

LEGISLATIVE COMMITTEE MINUTES

HB1345

Bill as Introduced

HB 1345 - AS AMENDED BY THE HOUSE

15Mar2022... 0668h

2022 SESSION

22-2593

05/10

HOUSE BILL **1345**

AN ACT relative to the release of a teenager's medical records to a parent or guardian.

SPONSORS: Rep. Gay, Rock. 8; Rep. Renzullo, Hills. 37; Rep. M. Pearson, Rock. 34; Rep. Wuelper, Straf. 3; Rep. Bernardy, Rock. 16; Rep. Greeson, Graf. 16; Rep. Layon, Rock. 6; Rep. Homola, Hills. 27; Rep. Kofalt, Hills. 4; Rep. Rung, Hills. 21; Sen. Gannon, Dist 23

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill provides for the release of a minor's medical records to the parent or guardian unless the parent or guardian's consent is not required for the medical treatment or the health care provider reasonably believes that there is possibility of abuse and release of the record may endanger the minor.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1345 - AS AMENDED BY THE HOUSE

15Mar2022... 0668h

22-2593
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the release of a teenager's medical records to a parent or guardian.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 New Section; Release of a Minor's Medical Records to a Parent or Guardian. Amend RSA 332-
2 I by inserting after section 4 the following new section:
3 332-I:4-a Release of a Minor's Medical Records to a Parent or Guardian. A minor's parent or
4 legal guardian shall have access to a minor's medical record unless:
5 I. Consent from the parent or legal guardian is not required for the minor to receive the
6 medical care or treatment, as directed by federal or specific state law. In such cases, the minor may
7 provide specific, written consent for release of the medical records to the parent or legal guardian.
8 II. The health care provider reasonably believes, in his or her professional judgment, that
9 the child has been or may be subjected to domestic violence, abuse or neglect, and that release of the
10 medical records to the parent or guardian could endanger the child.
11 2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Sen. Whitley, Dist 15
April 5, 2022
2022-1338s
05/10

Amendment to HB 1345

1 Amend RSA 332-I:4-a, II as inserted by section 1 of the bill by replacing it with the following:

2

3 II. The health care provider reasonably believes, in his or her professional judgment, that
4 the child has been or may be subjected to domestic violence, abuse or neglect, or that release of the
5 medical records to the parent or guardian could endanger the child.

6 III. The parent or legal guardian agrees to a confidential communication between the minor
7 and a health care provider, as described by HIPAA, 45 C.F.R. section 164.502(g)(3).

UNAPPROVED

2022-1338s

AMENDED ANALYSIS

This bill provides for the release of a minor's medical records to the parent or guardian unless, by statute, the parent or guardian's consent is not required for the medical treatment; the health care provider reasonably believes that there is possibility of abuse or that release of the record may endanger the minor; or the parent or guardian agrees to confidential communication between the minor and the health care provider.

UNAPPROVED

Sen. Sherman, Dist 24
April 14, 2022
2022-1544s
07/08

Amendment to HB 1345

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

2

3 1 New Section; Release of a Minor's Medical Records to a Parent or Guardian. Amend RSA 332-
4 I by inserting after section 4 the following new section:

5 332-I:4-a Release of a Minor's Medical Records to a Parent or Guardian. A minor's parent or
6 legal guardian shall have access to a minor's medical record unless:

7 I. Consent from the parent or legal guardian is not required for the minor to receive the
8 medical care or treatment, as directed by federal or specific state law. In such cases, the minor may
9 provide specific, written consent for release of the medical records to the parent or legal guardian.

10 II. The health care provider reasonably believes, in his or her professional judgment, that
11 the child has been or may be subjected to domestic violence, abuse or neglect, may be at risk of
12 suicide or aggressive behavior towards others, or that release of the medical records to the parent or
13 guardian could place the child at imminent risk for harm.

14 III. The parent or legal guardian agrees to a confidential communication between the minor
15 and a health care provider, as described by HIPAA, 45 C.F.R. 164.502(g)(3).

16 IV. A health care provider reasonably believes, in his or her professional judgment, that a
17 child is a mature minor, in which case that child may assert or waive privilege over his or her mental
18 health records at his or her discretion. When considering whether a child is a mature minor, the
19 health care provider may consider: the child's age, intelligence, and maturity; the intensity with
20 which the child advances his or her interest; and whether his or her stated preference is based upon
21 improper influences.

22 2. Effective Date. This act shall take effect 60 days after its passage.

2022-1544s

AMENDED ANALYSIS

This bill provides for the release of a minor's medical records to the parent or guardian except for in certain, enumerated circumstances.

UNAPPROVED

Committee Minutes

SENATE CALENDAR NOTICE
Health and Human Services

Sen Jeb Bradley, Chair
Sen James Gray, Vice Chair
Sen Kevin Avar, Member
Sen Tom Sherman, Member
Sen Rebecca Whitley, Member

Date: March 29, 2022

HEARINGS

Wednesday	04/06/2022
(Day)	(Date)
Health and Human Services	State House 100 9:00 a.m.
(Name of Committee)	(Place) (Time)
9:00 a.m. HB 1345	relative to the release of a teenager's medical records to a parent or guardian.
9:20 a.m. HB 1139	relative to ophthalmic prescription requirements.
9:40 a.m. HB 1487	relative to the procedure for withdrawal from the vaccine registry.
10:00 a.m. HB 1466	relative to the off-label use of prescription drugs and relative to pharmacy prescriptions.
10:20 a.m. HB 1099	prohibiting the department of health and human services from requiring vaccine passports for services.
10:40 a.m. HB 1439	relative to hospital visitation policies.
11:00 a.m. HB 1241	prohibiting a school district from mandating a COVID-19 vaccination for school attendance.
11:20 a.m. HB 1495-FN	prohibiting the state from requiring businesses to require vaccine or documentation related to vaccination or immunity status.
11:40 a.m. HB 1035	relative to exemptions from school vaccine mandates.
12:00 p.m. HB 1606	making the state vaccine registry an opt-in program.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1345

Rep. Gay
Rep. Bernardy
Rep. Kofalt

Rep. Renzullo
Rep. Greeson
Rep. Rung

Rep. M. Pearson
Rep. Layon
Sen. Gannon

Rep. Wuelper
Rep. Homola

HB 1139

Rep. Veilleux

Rep. Petrigno

Rep. Labranche

HB 1487

Rep. Prout
Rep. T. Lekas

Rep. Blasek

Rep. Binford

Rep. Johnson

HB 1466

Rep. Cross
Rep. Potucek

Rep. Yakubovich
Rep. Layon

Rep. Aron

Rep. Blasek

HB 1099

Rep. Torosian
Rep. True

Rep. Littlefield
Rep. Green

Rep. Andrus
Rep. Blasek

Rep. J. Smith

HB 1439

Rep. Rice
Rep. Roy
Sen. Avard

Rep. Layon
Rep. Harvey-Bolia
Sen. Birdsell

Rep. Aron
Rep. Abbas

Rep. Notter
Rep. Greene

HB 1241

Rep. Lanzara

Rep. Littlefield

HB 1495-FN

Rep. Lanzara
Rep. T. Lekas

Rep. Blasek
Rep. Turcotte

Rep. Aron
Rep. Kofalt

Rep. Foster
Rep. Harvey-Bolia

HB 1035

Rep. Lang
Sen. Ricciardi

Rep. Pearl

Sen. Giuda

Sen. Avard

HB 1606

Rep. Lang
Rep. Harvey-Bolia
Rep. Pauer
Sen. Ricciardi

Rep. Nunez
Rep. Notter
Rep. McLean

Rep. Rice
Rep. T. Lekas
Sen. Avard

Rep. Binford
Rep. Bordes
Sen. Giuda

Cameron Lapine 271-2104

Jeb Bradley
Chairman

Senate Health and Human Services Committee
Cameron Lapine 271-2104

HB 1345, relative to the release of a teenager's medical records to a parent or guardian.

Hearing Date: April 6, 2022

Time Opened: 9:03 a.m.

Time Closed: 9:45 a.m.

Members of the Committee Present: Senators Gray, Avard, Sherman and Whitley

Members of the Committee Absent: Senator Bradley

Bill Analysis: This bill provides for the release of a minor's medical records to the parent or guardian unless the parent or guardian's consent is not required for the medical treatment or the health care provider reasonably believes that there is possibility of abuse and release of the record may endanger the minor.

Sponsors:

Rep. Gay
Rep. Wuelper
Rep. Layon
Rep. Rung

Rep. Renzullo
Rep. Bernardy
Rep. Homola
Sen. Gannon

Rep. M. Pearson
Rep. Greeson
Rep. Kofalt

Who supports the bill: In total, **14 individuals** signed in support of HB 1345. The full sign in sheets are available upon request to the Legislative Aide, Cameron Lapine (cameron.lapine@leg.state.nh.us).

Who opposes the bill: In total, **44 individuals** signed in opposition to HB 1345. The full sign in sheets are available upon request to the Legislative Aide, Cameron Lapine (cameron.lapine@leg.state.nh.us).

Who is neutral on the bill: In total, **1 individual** signed in as neutral on HB 1345. The full sign in sheets are available upon request to the Legislative Aide, Cameron Lapine (cameron.lapine@leg.state.nh.us).

Summary of testimony presented in support:

Representative Betty Gay

Rockingham County District 8

- Representative Gay said that she became aware of the issues with the existing laws because of a mother she knew with four children. She said that because of how the law was written it is being applied too generously and requiring a legal release for any child over the age of 13.

- Rep. Gay said that there is a law similar to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) at the federal level that mandates children to have to provide a release form for their records. She said that there is also a state statute regarding children receiving treatment for sexually transmitted diseases (STD).
- Rep. Gay said that the current law requires children between the ages of 13 and 18 to sign a release for their medical records. She said that a very ill child may not be able to sign a release form, meaning that their parents or guardians will have a difficult time acquiring information to pay their medical bills.
- Rep. Gay said that HB 1345 has been refined from its original form and received 100%, bipartisan support in the House Health, Human Services, and Elderly Affairs Committee.
- Rep. Gay said that Line 5 of HB 1345 is written in a negative way so it is hard to understand but it says that if a parent does not give consent, then a child must give consent. She said that there are caveats included in HB 1345 to provide exemptions for parents who endanger their children. She said that those cases are a small percentage but do exist. Rep. Gay said that the language allows an exemption when a health care provider reasonably believes that the child has been or may be subject to domestic violence and abuse and the protection is dependent on the medical provider's assessment.
- Rep. Gay said that there may be other circumstances that warrant the protection of a child beyond domestic violence and abuse, exclusively, so the language may be better replaced with "or" so it is not exclusive.
- Senator Whitley proposed Amendment 1338s, which makes the "or" change and ensures HIPAA is followed. She asked if Rep. Gay was agreeable to that amendment.
 - Rep. Gay said that HB 1345 As Amended by the House already generally ensures HIPAA is enforced.

Dr. Deb Warner

- Dr. Warner is a psychologist.
- Dr. Warner said that HB 1345 is an important bill, as New Hampshire mental health professionals have been operating under case law from *Berg v. Berg* (2005) to determine the distinctions between a child's right to privacy and a parent's right to raise and care for their child.
- Dr. Warner said that the *Berg* decision defines the situation similar to how HB 1345 would define it. She said that both give the doctors the discretion to withhold certain records. She said that she would support using "or" instead of "and" as the exclusivity of "and" is not sufficient to cover all conditions that might apply.
- Dr. Warner said that HIPAA allows states to define their confidentiality laws based on their needs.
- Dr. Warner said that HB 1345 would be helpful to new providers who look to the statutes to know what to do, as they often do not know that they need to look to case law.
- Senator Avard asked, if medical information is being withheld from one parent, should there not be some kind of follow up.
 - Dr. Warner indicated she did not understand the question.

- Senator Avard asked, if a parent is suspected of abuse and information is being withheld because of it, should there not be some kind of an adjudication of that claim. He asked if there is abuse going on, shouldn't the parent be disciplined in some way other than just having the medical information withheld?
 - Dr. Warner said that that was correct because all medical providers are mandated reporters and would be obligated to report suspected abuse or neglect. She said that, however, in the process of evaluating a situation, there needs to be an assumption that they are operating with protections of the record.
- Senator Avard asked for clarity on if parental alienation is a form of abuse.
 - Dr. Warner indicated she did not understand the question.
- Senator Avard said that in either 2017 and 2018, the General Court passed legislation to consider parental alienation as a form of abuse and manipulation.
 - Dr. Warner said that parental alienation can be abusive but it can also exist in a form below the threshold of abuse and still be affecting the child.
- Senator Avard asked if parental alienation counted as abuse.
 - Dr. Warner said that it did.
- Dr. Warner said that, although she had testified on her own behalf, she is a member of the Board of Psychologists and the Board recently voted to support HB 1345 with the change of "and" to "or".

Representative Walt Stapleton

Sullivan County District 5

- Representative Stapleton said that he supports HB 1345. He said that there is a trend in society towards diminishing parental control but HB 1345 strikes a balance between preserving parental control and the safety of a child when there may be abuse or danger.
- Rep. Stapleton said that a minor can still consent to the release of information so that parents can be involved and understand what is going on, as well as be knowledgeable about the charges they are asked to cover.

Kate Shay

Goffstown

- Ms. Shay said that she represents the families of children with autism and other autoimmune disorders. She said that lots of people assume that there are mental health issues involved but, in most cases, it is actually undiagnosed cases of autism or other disorders.
- Ms. Shay said that she has thrown a lifeline to others because there is a woeful lack of resources. She said that most behavioral issues are driven from an underlying medical condition.
- Ms. Shay said that the strain of raising children with such issues broke her family.
- Ms. Shay said that it is true that parents can change providers but there is a fear that they will get in trouble because the provider can file a report against the parents.

- Ms. Shay said that often the problems involved are generally medical in nature until the child is in their upper teenage years.
- Ms. Shay said that parents often have to go to Boston for care and the people who testified against HB 1345 are not the people she takes her children to see.
- Ms. Shay said that it should not be made harder for parents to advocate for their children since children cannot advocate for themselves. She said there are incidents of selective muteness.
- Ms. Shay said that there may be cases where a child needs a therapist but the problems often go deeper and are more complex.
- Senator Avard asked to clarify if Ms. Shay supported HB 1345.
 - Ms. Shay said that she did, 100%.

Summary of testimony presented in opposition:

Lynn Stanley

National Association of Social Workers – New Hampshire Chapter

- Ms. Stanley said that she was concerned about HB 1345 as it applies to mental health.
- Ms. Stanley said that the *Berg* decision concluded that minors have a right to privacy. She said that *Berg* is a 13-year old precedent.
- Ms. Stanley said that providers are obligated to break confidentiality in some cases but their therapeutic relationship is developed, with trust, over time.
- Ms. Stanley said that people always want to keep some things private, as privacy is paramount to growth.
- Ms. Stanley said that the purpose of maintaining confidentiality and not sharing medical records is to protect teenagers in challenging situations.
- Ms. Stanley said that she appreciates the thinking behind Amendment 1338s but feels that it is confusing and adds extra hurdles for clinicians.
- Senator Whitley asked if she had seen Amendment 1338s.
 - Ms. Stanley said that she had. She said that she understands wanting to make sure that children who may be in dangerous situations are protected but there is more that goes in to therapy. She said that there may be things a child does not want shared even within a healthy family situation. She said that teenagers deserve a right to privacy.

Emma Sevigny

Children's Behavioral Health Policy Coordinator, New Futures

- Ms. Sevigny said that Ms. Stanley covered many of her points. She said that *Berg v. Berg* is the current precedent and is the proper way to determine privacy. She said that there are multiple questions a provider goes through to determine if a child is mature enough to assert the privilege of privacy.
- Ms. Sevigny said that privacy is important for the patient-clinician relationship.
- Ms. Sevigny said that she recommends an Inexpedient to Legislate (ITL) motion but if the Committee wants to pass HB 1345, she recommends adding Amendment 1338s.

- Senator Whitley indicated she did not hear what Ms. Sevigny said.
 - Ms. Sevigny said that ideally she would like to see HB 1345 ITL'd but, if it does pass, changing "and" to "or" will give more broad discretion to providers.

Holly Stevens

Director of Public Policy, NAMI-NH

- Ms. Stevens said that she believes in the system of care that has been set up to address the mental health needs of children.
- Ms. Stevens said that in many situations where a child has an adverse childhood experience (ACE), the child could benefit from a private, therapeutic relationship. She said that those children could be made more vulnerable if HB 1345 passes.
- Ms. Stevens said that HB 1345 could have a chilling effect on a child's desire to go to therapy if they believe there is a chance that their parents or guardians could acquire their records.
- Ms. Stevens said that in NAMI's experience counselors and therapists will work with the child and their family to bridge the gap if it makes sense. She said that she has faith in providers to make that decision.
- Ms. Stevens said that the law as written is not intended to keep parents out but, rather, to protect the children.
- Ms. Stevens said that when an ACE occurs at the hands of a parent, it is very important that the child has a safe place to discuss it.
- Ms. Stevens said that she recommends ITL but, if it passes, Senator Whitley's Amendment 1338s should be added.
- Senator Avard asked what would happen if a child is paired with an unethical provider. He asked what protections parents would have, and what their recourse is.
 - Ms. Stevens said that that situation could happen in either scenario, either under the current law or if HB 1345 passes and an unethical therapist divulges things that will endanger the child. She said that the Committee cannot legislate for each unethical person. She said that providers are licensed for a reason and have to keep abreast of the laws and the trends in their field. She said that parents also have an obligation to do their due diligence upfront before selecting a therapist for their child. She said that she was not sure if medical records would provide information on whether or not a therapist was being unethical.
- Senator Avard said that he was not trying to paint therapists with a broad brush. He said that he could see how some perceive this issue as an undermining of parental rights for good parents and healthy families. He asked what happens if there is an unethical provider.
 - Ms. Stevens said that if a parent goes to a therapist and asks what they're talking about with their child and the therapist completely stonewalls, then the parent has the right to terminate that relationship. She said that parents can find another provider for their child but providers cannot find new parents for a child.

Paula Minnehan

Senior Vice President, State Government Relations, New Hampshire Hospital Association (NHHA)

- Ms. Minnehan said that NHHA has some concerns about HB 1345.
- Ms. Minnehan said that NHHA is supportive of Amendment 1338s but is concerned about continued issues with confidential communication.
- Ms. Minnehan said that references should be explicitly made to HIPAA and existing case law.
- Ms. Minnehan said that there is an agreement between providers and parents that a conversation will remain confidential and it is noted in the records that it cannot be shared.
- Ms. Minnehan provided a FAQ page from the federal Department of Health and Human Services on how HIPAA relates to minors.
- Ms. Minnehan encouraged the Committee to move forward with Amendment 1338s if HB 1345 moves forward.

Neutral Information Presented:

Courtney Tanner

Director, Government Relations, Dartmouth-Hitchcock Health

- Ms. Tanner said that she did not see the point in HB 1345 but does support Amendment 1338s. She said that this will allow providers to continue to engage in their current practices.
- Ms. Tanner referenced written testimony from the Physician-in-Chief of the Children's Hospital at Dartmouth-Hitchcock.

cml

Date Hearing Report completed: April 8, 2022

Speakers

Senate Health & Human Services Committee

SIGN-IN SHEET

②

Date: Wednesday April 6, 2022 Time: 9:00 a.m.

HB 1345 AN ACT relative to the release of a teenager's medical records to a parent or guardian.

Name/Representing (please print neatly)

	Support	Neutral	Oppose	Speaking?	Yes	No
<i>Courtney Tanner - D-HH</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>As amended</i>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>HS from Goffstown</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Senate Health & Human Services Committee

SIGN-IN SHEET

Date: Wednesday April 6, 2022 Time: 9:00 a.m.

HB 1345 AN ACT relative to the release of a teenager's medical records to a parent or guardian.

Name/Representing (please print neatly)

	Support	Neutral	Oppose	Speaking?	Yes	No
✓ REP Betty J Kay	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking? Introduced	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Lynn Stanley NASWNH	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking? Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Peter Tomosian	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Rep Tony LeKas / Hills 37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
✓ Rep Walter Stapleton Sullivan #5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Rep Melissa Blasek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Linda Gould A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
✓ Dr Deborah Warner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Emma Sevigny, New Futures	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Holly Stevens	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Paul Munnick	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

Senate Health & Human Services Committee

SIGN-IN SHEET

Date: Wednesday April 6, 2022 Time: 9:00 a.m.

HB 1345 AN ACT relative to the release of a teenager's medical records to a parent or guardian.

Name/Representing *(please print neatly)*

Rep Erica Laxon	Support <input checked="" type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Support <input type="checkbox"/>	Neutral <input type="checkbox"/>	Oppose <input type="checkbox"/>	Speaking?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Senate Remote Testify

Health and Human Services Committee Testify List for Bill HB1345 on 2022-04

Support: 5 Oppose: 40

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Smith, Julie	A Member of the Public	Myself	Support
SKIDMORE, CLARENCE	A Member of the Public	Myself	Support
kirsch, walter	A Member of the Public	Myself	Support
Murdoch, Kimberly	A Member of the Public	Myself	Oppose
Welch, Kristen	A Member of the Public	Myself	Oppose
Prive, Karen	A Member of the Public	Myself	Oppose
Gagnon, Brandy	A Member of the Public	Myself	Oppose
Foster, Laurie	A Member of the Public	Myself	Oppose
Simoneau, Lyndsie	A Member of the Public	Myself	Oppose
wotherspoon, lisabeth	A Member of the Public	Myself	Oppose
Patten, Becky	A Member of the Public	Myself	Oppose
Schmidt, Jennifer	A Member of the Public	LCMHC	Oppose
Rembis, Lea	A Member of the Public	Myself	Oppose
Trahan, Dee	A Member of the Public	Myself	Oppose
Pappachristos, Faith	A Member of the Public	Myself	Oppose
Bernier-hockenhull, Erika	A Member of the Public	Myself	Oppose
Cantin, Heidi	A Member of the Public	Myself	Oppose
Zakar, Kelly	A Member of the Public	Myself	Oppose
kuenning, keith	A Lobbyist	Waypoint	Oppose
Rosenberg, Karen	A Lobbyist	Disability Rights Center - NH	Oppose
Woods, Vanessa	A Member of the Public	Myself	Oppose
Larson, Megan	A Member of the Public	Myself	Oppose
Young, Susan	A Member of the Public	Myself	Support
Maurer, Melissa	A Member of the Public	Myself	Oppose
Canada, Liz	A Lobbyist	Planned Parenthood NH Action Fund	Oppose
Robinson, Valerie	A Member of the Public	Myself	Oppose
Paschell, Susan	A Lobbyist	NH Community Behavioral Health Association	Oppose
Walker, Birgit	A Member of the Public	Myself	Oppose
Newton, Maddie	A Member of the Public	Myself	Oppose
Whittick, Laura	State Agency Staff	Myself	Oppose
Bliss, Morgan	State Agency Staff	Myself	Oppose
Bilodeau, Meghan	A Member of the Public	Myself	Oppose
King, Shawn	A Member of the Public	Myself	Oppose
D'Angelo, joan	A Member of the Public	Myself	Oppose
Krusen, Erika	A Member of the Public	Myself	Oppose
Williams, Julie	A Member of the Public	Myself	Oppose
Marsano, Alison	A Member of the Public	Myself	Oppose
Gauvain, Christine	A Member of the Public	Myself	Oppose
Shoultz, Rebecca	A Member of the Public	Myself	Oppose
Wentworth, Jessica	A Member of the Public	Myself	Oppose
Morin, Laura	A Member of the Public	Myself	Oppose
Anderson, Karina	A Member of the Public	Myself	Oppose
Gildersleeve, Darlene	A Member of the Public	Myself	Support
Viljanen, Larson	A Member of the Public	Myself	Oppose
McGrath, Jaimeanne	A Member of the Public	Myself	Oppose

Testimony



SENATE HEALTH AND HUMAN SERVICES COMMITTEE

Wednesday April 6, 2022

HB 1345 –Relative to the release of a teenager's medical records to a parent or guardian

Testimony

Good morning, Mr. Chairman and members of the committee. My name is Paula Minnehan, Senior Vice President with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA has concerns with HB 1345 relative to the release of a teenager's medical records to a parent or guardian. We continue to believe that this bill is unnecessary as the Health Insurance Portability and Accountability Act (HIPAA) already covers when a minor's medical records can be released. If the bill does move forward, however, an important component of what is protected under HIPAA, confidential communications, must be included as an exception, in order to comply with HIPAA.

That critical component that is missing is called "confidential communications". We know that adolescent health care providers rely heavily on this provision to have important conversations with their adolescent patients that may be stifled if not permitted. Confidential communications means that there is an agreement between the provider, the patient and the personal representative (parents / guardians) that the conversation between the provider and the patient will remain confidential between the two of them, which the provider documents in the chart, and it is then noted in the patient's electronic medical record that it cannot be shared.

The attached FAQ from the US Department of Health and Human Services (HHS) describes how HIPAA manages access to minors' medical records. This is how all healthcare providers in New Hampshire currently manage these situations in support of the minor, the parents/guardians, and the healthcare provider.

For these reasons, if the committee chooses to move forward with this bill, we ask that you amend the bill to add the following language after II, starting on line 11:

III. The parent or legal guardian agrees to a confidential communication between the minor and a health care provider, as described by HIPAA, 45 CFR 164.502(g)(3).

Thank you and I'd be happy to answer any questions you may have.

Does the HIPAA Privacy Rule allow parents the right to see their children's medical records?

Answer:

Yes, the Privacy Rule generally allows a parent to have access to the medical records about his or her child, as his or her minor child's personal representative when such access is not inconsistent with State or other law.

There are three situations when the parent would not be the minor's personal representative under the Privacy Rule. These exceptions are:

1. When the minor is the one who consents to care and the consent of the parent is not required under State or other applicable law;
2. When the minor obtains care at the direction of a court or a person appointed by the court; and
3. **When, and to the extent that, the parent agrees that the minor and the health care provider may have a confidential relationship.**

However, even in these exceptional situations, the parent may have access to the medical records of the minor related to this treatment when State or other applicable law requires or permits such parental access. Parental access would be denied when State or other law prohibits such access. If State or other applicable law is silent on a parent's right of access in these cases, the licensed health care provider may exercise his or her professional judgment to the extent allowed by law to grant or deny parental access to the minor's medical information.

Finally, as is the case with respect to all personal representatives under the Privacy Rule, a provider may choose not to treat a parent as a personal representative when the provider reasonably believes, in his or her professional judgment, that the child has been or may be subjected to domestic violence, abuse or neglect, or that treating the parent as the child's personal representative could endanger the child.

<https://www.hhs.gov/hipaa/for-professionals/faq/227/can-i-access-medical-record-if-i-have-power-of-attorney/index.html>

April 6, 2022

The Honorable Jeb Bradley, Chair
Senate Health and Human Services Committee
Legislative Office Building, Room 101
33 North State Street
Concord, NH 03301

Re: New Futures' opposition to HB 1345, relative to the release of a teenager's medical records to a parent or guardian

Dear Chairman Bradley, and Honorable Members of the Committee:

New Futures appreciates the opportunity to provide testimony in opposition to HB 1345, relative to the release of a teenager's medical records to a parent or guardian.

New Futures is a nonpartisan, nonprofit organization that advocates, educates and collaborates to improve the health and wellness of all Granite Staters. We are dedicated to supporting and strengthening a comprehensive and integrated System of Care for children and youth who experience behavioral health challenges in New Hampshire.

New Futures opposes HB 1345 as written because it would undermine a minor's ability to seek confidential mental health treatment.

Confidentiality protects health of minors by promoting healthy behaviors and creating a youth-guided environment for minors to receive care. Privacy concerns affect whether minors seek care, and if they do, when and where they seek care.¹ Privacy is the cornerstone to creating an effective provider-client relationship and directly affects how openly young people talk with healthcare providers. Giving parents unfettered access to a teen's records would compromise the privacy that is essential to an effective provider-client relationship.

New Hampshire has already recognized the importance of confidentiality of a minor's mental health records in a Supreme Court decision, *Berg v. Berg*.² In this decision, the Supreme Court of New Hampshire recognized the importance of putting an emphasis on the preservation of a minor's ability to engage in open and productive therapeutic treatment.³ The Court noted that allowing a parent unfettered access to a child's therapy records may deny the child the right to

¹ English A. Adolescent & Young Adults Health Care in New Hampshire: A Guide to Understanding Consent & Confidentiality Laws. San Francisco, CA: Adolescent & Young Adult Health National Resource Center; and Chapel Hill, NC: Center for Adolescent Health & the Law, 2019. http://nahic.ucsf.edu/resource_center/confidentiality-guides/.

² *Berg v. Berg*, 152 N.H. 658, 666 (2005).

³ *Id.*

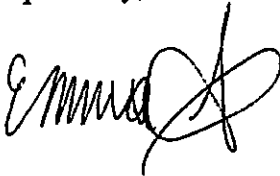
effective medical care by destroying the atmosphere of confidence and trust that is fundamental for effective therapeutic counseling.⁴

New Hampshire does not have explicit laws allowing minors to consent to most healthcare treatments, and therefore it defers to the mature minor test to determine if a minor is sufficiently mature to assert or waive his or her privilege over mental health records.⁵ As written, HB 1345 would override this doctrine, except in the narrow instance that a provider reasonably believes a child has been or may be subjected to domestic violence, abuse or neglect, *and* that release of the medical records to the parent or guardian could endanger the child.

Having such a narrow exception to client-provider confidentiality would create a chilling effect on healthcare for minors. Ideally, the mature minor doctrine would remain in place to ensure continued effective mental health treatment for minors. However, amending the bill to give providers broader discretion to assert privilege over records would be closer to the mature minor doctrine already in place and would be more conducive to the mental health treatment of minors.

For the reasons presented above, New Futures strongly urges the committee to vote HB 1345 inexpedient to legislate.

Respectfully,



Emma Sevigny, Esq.
Children's Behavioral Health Policy Coordinator
New Futures, Inc.

⁴ Id. at 665.

⁵ *Berg v. Berg*, 152 N.H. 658, 666 (2005).



National Alliance on Mental Illness

NAMI | New Hampshire

April 6, 2022

Honorable Chairman Jeb Bradley
Senate Health and Human Services Committee
Legislative Office Building Room 101
North Main St., Concord, NH 03301

RE: NAMI NH Opposition to HB 1345

Dear Chairman and Committee Members:

Thank you for the opportunity to testify today. My name is Holly Stevens, and I am the Director of Public Policy at NAMI New Hampshire, the National Alliance on Mental Illness. On behalf of NAMI NH, I am here today to speak in opposition to HB 1345, relative to the release of a teenager's medical records to a parent or guardian.

NAMI New Hampshire strongly believes in the system of care that has been set up to address children's mental health needs in our state. We also recognize the importance of the role of the family within that system. However, in looking at the adverse childhood experience statistics in our state, it is evident that there are many cases where children could greatly benefit from a private therapeutic relationship with a therapist. Those already vulnerable children would be even more vulnerable if this bill were to pass as amended by the House. Many adverse childhood experiences happen at the hands of a parent or guardian.

In NAMI NH's experience, counselors and therapists who are proficient in their practice, will involve the family, including parents and guardians, in the treatment of an adolescent patient when it is in the best interest of the child. HB 1345 section 1, II does not do enough to protect children whose therapist believes that releasing the information would be harmful to or endanger the child.

Therefore, NAMI NH urges the committee to vote inexpedient to legislate HB 1345. I am happy to answer any questions that you may have.

Sincerely,

Holly A. Stevens, Esq.

Reflecting on 40 Years: Continuing Our Journey to Hope, Help, and Health

NAMI New Hampshire • 85 North State Street • Concord, NH 03301

InfoLine: 800-242-6264 • Tel. 603-225-5359 • Fax 603-228-8848 • info@naminh.org / www.NAMINH.org

Cameron Lapine

From: Portsmouth NAMI Connection <namiconnectionportsmouth@gmail.com>
Sent: Tuesday, April 5, 2022 7:21 PM
To: Jeb Bradley; James Gray; Tom Sherman; Becky Whitley; Kevin Avard; Cameron Lapine
Subject: HB 1345 - oppose

Please vote no on HB 1345.

While I understand that parents want to be a part of their children's mental health care, opening a kid's mental health records to their parents' scrutiny sacrifices the nature of the confidential therapeutic relationship.

I was forced into therapy as a teenager, by the state. The only reason I kept going was because I knew I needed help, and knew what was said there would not be shared unless I was in danger. I was in danger, but it still took me two years to open up about the threats at home - violence, sexual assaults and the like. Had my parents had access to my records I would not have ever trusted the therapist who helped me eventually find safety.

I carried this experience into parenting my own stepson, who was abused by his mother and stepfather. He was in therapy from the time he was 12. I was involved in his care but only when he asked me to be, or when he was at risk of suicide. I respected the relationship he forged with his therapist.

Kids - especially teens - need to have some control over their own mental health care.

Thank you for reading this.

Karen Prive, Franklin NH (Ward 3)
603-860-6629

Voting Sheets

Senate Health and Human Services Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill #HB 1345

Hearing date: 4-6-22

Executive Session date: 4-20-22

Motion of: IS Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Bradley, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Avard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Sherman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Bradley

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, April 21, 2022

THE COMMITTEE ON Health and Human Services

to which was referred **HB 1345**

AN ACT relative to the release of a teenager's medical records to a parent or guardian.

Having considered the same, the committee recommends that the Bill

BE REFERRED TO INTERIM STUDY

BY A VOTE OF: 5-0

Senator Jeb Bradley
For the Committee

HB 1345 provides for the release of a minor's medical records to the parent or guardian unless the parent or guardian's consent is not required for the medical treatment or the health care provider reasonably believes that there is possibility of abuse and release of the record may endanger the minor. The Committee was unsure if HB 1345 would completely comply with federal regulations. The Committee was also unsure if the bill contained adequate protections for children in abusive or otherwise not supportive home environments. For these reasons, a motion of Interim Study is warranted.

Cameron Lapine 271-2104

FOR THE CONSENT CALENDAR

HEALTH AND HUMAN SERVICES

HB 1345, relative to the release of a teenager's medical records to a parent or guardian.

Interim Study, Vote 5-0.

Senator Jeb Bradley for the committee.

HB 1345 provides for the release of a minor's medical records to the parent or guardian unless the parent or guardian's consent is not required for the medical treatment or the health care provider reasonably believes that there is possibility of abuse and release of the record may endanger the minor. The Committee was unsure if HB 1345 would completely comply with federal regulations. The Committee was also unsure if the bill contained adequate protections for children in abusive or otherwise not supportive home environments. For these reasons, a motion of Interim Study is warranted.

General Court of New Hampshire - Bill Status System

Docket of HB1345

Docket Abbreviations

Bill Title: relative to the release of a teenager's medical records to a parent or guardian.*Official Docket of HB1345.:*

Date	Body	Description
11/20/2021	H	Introduced 01/05/2022 and referred to Health, Human Services and Elderly Affairs
1/12/2022	H	Public Hearing: 01/18/2022 11:30 am LOB 210-211
3/1/2022	H	Executive Session: 03/07/2022 09:30 am LOB 210-211
3/9/2022	H	Committee Report: Ought to Pass with Amendment #2022-0668h (Vote 21-0; CC)
3/16/2022	H	Amendment #2022-0668h : AA VV 03/15/2022 HJ 6
3/16/2022	H	Ought to Pass with Amendment 2022-0668h: MA VV 03/15/2022 HJ 6
3/22/2022	S	Introduced 03/17/2022 and Referred to Health and Human Services; SJ 6
3/29/2022	S	Hearing: 04/06/2022, Room 100, SH, 09:00 am; SC 14
4/21/2022	S	Committee Report: Referred to Interim Study, 04/28/2022; Vote 5-0; CC; SC 17
4/28/2022	S	Refer to Interim Study, MA, VV; 04/28/2022; SJ 10

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 1345

Senate Committee: HHS

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1338s ___ - amendment # _____
- amendment # 1544s ___ - amendment # _____
- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- ___ - amendment # _____ ___ - amendment # _____
- ___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- ___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- ___ Enrolled Bill Amendment(s)
- ___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- ___ as amended by the senate ___ as amended by the house
- ___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Zapine
Committee Aide

6-29-22
Date

Senate Clerk's Office AK