

Amendment to SB 640-FN

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

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3 1 Office of Professional Licensure and Certification; Unlicensed Practice. RSA 310:13 is
4 repealed and reenacted to read as follows:

5 310:13 Unlicensed Practice; Use of Artificial Intelligence.

6 I. Whoever, including but not limited to individuals and entities, not being licensed or
7 otherwise authorized to practice according to the laws of this state, advertises oneself as engaging in
8 a profession licensed by the office of professional licensure and certification, engages in activity
9 requiring professional licensure, or in any way holds oneself out as qualified to do so, or calls oneself
10 a licensed professional, or provides goods or services requiring professional licensure, or whoever
11 does such acts after receiving notice that such person's license to practice has been suspended or
12 revoked, is engaged in unlawful practice. The office may, for purposes of verifying licensure, request
13 to see the license of anyone who advertises oneself as engaging in a profession licensed by the office,
14 engages in activity requiring professional licensure, or in any way holds oneself out as qualified to do
15 so, or calls oneself a licensed professional, or whoever does such acts after receiving notice that such
16 person's license to practice has been suspended or revoked, at the place of business, or where such
17 business is being conducted, of such individual. After providing notice and opportunity to be heard
18 in accordance with RSA 310:10, and upon making an affirmative finding of unlawful practice, the
19 office shall impose a civil penalty of \$10,000 per violation. Each violation of unlicensed or unlawful
20 practice shall be deemed a separate offense. The board, the attorney general, or a prosecuting
21 attorney of any county or municipality where the act of unlawful practice takes place may maintain
22 an action to enjoin any person or entity from continuing to do acts of unlawful practice. The action
23 to enjoin shall not replace any other civil, criminal, or regulatory remedy. An injunction without
24 bond is available to any board.

25 II. For any order issued in resolution of a disciplinary proceeding by the board, where the
26 board has found unlawful practice, the board may require the respondent who is the subject of such
27 finding to pay the office the reasonable cost of investigation and prosecution of the proceeding, but
28 which shall not exceed \$10,000. This sum may be imposed in addition to any otherwise authorized
29 administrative fines levied by the board as part of the penalty. The investigative and prosecution
30 costs shall be assessed by the office and any sums recovered shall be credited to the office's fund and
31 disbursed by the office for any future investigations of complaints and activities that violate this
32 chapter or rules adopted under this chapter.

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1 III. No individual, corporation, or other entity or person may provide, advertise, or otherwise
2 offer mental health services requiring professional licensure to the public in this state through
3 artificial intelligence unless those services are provided by a New Hampshire licensed mental health
4 professional. Artificial intelligence shall not independently provide therapeutic communication
5 directly to a client without the involvement of a New Hampshire licensed mental health professional.
6 This paragraph does not preclude a New Hampshire licensed mental health professional, operating
7 within their scope of practice, from utilizing FDA-authorized and/or HIPPA compliant artificial
8 intelligence tools for a client under their care provided the New Hampshire licensed professional
9 exercises due diligence.

10 IV.(a) For the purposes of this paragraph:

11 (1) “Artificial intelligence” means any computer-based system, software, or
12 algorithm designed to perform tasks that typically require human cognitive functions, including but
13 not limited to natural language processing, pattern recognition, decision-making, or predictive
14 analytics.

15 (2) “Licensed professional” means a person holding a valid license in this state, or
16 through a license compact, to provide therapy or psychotherapy services.

17 (3) “Peer support” means nonclinical services provided by individuals with lived
18 experience of mental health conditions or recovery from substance use disorders, intended to offer
19 encouragement, understanding, and guidance without clinical intervention.

20 (4) “Religious counseling” means faith-based counseling provided by clergy, pastoral
21 counselors, or other religious leaders acting within the scope of their religious duties, provided the
22 services are not represented as clinical therapy or psychotherapy.

23 (5) “Therapeutic communication” means any verbal, nonverbal, or written
24 interaction intended to diagnose, treat, or address an individual's mental, emotional, or behavioral
25 health concerns, including but not limited to:

26 (i) Direct interactions with clients for the purpose of understanding or
27 reflecting their thoughts, emotions, or experiences.

28 (ii) Providing guidance, therapeutic strategies, or interventions designed to
29 achieve mental health outcomes.

30 (iii) Offering emotional support, reassurance, or empathy in response to
31 psychological distress.

32 (iv) Collaborating with clients to develop or modify treatment plans or
33 therapeutic goals.

34 (v) Delivering behavioral feedback intended to promote psychological growth
35 or address mental health conditions.

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1 (6) “Therapy or psychotherapy services” means services provided to diagnose, treat,
2 or improve an individual’s mental health or behavioral health, but does not include religious
3 counseling or peer support.

4 (b) No person, corporation, or entity may provide, advertise, or otherwise offer therapy
5 or psychotherapy services or therapeutic communication, including through Internet-based artificial
6 intelligence, to the public in this state unless those services are provided by a New Hampshire
7 licensed mental health professional.

8 (c) This paragraph does not apply to:

9 (1) Religious counseling; or

10 (2) Peer support.

11 V.(a) A commission is established to continue reviewing the implementation of this section
12 to better understand the impacts of this section.

13 (b) Notwithstanding RSA 14:49, the commission shall be comprised of:

14 (1) Two members of the senate, appointed by the president of the senate.

15 (2) Three members of the house of representatives, appointed by the speaker of the
16 house of representatives.

17 (3) A member appointed by the National Association of Social Workers New
18 Hampshire.

19 (4) A member appointed by the American Association of Marriage and Family
20 Therapy.

21 (5) A member appointed by the New Hampshire Psychological Association.

22 (6) A member appointed by the New Hampshire Community Behavioral Health
23 Association.

24 (c) Legislative members of the commission shall receive mileage at the legislative rate
25 when attending to the duties of the commission.

26 (d) The commission shall review the implementation of the policy changes induced by
27 this section to better understand the impacts.

28 (e) The members of the study commission shall elect a chairperson from among the
29 members. The first meeting of the commission shall be called by the first-named senate member.
30 The first meeting of the commission shall be held within 30 days of the effective date of this section.
31 Five members of the commission shall constitute a quorum.

32 (f) The commission shall report its findings and any recommendations for proposed
33 legislation to the speaker of the house of representatives, the president of the senate, the house
34 clerk, the senate clerk, the governor, and the state library on or before November 1, 2026.

35 2 Repeal. RSA 310:13, V, relative to commission to study the implementation of the section, is
36 repealed.

37 3 Effective Date.

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- 1 I. Section 2 of this act shall take effect November 1, 2026.
- 2 II. The remainder of this act shall take effect upon its passage.