Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 1117-FN, relative to the right of licensed health care providers to freely communicate with patients, colleagues, and the public about medical information, emerging therapies, and treatment options.

Hearing Date: April 1, 2026

Time Opened: 9:01 a.m. **Time Closed**: 9:50 a.m.

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

Members of the Committee Absent: None

Bill Analysis: This bill provides that a health care provider shall not be subject to disciplinary action, professional sanction, or civil or criminal liability for communicating with a patient, another provider, or the public about emerging medical research, experimental treatments, innovative therapies, or off-label uses of medications, provided the communication is made in good faith and not knowingly false or misleading.

Sponsors:

Rep. McGrath	Rep. DeRoy	Rep. DeVito
Rep. Litchfield	Rep. Morton	Rep. Perez
Rep. Sabourin dit Choiniere	Rep. Terry	Rep. Wherry
Rep. Bernardy		

Who supports the bill: 125 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: 12 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: 1 person signed in neutral on 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 Robert Wherry, Hillsborough – District 13

- Representative Wherry stated that he is introducing the bill for Representative McGrath and read written testimony submitted to the Committee on her behalf.
- When examining the most significant public health failures, it emerges that they are not driven by doctors thinking too independently or speaking too freely, but rather by commercial interests shaping policy, research, and public messaging.
- An example of this would be doctors appearing in tobacco advertisements. Representative McGrath also cited the COVID-19 pandemic as an example, as physicians faced professional discipline, investigation, and license loss for prescribing Ivermectin for off label use. In her 40 years of experience in the pharmacy industry, Representative McGrath has never seen doctors punished for prescribing off-label usage of an approved drug.
- Representative McGrath cited that industries, government agencies, and the media have suppressed the use of Ivermectin and Hydroxychloroquine, treating open scientific debate as threatening. Pharmaceutical companies have a history of minimizing and delaying adverse events until they are forced to address them in the open via whistleblowers or litigation. She cited Pfizer as a recent example in relation to the COVID-19 vaccine.
- Representative McGrath's concern is about the financial incentives flowing from pharmaceutical companies through government agencies, media outlets, medical organizations, and policymakers. This ultimately reinforced approved treatments while silencing voices in the name of consensus.
- Physicians are uniquely qualified to evaluate evolving research, apply it to individual patients, and engage in shared decision making. Patients also have a right to learn about reasonable emerging treatment options.
- The local health professionals who provide risk-based informed consent and allow patients to engage in decision making should be trusted.
- Senator Rochefort referenced a recent Supreme Court decision and inquired about the potential impact on this issue.
- Representative Wherry said it would be great if the decision settles this issue. He noted that it seems to have broad-reaching implications that could apply to this subject matter.

Representative Lucy Weber, Cheshire – District 5

- Representative Weber stated that she is speaking in opposition to the bill. She explained it is unnecessary, as providers already have the right to talk to their patients and give them options in addition to the right to use off-label treatments.
- Representative Weber said this virtually takes away all authority from licensing boards, employers, insurers, and governmental agencies to regulate the practice of medicine.

- She emphasized that the distinction between freedom of speech and the practice of medicine is when your speech affects someone else's body and bodily choices.
- Representative Weber explained that the House Health, Human Services, & Elderly Affairs Committee heard that Ivermectin is looked upon as a favorable cancer treatment, but she does not believe so. She expressed concern about people potentially losing opportunities for effective treatment when following the opinion of someone with a different mindset on those treatments.
- This bill also creates a private right of action for any health care provider against licensing boards, employers, insurers, and governmental agencies. This removes any recourse for when a provider gives bad medical advice, even if they are acting in good faith.
- Representative Weber referenced the recent Supreme Court decision and emphasized that this may cause the bill to be unnecessary.

Representative Gary Woods, Merrimack – District 30

- Representative Woods stated that he is speaking in opposition to the bill.
- As currently drafted, this may allow for malicious characters to have unintended protections.
- Representative Woods explained that this effort may be unnecessary, as the concept exists in RSA. He expressed concern about the language of this bill potentially conflicting with and undermining current statute.
- Representative Woods emphasized that 80% of all physicians in the country are owned by some form of a corporation.
- Representative Woods referenced written testimony submitted to the Committee, outlining the conflicting points with current statute and including other supporting documents.
- Senator Avard confirmed that this would undermine statute, and Representative Woods emphasized that there would be conflict that needs to be resolved.

Representative JD Bernardy, Rockingham – District 36

- Representative Bernardy stated that he is speaking in support of the bill.
- This memorialized the physician's right to practice medicine and utilize their independent judgment and training to treat patients.
- Representative Bernardy explained that this is a necessary effort, as the previous federal administration used its power through insurance companies and grant approvals to push CDC and NIH guidance.
- Representative Bernardy referenced Obamacare and explained that 80% of physicians are now under some sort of corporate structure. He emphasized that the ability for physicians to practice medicine independently has been

consistently eroded over time by the evolving medical system. This bill will take a step in reversing that erosion.

- Senator Avard asked how this bill would change pressure from corporate headquarters on physicians.
- Representative Bernardy explained that while this will not change that pressure, he is hopeful that the Supreme Court decision will push back on it to some extent.
- Senator Avard asked if this bill could defang the authority of the Board of Medicine.
- Representative Bernardy explained that it would require the Board to ensure that the principles of this law are embedded into their ethics and rules.

Maura Weston, New Hampshire Medical Society

- Ms. Weston stated that she is speaking in opposition to the bill.
- She encouraged the Committee to also assess this bill in context of HB 1734-FN and HB 1735-FN, explaining that they create a framework for the delivery of medical care based upon an initiative first adopted in Montana. She emphasized that these bills create more questions than answers.
- Individually, this bill erodes evidence-based standards of care and shields providers who may recommend, prescribe, or utilize therapies not included in the current standard of care. Medical standards of care are based on research, clinical trials, and expertise designed to guide the delivery of quality care.
- This bill allows practitioners to abandon their adherence to the current standard of care, giving rise to the potential for patient harm.
- The good faith standard is subjective and allows providers great latitude to base recommendations on beliefs and understanding, thus shifting the focus away from scientific validity.
- Ms. Weston emphasized that the bill's language effectively eliminates the Board of Medicine and any other licensing board's ability to hold providers accountable. These boards are comprised of experts tasked with ensuring quality of care and maintaining a system of professional accountability.
- Ms. Weston expressed concern about this bill creating a private right of action in which providers could sue, alleging violations of free speech. She referenced 332-O:4 and noted that it essentially guarantees plaintiff success, given the protections under the chapter.
- Senator Rochefort asked if there have been any issues for members of the New Hampshire Medical Society with disciplinary reprimand, administrative reprimand, or workplace reprimand for talking about off-label treatments with patients.
- Ms. Weston stated that she has not been made aware of any concerns. However, she has heard concerns from members about this initiative undermining the

oversight and authority of the Board of Medicine, as well as the current structure built around standards of care.

- Senator Avard referenced the pandemic and asked if Ms. Weston would agree that this effort may be a direct result of bad faith medical practices, as trust has been violated.
- Ms. Weston said she believes there is a significant trust between patients and their physicians from her professional experience and personal experience as a patient.
- She referenced 332-O:2 (b) and emphasized that it is not about communication, but rather recommending, prescribing, or utilizing therapy not included in the current standard of care. She explained that everybody has the ability to have conversations, but it becomes a wide-open gate when we get into prohibiting therapies pursuant to law.
- She referenced the private right of action and said she reads it to say any action taken by a physician is acceptable.
- Senator Avard noted that 80% of physicians are in corporations and acknowledged the influence of insurance. He questioned how valid treatments are in relation to profiteering and said this is where he sees the tension between what has happened and this bill to address it. He acknowledged that this may not solve the issue, but it does highlight the mistrust.
- Ms. Weston explained that when this bill is looked at in conjunction with HB 1734-FN and HB 1735-FN, one can see that each takes a step in the same direction. She referenced profiteering and questioned if this invites more opportunity from the pharmaceutical industry to drive care, as opposed to the patient-centered care offered by physicians.
- Senator Rochefort referenced opioid drug sales and confirmed that if this were to pass, logic would prove that there could be drug companies driving physicians to promote a drug with no recourse for it.
- Ms. Weston confirmed this is what she was saying.
- Senator Prentiss referenced 332-O:2 and asked if it is Ms. Weston's position that this is a wide-open protection to prescribe, refer, and practice medicine in any way one wants with no recourse even for patients who could have been harmed.
- Ms. Weston confirmed that is the position of the Medical Society.
- Senator Prentiss referenced trust between patients and providers and asked if it is Ms. Weston's position that patients listen to and trust they physicians, and if the physician were to practice something not expressly prohibited and injured the patient, they would have no recourse. She questioned who this is protecting.
- Ms. Weston explained that this does not protect patients in an acceptable manner. The current structure serves that purpose. She emphasized that the Medical Society is here to protect physicians, patients, and their relationship.

- Senator Prentiss referenced her experience as a paramedic and explained that she knew the guardrails, such as not being allowed to administer blood or blood products. She asked how someone makes a decision on what is expressly prohibited, noting that it seems open-ended in the bill.
- Ms. Weston referenced the definition of health care provider in the bill. She explained that each practitioner is an important part of the ecosystem, with boards for regulatory oversight within different positions. She agreed that it is open-ended, making it difficult to know what they guard rails are because anything essentially becomes permissible and protected.

Dee Jurius, Office of Professional Licensure and Certification

- Director Jurius stated that the Office of Professional Licensure and Certification (OPLC) is not taking a position on the bill.
- She referenced 332-O:2 and noted that there is some potential ambiguity or conflict between I on page 2 line 15 and II on page 2 line 26. She questioned what "retaliation" would be considered and if that would include discipline after full due process and appeals. She asked the Committee to consider which is more accurate and harmonize the two.
- Director Jurius referenced page 2 line 21 and said it seems to imply more than just speech or a conversation, reaching into practice. This would significantly shift the current structure in which standard of care established guardrails and discipline can come with full due process. This language introduced the possibility that a provider could do something well out of bounds and not be disciplined.
- Director Jurius referenced the enforcement and remedies and explained that for any action taken by most licensing boards the appeal would go directly to the Supreme Court. This change contemplates a different civil action in the Superior Court.
- Senator Prentiss asked if it is Director Jurius' position that licensure action in response to somebody practicing outside of the standard of care could be considered retaliatory. She emphasized that providers agree to practice within rules and regulations when they earn their license.
- Director Jurius said it could be possible, as she does not know what the intent of "retaliation" in the language is.

Aubrey Freedman

- Mr. Freedman stated that he is speaking in support of the bill.
- He emphasized the lack of trust between patients and physicians, citing that trust in public health professionals has decreased from 71.5% in 2020 to 40.1% in 2024.

- He explained that many people do not trust their doctors after the pandemic. He recalled a personal experience in which his doctor recommended the COVID-19 vaccine while acknowledging that long-term effects are unknown.
- Health care is a changing field with rapid technology developments. As such, doctors should be able to discuss all of the available options.
- We should be encouraging discussion. Let doctors be doctors again.

Representative Yury Polozov, Merrimack – District 10

- Representative Polozov stated that he is speaking in support of the bill.
- He noted that there have been cases in the past in which patients were harmed. In these instances, it was difficult to see any recourse.
- He acknowledged that it may be the case that some providers act in bad faith and emphasized that this is why there are licensing boards. He referenced page 2 line 23 of the bill, noting that it applies to providers reasonably believing the treatment may benefit their patient.
- Representative Polozov said that this bill attempts to clarify the bigger issue of licensing boards potentially acting in bad faith, capturing financial and political interests of concern.

Nancy Biederman

- Ms. Biederman emphasized the importance of doctors being able to freely speak for rare disease patients, citing that 95% of rare diseases have no FDA-approved treatment.
- There are 100,000 people living with rare diseases in New Hampshire.
- Ms. Biederman recalled personal experiences in which doctors censored themselves on rare disease treatment, as they know their recommendations would not be approved by insurance or the organizations they are a part of.
- Patients must self-pay for the doctors who treat rare conditions, as insurance does not cover the services and the providers do not want those restraints put on them.
- This bill will benefit the rare-disease community by allowing doctors to try non-FDA approved treatment methods without fear of license loss.

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Date Hearing Report completed: April 7, 2026