

# Senate Children and Family Law Committee

*Joshua Schauer 271-3077*

**HB 560**, relative to parental access to a minor child's medical records.

**Hearing Date:** April 24, 2025

**Time Opened:** 11:07 a.m.

**Time Closed:** 11:50 a.m.

**Members of the Committee Present:** Senators Abbas, Sullivan and Long

**Members of the Committee Absent :** None

**Bill Analysis:** This bill provides parents of minor children full access to their minor children's medical record except under certain circumstances.

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**Sponsors:**

Rep. Litchfield

Rep. Perez

Rep. Franz

Rep. Weyler

Rep. McMahon

Rep. Kofalt

Rep. Prudhomme-O'Brien

Rep. Potenza

Rep. Mary Murphy

Rep. Seidel

Sen. Gannon

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**Who supports the bill:** 234 Individuals signed in support of HB 226-FN. Contact Joshua.Schauer@gc.nh.gov for further details.

**Who opposes the bill:** 44 Individuals signed in support of HB 226-FN. Contact Joshua.Schauer@gc.nh.gov for further details.

**Summary of testimony presented in support:**

**Representative Melissa Litchfield**

- Rep Litchfield introduced the bill relative to a minor's medical records. She said parents cannot access online portals of children between the ages of 13-18 with most portals.
- She has concerns about the patient portals, and said parents are on the hook for everything but does not have access to the records when a child turns 13.
- She stated she is hesitant to allow a school to have access to children's medical records while parents do not. She said she wants to make parental rights and involvement a priority in New Hampshire.
- She explained that parents should be a part of the picture because of the financial contributions and responsibilities that are burdened upon the parent.

**Senator Long** asked if she was familiar with a proposed amendment to the bill?

**Representative Litchfield** said she was not familiar with any amendment.

**Melissa Blasick: Rebuild NH**

- She testified in support of the bill and said that parents have the right to be able to request and obtain their child's medical record.
- This has become a top concern for parents being locked out of a child's records. She explained that when a child in New Hampshire turns 12, parents are cut off from their child's records, not just sensitive information but appointments, schedules, and treatment plans as well.
- She stated that HB560 is not asking the medical providers to do anything new but rather treat online records the same as physical copies and only redact that with which is required.
- She stated that this gives parents access to records that they are legally and morally obligated to. This brings common sense back to a system that has lost sight in the critical role parents play in their children's lives.

**Ben Bradley: NH Hospital Association**

- Mr. Bradley said that the association agreed that parents are acting in good character and that this bill is well intended however the way this bill is written raises some concerns which is why he presented an amendment to the committee.
- He pointed to some language they were concerned about starting on line 9 of the bill, which states "*including records available via online patient portals*". He said that by defining medical records this way, it presents a technological standard that many of the hospitals in the state cannot provide.
- Patient portals should not be defined as patient records. Many portal systems cannot redact some of the information but do it in a electronically sent record, however the patient portal is not able to differentiate those nuances.
- There is concern that if this bill passes, the hospital entities will have to turn off the adolescence portal in order to comply with the State law.
- He referenced the protective orders clause in section two (b), and the implementation. He said that his members can only act on information provided to them by the patient, parent, or legal guardian. He also explained that protective orders expire and asked what hospitals should do in those instances if they are not informed of suspension or resolved cases.
- He said with that information, if the protective order is no longer valid but nobody tells the healthcare provider and the hospital denies access to a parent, the hospital would be in violation of federal rules. He explained that it puts the hospitals in an untenable situation of searching for court orders for each patient.

- The amendment they presented attempts to resolve these concerns while still giving parents access to children’s medical records.

**Senator Sullivan** asked if he had presented this amendment to the House committee?

**Mr. Bradley** said that it was not. He said the amendment has been passed around and there was some concern among house members, but the hospital association is trying to work on this legislation and not reject it “out-right”.

**Senator Sullivan** followed up and asked that since doctors are mandated reporters, does that section (C) in the amendment need to be in the bill to be effective?

**Mr. Bradley** said there was a difference between reporting child abuse and neglect and providing access to medical records. He said this language is trying to align with federal regulations as they exist today.

**Senator Long** asked for clarification on the patient portal and since the hospitals cannot redact or separate information on the portal, if he was asking that the committee remove line 9 of the bill?

**Mr. Bradley** stated yes and explained that portals are helpful to both patients and providers, they are a way to make appointments but when you try to afford access to a parent on behalf of a child. The portals don’t have the ability to differentiate whether it is the parent or child that is accessing the portal. As a provider, they want to ensure protections are upheld and the providers are in compliance with the law.

**Senator Long** asked if electronic records are given to patients more via the online portal or physical copies?

**Mr. Bradley** if you request a record electronically, a parent could make that request on behalf of their child, but certain parts of that record would be redacted. He said, that is different than having portal access which updates appointments and has dates and such. He was concerned that adolescents would lose their portal access in order for providers to comply with this legislation.

**Senator Long** asked if section C of the bill is keeping up with federal codes?

**Mr. Bradley** explained that yes, they do, and he provided some review material from the National Center for Adolescent and Young Adult Health and Well-Being and their review of NH statutes.

**Senator Abbas** asked what the consequences would be for the hospitals from a revenue perspective, if the legislation passed.

**Mr. Bradley** said the hospitals are acting on the information that is provided to them. So, if no information is provided, and then a medical record is issued not knowing there was an active protective order, he does not believe there would be a violation or penalty because the provider is acting on the information the patient provided.

**Senator Abbas** explained that if the medical provider knew about the order and disregarded it that would be different. However, he said he understood not wanting to

give a person medical records that they should not legally have but if it is done without the knowledge then why is the hospital association against the language.

**Mr. Bradley** clarified section B of the bill which Senator Abbas was referring to, and he stated that the concern they have is that the protective order does not specify that the parent does not have access to the medical record. The order only says that a person cannot be within a certain distance of a child or something of that nature but nothing to do with medical records. He said that with their language amendment to section B, it is specified that they cannot release the records because a court has explicitly said so and not rely on a judgement call.

**Senator Abbas** said they would not have to make that judgment call because of the protective order, the provider does not need to know what the order states, but only that it exists.

**Mr. Bradley** said that if that's what the legislature wants the policy to be that, then under the protective order, a parent would not have access to the records.

**Ms. Tanner** interjected and said that Senator Abbas was correct in his analysis of the language, but she said it gets complicated when there is a protective order from other states. The language they provided clarifies those concerns.

#### **Courtney Tanner: Senior Director of Government Relations at Dartmouth Health**

- Ms. Tanner wanted to underscore the intent of the bill and said that Dartmouth Health supports the intent of the bill and that they want to champion parental access and involvement in child medical care.
- She said that they want to ensure parental involvement while also clarifying effective implementation and strengthening the bill.

**Senator Abbas** asked if, as it is written, it would only apply to orders issued by the State of New Hampshire, but it should apply to all other states and asked for clarification.

**Ms. Tanner** said yes and the language they provided was just a clean-up of the language, not a policy change.

**Senator Abbas** asked again if the hospital does not have knowledge of an order, but an individual requests access to records and the provider unknowingly gives access to those records, what are the legal consequences to the hospital.

**Ms. Tanner** said that if it was unknowingly, then there would not be any liability. She hoped that the protective order would be communicated to the medical provider by the patient or guardian.

**Senator Abbas** asked if all of the hospitals had access to the records or if they are able to see the records from different hospitals.

**Ms. Tanner** stated that at Dartmouth there is an integrated system, but she could not speak for other medical providers in the State.

**Mr. Bradley** said that there may not be communication between divisions or even separate hospitals. He reiterated that providers act upon the information they are provided and if they do not know of a protective order, they cannot be held liable.

**Dr. Aida Cerundolo:**

- Dr. Cerundolo said that she has 20 years of experience and spoke in support of this bill. She explained that parents need access to best support the health and needs of their children.
- She said that she was denied access to help her child. She was given the wrong form to complete three times in order to gain access but still was denied.
- She said that minors cannot consent to the transfer of their own records or surgery, but parents are expected to sign off on these procedures. She said the burden should not rest upon the parents to request access to best support their child.
- She stated that a Johns Hopkins study found that medical error is the third leading cause of death in the U.S. She said that parental access to medical records is protective against medical errors.
- She said that parents are shielded from their children's medical records and are demoted to bystanders while clinicians assume the role of proxy parents.

**Representative Jay Markell:**

- Representative Markell said he supported the bill. He said that the rights of parents do exist in several areas and should have due process of raising their own children.
- He explained that this bill makes it more specific of those rights. These rights exist already and in the case of divorce must fill out specific forms to access records, so that precedent is there. Parenting rights require a parenting plan to complete that with court hearings.
- This bill is necessary for parents being denied access to their child's medical records.
- He explained the legality that guaranteed parent's rights and children's privileges from previous cases. He said this bill does not cause harm but provides clarity for parents.

**Courtney Tanner and Benjamin Bradley**

Senator Abbas inquired about the language of the bill for a potential amendment. He asked about the amendment language where it states, "*when a parent or legal guardian agrees to a confidential communication between the minor and a health care provider, as described by HIPPA, 45 C.F.R 164.502(G)(3)*" and wanted an example of that.

**Ms. Tanner** said there may be a circumstance, hypothetically, when a parent says a child is struggling and needs access to mental health treatment and the parent's pay for it but that all information is private between the child and mental health provider.

**Senator Abbas** asked how that process is executed.

**Ms. Tanner** was unsure of the process. She said that there may be a time when the parents make an agreement with a therapist but then change their mind and that is when the confidentiality provisions would come to play.

**Mr. Bradley** echoed what Ms. Tanner said and he believed that is why the federal regulations recognize that process as well.

**Ms. Tanner** said they support the bill and want to see it move forward in an iteration that would make it practical to implement and ensure parental involvement.

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Date Hearing Report completed: May 2, 2025