



April 13, 2026

Representative Erica Layon, Chair  
House Executive Departments and Administration  
New Hampshire House of Representatives  
One Granite Place, Room 231  
Concord, NH 03301

Dear Chairwoman Layon and Members of the House Executive Departments and Administration,

Use of generative artificial intelligence (AI) chatbots and wellness apps for mental health advice is rapidly increasing. Engagement with unregulated AI tools can have unintended tragic consequences, including self-harm/suicide. At the same time, innovation at the intersection of AI and mental health has grown exponentially in just the past five years, illustrating the urgency for thoughtful regulation as we explore promising opportunities to expand access to mental health care and improve health outcomes. We appreciate the efforts of Senator Pearl for creating the amendment to SB640 through workgroups with AI experts, NHPA, CBHA, and others. Given the complexities involved, any AI regulation needs thoughtful deliberation from a study commission of legislators, regulators for consumer protection and health and human services, experts in the digital health field, healthcare professionals who use these tools, large multidisciplinary healthcare settings, hospitals, and the public, to determine the best oversight for current and future AI within healthcare. **NHPA opposes SB640, as it does not create an adequately comprehensive study commission,** does not fully address concerns about public safety, misplaces accountability, is not in line with federal initiatives for innovation, and prevents research-based innovation along with the use of such innovation. Please consider the following **concerns with SB640**:

- **Fails to address consumer protection by the systems causing harm.** This bill does not regulate generative AI such as ChatGPT, Claude, and Character AI, which are the most common means through which the public interfaces with AI. According to OpenAI (2025), there are about 800 million weekly users of ChatGPT. Within this, about 1.2 million people express indicators of suicidal planning or intent. Pew Research Center (December 2025) estimates that 3 in 10 teens use AI chatbots daily. All of these systems have user agreements and disclaimers in place that would protect them from being regulated by this bill. **This bill would not have protected the 14 year old boy in Florida or the 13 year old girl from Colorado who died by suicide after using Character AI. It would not have saved the life of the 23 year computer science graduate who died by suicide after using OpenAI.**
- **Misplaces accountability.** There are a number of areas in this bill that are not clear which places undue risk onto licensed professionals – why Sections III and IV(b) both exist; the definition of “therapeutic communication;” how is “due diligence” defined; what does “directly to the client” mean; the reference on Page 2, line 10 “this paragraph;” page 3 line 11 reference to a section isn’t clear. All these ambiguities, combined with the fact that this bill would be placed under the RSA for unlicensed practice, puts licensed professionals at risk. **Responsibility for AI outputs should be placed on the developers, not on licensed professionals who lack access to or control over the underlying technology.**
- **Threatens access to care and innovation that is a primary driver of economic growth:**

- Risks \$134 million in Rural Health Transformation funding for NH that is tied to innovative care delivery
- Prohibits use of digital therapeutics and emerging tools aligned with CMS priorities
- Disrupts research and innovative technologies that can increase access to care and improve healthcare outcomes
- **Creates inconsistencies within the healthcare system.** The bill does not clarify which licensed professionals are subject to its provisions, risking public confusion, inequities, and unfair business practices
- **FDA-authorized and/or HIPAA compliant does not address the issues.** While Section III allows licensed professions to use “FDA-authorized and/or HIPAA [misspelled in text] compliant artificial intelligence tools,” FDA does not yet have a clear regulatory framework for companion and conversational AI. HIPAA compliance is about protecting private health information and data handling, not about safety to the public’s use of AI for wellbeing or when they are in crisis.
- **Creates a study commission that is incomplete in both the members and the objectives.**

## PROPOSED AMENDMENT

We support regulation to address legitimate safety, privacy, and unlicensed practice concerns. However, accountability must be placed on AI developers—not on licensed clinicians who are already bound by state licensure laws and professional ethical standards. We recommend removing the current bill language and amending the bill so it only contains a **comprehensive study commission** starting on Page 3 line 11. The comprehensive study commission should be amended to include legislators, healthcare providers across disciplines that can bill for mental health services and devices according to the CPT code book, AI developers, digital health experts and researchers, and privacy/cybersecurity experts. In addition, we also request that this section clearly operationalize the goals of this study commission, with an emphasis on consumer protection and access to care concerns. Recommended study commission objectives include:

- Analyze potential impacts of AI regulation on Rural Health Transformation funding for NH and on access to mental health care for NH residents
- Evaluate outcomes and unintended consequences of AI regulation recently passed in other states (e.g., Illinois), including impacts on innovation and access to care, as well as enforcement of these laws
- Define clear consumer protection needs and optimal ways of addressing these, particularly given the existing user agreements/disclaimers utilized by generative AI technologies.
- Assess whether current law already prohibits AI systems from misrepresenting themselves as licensed professionals
- Examine current and emerging uses of AI across healthcare, particularly in the context of increasing investment in integrated models of care, in order to establish system-wide guardrails

Thank you for the opportunity to testify. NHPA appreciates your dedication to the health, well-being, and safety of Granite Staters.

Sincerely,



Julie B. Wolter, Psy.D.

Director of Professional Affairs

Chair, Behavioral Healthcare Advocacy Committee