen. Watters

Sen. Avarad

Sen. Rosenwald

Sen. McGough

Sen. Perkins Kwoka

Sen. Murphy

Sen. Innis

Sen. Birdsell

Rep. Moffett

Rep. Schmidt

Who supports the bill: Senator Howard Pearl, Senator Dan Innis, 120 others.

Who opposes the bill: 38 signed opposed.

Who is neutral on the bill: Samuel Burgess (New Futures), Deanna Jurius (OPLC)

**Summary of testimony presented in support:
Senator Howard Pearl**

- Senator Pearl introduced and testified in support of SB 640.
- Sen. Pearl highlighted that people are increasingly turning to generative AI, chatbots, and wellness apps for mental health advice and psychological help. He warned that using AI for these purposes can lead to unintended consequences, such as self-harm and suicide.
- Sen. Pearl stated that mental health treatment should only be provided by trained licensed professionals to ensure the services are delivered safely and ethically.
- Sen. Pearl clarified that the aim of the legislation is to ensure AI is used in therapy only under the oversight of a licensed professional.
- Sen. Pearl stated that he has had discussions with OPLC, which believes the bill could be expanded to include other professions.

Lynn Currier, National Association of Social Workers

- Ms. Stanley testified in support of SB 640.
- She stated that SB 640 safeguards the public by prohibiting AI from independently delivering therapy and making licensed mental health professionals accountable for their use of AI.
- She stated there are increasing instances where AI chatbots have been offering unlicensed therapy and causing tragic outcomes. She gave the committee a specific example of a 16-year-old boy who was taught how to tie a noose using AI and then asked the platform to write a suicide note.
- She pointed out that AI does not have the critical thinking and human analysis skills of human professionals.
- She stated that licensed mental health providers receive education and ongoing training to earn and keep their licenses in New Hampshire.
- She stated that this bill does not prohibit licensed clinicians from using AI for daily tasks like scheduling or client progress notes. The bill, however, ensures that the clinician is responsible for the output and that their clients provide informed consent. She mentioned that the clinician should be able to explain to their client what the product does and where the gathered data is stored.
- She confirmed that FDA digital therapeutics will continue to be permitted under this legislation.
- She demonstrated that the need for mental health care in the country exceeds the capacity to provide adequate support, but AI therapy is not the answer because the risks to consumers are too high and there are no safeguards to ensure safety.

- Senator McGough asked Ms. Currier to provide examples of practices that are and are not permitted under this bill. Ms. Currier gave an example of a permissible use of AI: a clinician using telehealth on a HIPAA-compliant platform with software that transcribes or creates client notes. However, those client notes cannot be submitted until they are proofread and the clinician ensures they accurately reflect the therapy session.
- Senator McGough inquired about how this legislation would be enforced. Ms. Currier responded that licensing would handle complaints about issues like inaccurate client notes.

John DeJoie, National Association of Social Workers & NH Association of Marriage and Family Therapists

- Mr. DeJoie testified in support of SB 640.
- He explained that the written testimony he provided to the committee included an overview of the bill, articles highlighting consumer protection concerns related to AI use, and settlements related to AI's involvement in various suicides. There is also a document outlining the number of deaths attributed to AI. Additionally, an unedited transcript of Mr. DeJoie's conversation with an AI chatbot is included.

Dr. James Bomersbach, President of the NH Psychological Association

- Dr. Bomersbach testified in opposition to SB 640.
- He expressed concerns about the disparity it will create among different mental health professions. He is also worried that the bill will ban the use of digital therapeutics, which are FDA-approved and HIPAA-compliant.
- He asked if a distinction is needed between AI technology and other ways in which programs and software are used independently from AI.
- He reflected on his professional experience as a forensic psychologist and the tests he often administers. The test is conducted on an AI-free platform that stores patients' scores. However, he is concerned that if that test used AI in any way, he would be unable to use it to assess the patient.
- He stated that psychologists are already responsible for any notes created from a patient visit, whether AI is used in making them or not.
- Senator Pearl asked if amending the bill to include the term "software that was HIPAA compliant" would alleviate any concerns. Dr. Bomersbach responded that there should be exceptions for FDA-approved, HIPAA-compliant items.

Summary of testimony presented in opposition:

Dr. Christopher Campbell, New Hampshire Psychiatric Society

- Dr. Campbell testified in opposition to SB 640.
- He stated that one in four Americans meet the criteria for mental illness, but half do not receive the associated treatment. This is often due to the cost or lack of providers.
- He stated that AI is well poised to address this gap.
- He said that AI tools specifically designed for mental health treatment have proven to be effective for treating conditions like anxiety and depression, and have the appropriate guardrails in place.
- He established that the tragedies associated with AI use are almost exclusively when individuals use non-mental health-specific platforms.
- He stated that the bill will further influence individuals to seek mental health treatment on unregulated platforms and ban the platforms specifically designed to treat mental health.
- Senator Pearl reiterated the bill's goal, which is for AI to be used under the supervision of a licensed professional, and asked if Dr. Campbell had any suggestions for amendments to achieve this goal. Dr. Campbell responded that he would be happy to provide input via email.

Dr. Nicholas Jacobson

- Dr. Jacobson testified in opposition to SB 640.
- He said that we are facing a mental health crisis, with nearly 60 million Americans living with mental illness. He also pointed out that half of New Hampshire's mental health providers have a waitlist, and rural areas lack sufficient access to care.
- He reflected on his experience running a generative AI psychotherapy study and mentioned that the study yielded positive patient outcomes.
- He stated that this bill regulates licensed professionals using AI and AI developers. He added that the bill does not effectively mitigate the risks.
- Senator McGough asked who Dr. Jacobson was speaking on behalf of. Dr. Jacobson replied that he was speaking on behalf of himself.
- Senator McGough asked how often the AI tools that are identified in the bill are used in current practice at Dartmouth. Dr. Jacobson replied that there are many trials currently using these programs.
- Senator Pearl asked Dr. Jacobson to provide specific feedback to make the bill better. Dr. Jacobson declined because he is not supportive of the bill's underlying goal.

Neutral Information Presented:

Deanna Jurius, Executive Director of OPLC

- Director Jurius stated that the bill establishes, for specific fields, that AI cannot perform licensed work because it is not a licensed professional. It would make sense operationally to extend this to all professions that OPLC regulates. She said that the approach she described would make enforcement much more straightforward.
- She stated that the bill seems to focus on specific mental health practices, and mentioning individual practices might create disparities among different healthcare professions.
- She stated that the first section is designed to build on existing law to clarify that a chatbot of any kind does not have a license to operate in New Hampshire.
- She said it might be possible to prosecute under the current statute, but the process is still unclear.
- Senator Pearl asked how OPLC could enforce violations if the bill were expanded and what steps OPLC would need to take for enforcement. Director Jurius explained that such cases would involve unlicensed practice, which is a criminal matter, and would be directly referred to the Department of Justice for investigation and prosecution. Beyond this explanation, Director Jurius could not speculate on specific language produced from a chatbot that would constitute criminal conduct.