

H.816: An act relating to regulating the use of artificial intelligence in the provision of mental health services

Side-by-side summary

Section	As Passed by House	As Passed by Senate
Purpose	<p>To safeguard individuals seeking mental health services in VT by:</p> <ul style="list-style-type: none"> • Ensuring therapeutic judgement, clinical decision making, and therapeutic communication remain the responsibility of MH professionals versus delegated to AI systems; • Respecting individual choice in selecting MH services, including community, peer, and faith-based options; and • Allowing responsible use of AI for administrative, operational, documentation, and quality-improvement functions that support access, efficiency, and innovation in MH services 	<p>To safeguard individuals seeking mental health services from psychological harm by ensuring that mental health services are delivered by mental health professionals and not independently by AI systems</p>
3 V.S.A. § 129a (Unprofessional Conduct)	Adds “misuse” of AI to the existing list of unprofessional conduct by certain OPR-regulated licensees/applicants	Adds “engaging in the prohibited use” of AI to the existing list of unprofessional conduct by certain OPR-regulated licensees/applicants
18 V.S.A. § 7715 (Prohibited Uses of Artificial Intelligence)	<ul style="list-style-type: none"> • (a) Adds definitions of AI, generative AI, mental health services, and therapeutic communication <ul style="list-style-type: none"> ○ Definitions of “therapeutic communication” and “therapeutic decision” are not identical to Senate version • (b) Prohibits a person, corporation, or other entity from offering, providing, or advertising MH services in the State that represent AI as providing therapeutic judgement, diagnosis, treatment, or therapeutic communication <ul style="list-style-type: none"> ○ This section does not prohibit the use or disclosure of the use of AI for administrative, documentation, operational or other purposes when the MH professional retains clinical responsibility pursuant to 26 V.S.A. § 7101 (below) • (c)(1) Violations of this section are deemed a violation of the Consumer Protection Act and enforced by the Office of the Attorney General <ul style="list-style-type: none"> ○ [Penalty not in House version] ○ (2) This does not preclude/supplant other applicable statutory/common law remedies 	<ul style="list-style-type: none"> • (a) Adds definitions of AI, mental health professionals, mental health services, therapeutic communication, and therapeutic decision • (b) Prohibits a corporation or other entity from providing , advertising, or otherwise offering MH services, including through the use of AI, to the public unless the MH services are provided by a MH professional • (c)(1) Violations of this section are deemed a violation of the Consumer Protection Act and enforced by the Office of the Attorney General; each violation has a civil penalty of \$10,000.00 <ul style="list-style-type: none"> ○ (2) [Same as House] • (d) This section does not preclude a mental health professional operating within their scope of practice from utilizing AI tools that are HIPAA-compliant, so long as the mental health professional reviews and approves any mental health services
26 V.S.A. chapter 120 (Artificial Intelligence in Regulated Professions)	<ul style="list-style-type: none"> • <u>Adds 26 V.S.A. § 7001</u> <ul style="list-style-type: none"> ○ Adds definitions of AI and generative AI • <u>Adds 26 V.S.A. § 7101</u> <ul style="list-style-type: none"> ○ (a) Adds definitions of administrative support, clinical responsibility, consent, MH professional, MH services, peer support, religious counseling, supplementary 	[Not in Senate version]

	<p>support, therapeutic communication, and therapeutic decision</p> <ul style="list-style-type: none"> ○ (b) Authorizes a MH professional to use AI for administrative support, supplementary support, operational and quality improvement functions, such as scheduling, billing, maintenance of clinical records, etc., so long as the MH professional retains sole responsibility for therapeutic decisions ○ (c)(1) Use of AI for administrative support and supplementary support tasks, including transcription/recording, are subject to privacy protections in existing State law (<i>see</i> 18 V.S.A. §§ 1881 (disclosure of protected health information prohibited) and 7103 (disclosure of information related specifically to mental health)) <ul style="list-style-type: none"> ▪ (2) Patient/client consent is required when AI is used to record identifiable therapeutic communications ○ (d)(1) Prohibits a MH professional from using AI in a manner that allows the AI to independently make therapeutic decisions, diagnose, determine treatment, or generate treatment plans <ul style="list-style-type: none"> ▪ (2) Section does not prohibit a MH professional from disclosing or describing a MH professional’s use of AI for administrative support or supplementary support to a patient/client ▪ (3) Section does not apply to religious counseling, non-certified peer support providers, and generalized education/self-help resources that do not purport to offer MH services 	
26 V.S.A. § 1354 (Unprofessional conduct)	[Not present in House version]	Adds “engaging in the prohibited use” of AI to the existing list of unprofessional conduct by certain Board of Medical Practice-regulated licensees/applicants
Report; Use of Artificial Intelligence in Regulated Professions	[Not present in House version]	Requires OPR and the Board of Medical Practice to submit a report to the General Assembly containing recommendations for the regulation of the use of AI by regulated professionals by January 15, 2027
Effective Date	On passage	[Same]