

Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 1335, requiring health care providers to disclose to patients indirect financial incentives received by the provider.

Hearing Date: April 15, 2026

Time Opened: 11:24 a.m.

Time Closed: 11:47 a.m.

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

Members of the Committee Absent: Senator Prentiss

Bill Analysis: This bill requires a physician who receives compensation exceeding \$5,000 or more as the result of a preferential promotion to disclose this information to the patient prior to prescribing any treatment associated with the source of the promotion.

Sponsors:

Rep. Wherry

Rep. Litchfield

Rep. McGrath

Who supports the bill: 114 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: 3 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: No one.

Summary of testimony presented:

Representative Robert Wherry, Hillsborough – District 13

- Representative Wherry explained that this bill is based on the simple principles of informed consent. Any physician with a substantive financial interest should disclose that information.
- Federal regulations recognize that when physicians receive financial incentives, it biases their conduct in research. The same thing could be true in the commercial realm, and this bill will help install guardrails against that.
- Representative Wherry referenced testimony provided during the House hearing, sharing a story about a doctor who was giving supplements to patients

and receiving reimbursement for it. These supplements caused some harm to the patients.

- Representative Wherry noted that there was a proposed amendment considered by the House.
- Senator Avarad referenced the House Minority Report and noted it says this is already covered under rules.
- Representative Wherry said he does not believe that to be true, noting that the referenced definition is broad and vague.
- Senator Rochefort asked if Representative Wherry could provide empirical situations in which New Hampshire patients have been adversely affected by this scenario.
- Representative Wherry explained that there is a reverse situation in which some doctors will decline to treat or cover someone who is not taking a vaccination. The impetus is that if they are gaining \$60 per vaccine and they are not meeting a certain threshold, then it can cause issues with insurance.
- Senator Rochefort asked if this would apply to an orthopedic surgeon using a certain brand of knee replacements if they collect a fee for every knee replacement they do, using that logic.
- Representative Wherry said it is one thing if they physician is choosing to do that, then getting reimbursement.
- Senator Rochefort noted there are clear federal laws on kickbacks and said he is having a hard time with the vaccine analogy, since most physicians are employed under health systems. He asked if this would apply to those in private practice, while those working in hospital systems would not have to comply.
- Representative Wherry explained that the bill contains a financial incentive threshold of about \$5,000. This carves out things such as conference costs.
- Senator Rochefort noted the “any other transfer of value” language on line 10 and said that while he sees what Representative Wherry is trying to do, he does not necessarily know if it is captured in the language.
- Representative Wherry said that he would be open to an amendment, as he just wants to protect people from undue influence when possible.

Dr. Marie Ramas, New Hampshire Medical Society

- Dr. Ramas stated that she is speaking in opposition to the bill. Physicians want to protect their patients and patients’ autonomy; they take an oath to do so and are heavily monitored.
- This bill could result in legal implications and potential unintended consequences.
- There are pre-existing anti-kickback laws and stark laws mandated at the federal level. These laws exist to protect patients from the things being discussed today, and carry heavy consequences for any violations.

- Furthermore, the Sunshine Act further protects patients and health care consumers. There is also New Hampshire law protecting patients against these kinds of actions.
- This bill presents the risk of increasing medical malpractice, as there is a lack of ability to define what financial compensation is. There will be difficulty in differentiating regular compensation and co-pays from insurance companies from incentives for financial benefits by providing a prescription.
- Dr. Ramas explained that physicians have many roles, including things like providing expertise to pharmaceutical companies for drug manufacturing and providing input to public officials on public health legislation.
- New Hampshire's medical system is already facing a crisis with lack of access. The biggest reason for burnout in physicians is being overwhelmed with administrative work, and this bill will add unnecessary paperwork and result in a lack of access for patients.
- This bill also poses a risk to patient privacy because it does not provide an adequate definition of what needs to be documented, thus creating a risk of unintentional exposure of protected information.
- This bill is unnecessary because it is already being done. Physicians have a moral, professional, and legal obligation to disclose any information that could alter or bias treatment.
- Senator Rochefort asked if Dr. Ramas could comment on the undue influence that direct-to-consumer advertising has on prescribing versus something like this.
- Dr. Ramas explained that there is a magnitude of difference, noting there is a reason why pharmaceutical companies spend hundreds of millions annually on direct-to-consumer advertising. She provided the opioid crisis as an example, noting the effect that direct-to-consumer advertising had.
- Senator Rochefort noted that he sees many drug advertisements on television, with many of the drugs costing over \$1,000 per month. He emphasized that this puts a strain on the medical system.

Aubrey Freedman

- Mr. Freedman stated that he is speaking in support of the bill.
- This is a simple disclosure for patients. If a physician is not engaging in any unethical behavior or being financially influenced, then they should not be facing any issues.
- Patients should know if their doctors are being compensated extra for certain treatments, as this creates a bias for particular drugs and treatment options.
- Mr. Freedman believes the bill's \$5,000 threshold should be lowered, as a physician could be greatly influenced by that amount of money.