Comparison of H.644 and H.816

	H.644	**H.816**
Findings	Yes	N/A
Purpose	Safeguard individuals seeking MH services in VT from psychological harm by ensuring services are delivered by MH professionals and not AI systems	Safeguard individuals seeking MH services in VT by: • Ensuring therapeutic judgement, clinical decision making, and therapeutic communication is the responsibility of qualified MH professionals and not AI systems • Respecting individual choice in selecting MH services • Allowing responsible use of AI for administrative, operational functions, etc.
3 V.S.A. § 129a (Unprofessional Conduct)	Misuse of AI by MH professionals constitutes unprofessional conduct	[Same]
18 V.S.A. § 7115 (Prohibited Uses of AI)	• Same distinctions between definitions as set forth below • Prohibits a person, corporation, or entity from offering, providing, advertising MH services that use AI, except as authorized in Sec. 5 • A violation of section is violation of CPA; each violation has a civil penalty $10k	• Same distinctions between definitions as set forth below • Prohibits a person, corporation, or entity from offering, providing, advertising MH services that represent AI as providing therapeutic judgement/communication, diagnosis, etc. This subsection does not prohibit the use/disclosure of the use of AI for administrative, documentation, operational tasks when the MH professional retains clinical responsibility pursuant to Sec. 5 • Same, but no civil penalty

26 V.S.A. chapter 120 (Artificial Intelligence in Regulated Professions)	Sec. 5:
	• Subchapter 1: Adds definition of "AI"
	   o Includes "algorithm"
	   o Examples include natural language processing, pattern recognition, predictive analytics, etc.
		Sec. 4:
		• Subchapter 1: Adds definition of "AI" and "Generative AI"
		   o Excludes "algorithm"
		   o Examples include producing predications, content, recommendations, decisions
		   o Includes language that AI can learn/adapt behavior by analyzing how environment is affected by prior actions
		   o AI includes generative AI

• Subchapter 2: Prohibited Uses of AI in Therapeutic Settings
   o Definitions
      ▪ "Administrative support" includes list of examples, such as managing appointment scheduling/reminders, drafting general communications, preparing/maintaining clinical records, analyzing deidentified data, organizing external resources/referrals
 	
      ▪ No definition of "clinical responsibility"
      ▪ "Consent" requires unambiguous communication
 	
      ▪ "MH professional"
 	
      ▪ Does not include definitions of "peer support", "religious counseling", "supplementary support"
      ▪ "Therapeutic communication" contains list of examples, such as engaging in direct communications with clients, providing guidance/therapeutic strategies, offering emotional support, etc.
	• Subchapter 2: Permitted and Prohibited Uses of AI in Therapeutic Settings
	   o Definitions
	      ▪ "Administrative support"
	
	      ▪ Contains definition of "clinical responsibility"
	
	      ▪ "Consent" excludes acceptance of broad terms-of-use agreements, deceptive practices, etc.
	      ▪ "MH professional" same, but references exemptions in (e) for religious counseling, peer support by uncertified peer support provider, and general education/self-help resources
	      ▪ Does include definitions of "peer support", "religious counseling", "supplementary support"
	
	      ▪ "Therapeutic communication" does not list examples

	- Permitted Uses - Allows AI use for administrative support if MH professional reviews/assumes responsibility for all tasks, outputs, data use - If MH professional uses AI for transcription/recording informed consent must be obtained - Confidentiality - Admin tasks conducted using AI are subject to disclosure prohibitions - Prohibited Uses - Prohibits a MH professional from: (1) using AI to makes therapeutic communications, recommendations, etc. and (2) offering, providing or advertising MH services in the State that use AI in whole or part, except as described under permitted used - N/A		- Permitted Uses - Allows AI use for administrative support, supplementary support, operational functions, if MH professional retains clinical responsibility; provides examples of permitted uses such as claims processing, transcription, maintenance of clinical records, etc. - Consent required when AI used to record, transcribe, but not for administrative/ deidentified uses - Confidentiality - Admin/supplementary support tasks conducted using AI are subject to disclosure prohibitions - Prohibited Uses - Prohibits a MH professional from (1) using AI to directly interact with clients, etc. and (2) offering, providing or advertising MH services that represent AI as providing therapeutic judgement, diagnosis, treatment, or therapeutic communication - Nothing in section prohibits MH professional from disclosing/describing MH professional's use of AI for admin/supplementary support to a client
Effective Date	Passage	[Same]	