Sen. Rochefort, Dist 1
Sen. Avard, Dist 12
Sen. Murphy, Dist 16
Sen. Sullivan, Dist 18
Sen. Innis, Dist 7
June 4, 2026
2026-2134s
05/07

Floor Amendment to HB 1735-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the practice of pharmacy, the dispensing of certain medications by pharmacists, and permitting treatment of certain severe illness under the right to try act.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Controlled Drug Act; Dealing In or Possessing Prescription Drugs. Amend RSA 318:42 by inserting after paragraph VII-b the following new paragraph:

VII-c. The dispensing of up to a 30-day supply of noncontrolled oral anti-cancer medication by a licensed health care professional legally authorized to prescribe and administer medications to a patient under a provider's care or supervision so long as the following criteria are met:

(a) The dispensing clinic maintains on staff a full-time licensed pharmacist who is available for consultation with the prescribing provider and the patient.

(b) In-office dispensing is conducted in a way consistent with United States Pharmacopeia standards as well as all relevant state and federal laws or rules.

2 Pharmacists and Pharmacies; Display of Licenses. Amend RSA 318:28 to read as follows:

318:28 [~~Display~~] ***Availability*** of Licenses. All licenses as pharmacists shall [~~at all times be conspicuously displayed~~] ***be readily retrievable*** in the pharmacy where the licensee is engaged as such.

3 Pharmacists and Pharmacies; Licensure of Pharmacies. Amend RSA 318:39 to read as follows:

318:39 Application; Display. Application for a permit shall be made in such manner and in such form as the board may determine. The permit shall at all times be [~~exposed in a conspicuous place~~] ***posted*** in the pharmacy for which it is issued.

4 Pharmacists and Pharmacies; Licensed Pharmacists; Remote Processing. Amend RSA 318:15-d, I to read as follows:

I. New Hampshire licensed pharmacists, ***licensed advanced pharmacy technicians,*** certified New Hampshire pharmacy technicians, or registered New Hampshire pharmacy interns

may engage in remote processing, provided that all work requiring pharmacist supervision is supervised by a licensed pharmacist through electronic or other remote means.

5 Controlled Drug Act; Labels. Amend RSA 318-B:13, II to read as follows:

II. Whenever a pharmacist dispenses any controlled drug on prescription issued by a practitioner, he or she shall affix to the container in which such drug is dispensed a label showing the name, address, and registry number of the pharmacy [~~and name or the initials of the pharmacist~~]; the name of the prescribing practitioner; the prescription identification number; the name of the patient; the date dispensed; any directions as may be stated on the prescription; and the name and strength and quantity of the drug dispensed. All drugs dispensed to a patient that have been filled using a centralized prescription processing system shall bear a label containing an identifiable code that provides a complete audit trail of the dispensing of the drug and pharmaceutical care activities. No person shall alter, deface, or remove any label so affixed.

6 Pharmacists and Pharmacies; Definitions; Practice of Pharmacy. RSA 318:1, XIV is repealed and reenacted to read as follows:

XIV.(a) "Practice of pharmacy" means the scope of practice for the provision of patient care services by a pharmacist shall be based on their education, training, and experience, and determined by practice setting and in accordance with generally accepted standards of care, including but not limited to:

(1) The interpretation and evaluation of prescription orders;

(2) The compounding, dispensing, labeling, administering, and distribution of drugs and devices;

(3) The selection, evaluation, and monitoring of drug and drug-related therapies;

(4) The performance of drug utilization reviews and medication therapy management;

(5) The participation in collaborative pharmacy practice and collaborative pharmacy practice agreements as defined in RSA 318:1, XXVI - XXVII, and RSA 318:16-a;

(6) The prescribing, ordering, administering, and interpretation of laboratory tests, controlled and noncontrolled drugs, and devices in accordance with applicable state and federal law;

(7) The education and counseling of patients and health care professionals on the therapeutic use, potential hazards, and outcomes of drugs and devices;

(8) The maintenance of appropriate records and the safe storage and handling of drugs and devices;

(9) The interprofessional communication with appropriate health care providers to ensure continuity of care;

(10) Any other professional acts, services, operations, or transactions necessary to the operation and management of pharmacy practice.

(b) Nothing in this paragraph shall be construed to limit or restrict the provision of patient care services by pharmacists otherwise authorized under federal or state law or regulations, including those performed pursuant to protocol, collaborative practice agreements, or standing orders.

(c) Nothing in this paragraph shall be interpreted to permit an alteration of a prescribing clinician's diagnosis.

7 Pharmacy Board; Rulemaking Authority. Amend RSA 318:5-a, XVII to read as follows:

XVII. The education and training standards and other requirements for pharmacists who, pursuant to prescriber-approved protocol**,** [~~:~~

~~(a)~~] administer prescription medications ***outside the parameters of a collaborative pharmacy practice agreement***, including influenza immunizations.

[~~(b) Engage in collaborative pharmacy practices.~~]

8 Licensed Pharmacists; Standards for Collaborative Pharmacy Practice. Amend RSA 318:16-a, I(c) to read as follows:

(c) Have the knowledge base necessary for proper monitoring, including, but not limited to, associated disease states, relevant laboratory tests, adverse events, drug and food interactions, safety, and efficacy. [~~Depending upon the complexity of the services being provided, the pharmacist may be required to have additional credentials or training and shall demonstrate the receipt of approval by the board of pharmacy.~~]

9 Pharmacy Board; Rulemaking; Examinations. Amend RSA 318:5-a, IV(a) to read as follows:

(a) The subjects to be tested ***pursuant to RSA 318:19***;

10 Pharmacy Board; Rulemaking; Licensed Advanced Pharmacy Technicians. Amend RSA 318:5-a, XI-c(a) to read as follows:

(a) Requirements for licensure, including experience and education requirements. ***Any examination requirement for licensure shall be limited to the scope of practice, and such requirement shall be suspended if the board is unable to verify that the exam complies with board requirements.***

11 Pharmacists and Pharmacies; Examinations. Amend RSA 318:19 to read as follows:

318:19 Examinations. Applicants for licensure as pharmacists shall, to prove their respective requisite knowledge, be examined to a properly varying degree in pharmacy-related subject areas which may include chemistry, math, pharmacology, pharmacy theory, the practice of pharmacy [~~and pharmacy law~~], and any other areas as the board may prescribe***, except that the board shall not require any applicant to be examined on pharmacy state-specific or universal state level jurisprudence or law***.

12 Pharmacy Board; Enforcement of Law. Amend RSA 318:8 to read as follows:

318:8 Enforcement of Law.

I. It shall be the duty of the board, through officials and employees appointed by it or under its supervision for that purpose, and of all peace officers within the state, and of all county attorneys, to enforce all the provisions of this chapter. When so requested, the department of health and human services and its officials and employees shall cooperate with the board in collecting and analyzing samples of drugs and medicines sold, or suspected of being sold, in violation of this chapter. The members of the board, its inspectors and investigators shall have free access during business hours to all places where drugs, medicines, poisons or hypodermic devices are held, stored, or offered for sale and to all records of sale and disposition of drugs.

II. It shall also be the duty of the board, through officials and employees appointed by it or under its supervision for that purpose, to evaluate whether a specific act is within the practice of pharmacy, or whether an act can be delegated to other individuals under pharmacist supervision. A licensee or registrant of the board of pharmacy shall independently determine whether:

(a) The act is expressly prohibited by:

(1) This chapter;

(2) The controlled drug act, RSA 318-B;

(3) The rules of the board of pharmacy; or

(4) Any other applicable state or federal laws or regulations;

(b) The act is consistent with the individual's education, training, and experience; and

(c) Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent individual with similar education, training, and experience.

13 Pharmacist Administration of Vaccines. Amend RSA 318:16-b, II to read as follows:

II. A pharmacist, pharmacy intern, [~~or~~] licensed advanced pharmacy technician, ***or certified pharmacy technician,*** under the supervision of an on-site immunizing pharmacist may administer vaccines licensed by the United States Food and Drug Administration [~~that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization,~~] to individuals 18 years of age or older as ordered by an immunizing pharmacist.

14 Right to Try Act; Definitions. Amend RSA 126-Z:1 to read as follows:

126-Z:1 Definitions. In this chapter:

I. "Eligible facility" means a licensed New Hampshire institution that is operating under a Federalwide Assurance ("FWA") for the Protection of Human Subjects under 42 U.S.C. section 289(a) and 45 C.F.R. part 46. Any eligible facility is subject to the FWA laws, regulations, policies, and guidelines including renewals or updates.

I-a. "Eligible patient" means a person to whom all of the following apply:

(a) The person has been diagnosed with a terminal ***or qualifying severe*** illness by the person's physician.

(b) The person has already tried or is not a candidate for eligible United States Food and Drug Administration (FDA) approved treatment options for their disease or condition.

(c) The person is unable to participate in a clinical trial involving the eligible investigational drug, biologic or device.

(d) The person has given written informed consent for the use of the investigational drug, biological product, 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.

(e) The physician providing access to an investigational drug, biologic, or device will not be compensated directly by the manufacturer for providing access to this therapy.

I-b. "Health care provider" means a physician licensed to practice medicine in the state of New Hampshire.

I-c. "Individualized investigational treatment" means drugs, biologics, or devices unique to and produced exclusively for use for an individual patient, based on their own genetic profile, including but not limited to individualized gene therapy antisense oligonucleotides (ASO), individualized neoantigen vaccines, and any other individualized treatment.

II. "Investigational drug, biologic, or device" means a drug, biologic, or device that has successfully completed phase one of a clinical trial, but has not been approved for general use by the FDA and remains under investigation in a clinical trial.

II-a. "Other protected access" includes:

(a) "Expanded access" whereby the treating physician requests access to an investigational drug, biologic, or device from the FDA and is subject to oversight from an Institutional Review Board; and

(b) "Off-label use" means prescribing an FDA approved drug, biologic, or device for a use not approved for that specific indication consistent with RSA 329:17, VI-b.

III. "Physician" means the licensed allopathic or osteopathic physician who is providing medical care or treatment to the eligible patient for the terminal ***or qualifying severe*** illness.

III-a.(a) "Qualifying severe illness" means an illness that is both chronic and debilitating.

(b) "Chronic and debilitating" shall have the same meaning as "severely debilitating" defined under 21 C.F.R. section 312.81(b).

IV. "Remote signing" means the signing of any form, witnessed by a notary public or a licensed health care provider, providing written informed consent for a person diagnosed by a physician with a terminal ***or qualifying severe*** illness 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.

V. "Telehealth prescreening" means any remote, real-time discussion intended, in part, to determine whether a person with a terminal ***or qualifying severe*** illness 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.

VI. "Terminal illness" means diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted, and diseases or conditions with potentially fatal outcomes, where the endpoint of a clinical trial analysis is survival, which is the definition of "life threatening" under 21 C.F.R. section 312.81.

15 Right to Try; Availability of Investigational Drugs, Biologics, or Devices. Amend RSA 126-Z:3 to read as follows:

126-Z:3 Liability of Physician; Facility.

I. Notwithstanding any provision of law to the contrary, the board of medicine shall not revoke, fail to renew, or take any other action against a physician's license issued pursuant to RSA 329 based primarily on a physician's recommendation to an eligible patient regarding or prescription for or treatment with an investigational drug, biologic, or device ***pursuant to this chapter***.

II. Notwithstanding any provision of law to the contrary, the department of health and human services shall not take action against a facility licensed under RSA 151 based primarily on the institution's participation in the treatment or use of an investigational drug, biologic, or device under this chapter.

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 terminal ***or qualifying severe*** illness 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 not approved by the FDA 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, if the patient is a legal adult, the consent is not contrary to the prior documented wishes of the patient;

(d) The manufacturer, pharmacist, facility, provider, or other person or entity has not engaged in willful or reckless misconduct or other bad faith conduct. "Willful or reckless

misconduct" shall include, but is not limited to, any conduct intended to hasten the death of the patient; and

(e) If the drug, biologic, or device is an individualized investigational treatment, it is administered by a health care provider at an eligible facility.

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

II. Notwithstanding any provision of law to the contrary, any patient diagnosed with a terminal ***or qualifying severe*** illness by a physician, 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.

17 Telehealth Prescreening. Amend RSA 126-Z:6, I to read as follows:

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 terminal ***or qualifying severe*** illness.

18 Statutory Construction. Amend RSA 126-Z:8 to read as follows:

126-Z:8 Statutory Construction. The general court enacts this chapter to promote maximum access by removing barriers in state law and indemnifying those involved in providing potentially life-saving ***or dramatically life-improving*** treatments and treatments to improve the quality of patients' remaining life, to incentivize health care facilities, health care providers, manufacturers of drugs, biologics and/or devices, and other persons and entities involved in the care of patients, to treat terminal ***and qualifying severe*** illness, whether through company-sponsored clinical trial, single-patient protocol, compassionate use protocol, or any other means of access to drugs, biologics, and/or devices which gathers information on patient outcomes, and to make New Hampshire a jurisdiction that attracts and fosters clinical trials and the development of drugs, biologics, and devices intended to treat terminal ***and qualifying severe*** illness. This chapter shall be construed consistently with the general court's stated purpose.

19 New Section; Right to Try Act; Rulemaking. Amend RSA 126-Z by inserting after section 8 the following new section:

126-Z:9 Rulemaking. The commissioner of the department of health and human services shall adopt, under RSA 541-A, any rules necessary to implement this chapter.

20 Department of Health and Human Services; Legislative Reporting Requirement. On or before November 1, 2026, the commissioner of the department of health and human services shall provide a report to the fiscal committee of the general court regarding the amendment of RSA 126-Z, the right to try act, in sections 14-19 of this act. The report shall identify any potential loss of funding as the result of implementation of this act.

21 Contingency. Sections 14-19 of this act shall be contingent upon approval by the fiscal committee of the general court of the report submitted under section 20 of this act. Sections 14-19 of this act shall take effect on the date the chairperson of the fiscal committee certifies approval of the report to the director of the office of legislative services and the secretary of state or January 1, 2027, whichever occurs later. If the report submitted under section 20 is not approved by the fiscal committee of the general court, sections 14 - 19 of this act shall not take effect.

22 Effective Date.

I. Sections 14 -19 of this act shall take effect as provided in section 21 of this act.

II. Sections 1-13 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill:

I. Authorizes the dispensing of up to a 30-day supply of noncontrolled oral anti-cancer medication by a licensed health care professional legally authorized to prescribe and administer medications to a patient under a provider's care or supervision subject to certain conditions.

II. Amends the display requirements for certain licenses and permits.

III. Authorizes licensed advanced pharmacy technicians to engage in remote processing.

IV. Removes the requirement that a pharmacist's name or initials be on a label affixed to any controlled drug or prescription issued.

V. Amends the definition of the "practice of pharmacy."

VI. Removes certain authority of the board of pharmacy with respect to the regulation of collaborative pharmacy practice agreements.

VII. Limits any examination requirement for licensure as an advanced pharmacy technician to scope of practice.

VIII. Prohibits the pharmacy board from testing applicants on pharmacy jurisprudence or law.

IX. Allows supervised certified pharmacy technicians to administer vaccines, and eliminates a requirement that vaccines be recommended by the United States Center for Disease Control and Prevention Advisory Committee on Immunization Practices before being administered by pharmacists, pharmacy interns, licensed advanced pharmacy technicians, or certified pharmacy technicians.

X. Permits treatment of certain severe illness under the right to try act and directs the department of health and human services to adopt any rules necessary to implement the act. The bill also makes amendment of the act contingent upon a report by the department and approval by the fiscal committee.