

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 816  
3 entitled “An act relating to regulating the use of artificial intelligence in the  
4 provision of mental health services” respectfully reports that it has considered  
5 the same and recommends that the House concur in the Senate proposal of  
6 amendment with further proposal of amendment by striking out all after the  
7 enacting clause and inserting in lieu thereof the following:

8 Sec. 1. PURPOSE

9 It is the purpose of this act to safeguard individuals seeking mental health  
10 services in Vermont from psychological harm, including death by suicide, by  
11 ensuring that these services are delivered by mental health professionals and  
12 not independently by artificial intelligence systems.

13 Sec. 2. 3 V.S.A. § 129a is amended to read:

14 § 129a. UNPROFESSIONAL CONDUCT

15 (a) In addition to any other provision of law, the following conduct by a  
16 licensee constitutes unprofessional conduct. When that conduct is by an  
17 applicant or person who later becomes an applicant, it may constitute grounds  
18 for denial of a license or other disciplinary action. Any one of the following  
19 items or any combination of items, whether the conduct at issue was  
20 committed within or outside the State, shall constitute unprofessional conduct:

21 \* \* \*



1 noncertified psychotherapist or a noncertified psychoanalyst; or any other  
2 professional who provides mental health services.

3 (3) “Mental health services” means counseling, therapy, or  
4 psychotherapy services used to diagnose or treat an individual’s mental or  
5 behavioral health or provide ongoing recovery support, including providing  
6 therapeutic decisions, issuing direct therapeutic communications, generating  
7 treatment plans or recommendations, or detecting or interpreting emotion or  
8 mental states.

9 (4) “Therapeutic communication” means a written, verbal, or nonverbal  
10 interaction intended to diagnose or treat any type of mental or behavioral  
11 health concern, provide ongoing recovery support, or provide clinical advice  
12 on diagnosis, treatment, or recovery support, such as:

13 (A) engaging in direct interactions with clients or patients for the  
14 purpose of understanding or reflecting the client’s or patient’s mental health  
15 condition;

16 (B) providing clinical guidance, strategies, or interventions;

17 (C) offering clinical support, including reassurance or empathy in  
18 response to emotional or psychological distress;

19 (D) collaborating with a patient or client to develop or modify  
20 treatment plans or therapeutic mental health goals; and

1           (E) delivering feedback intended to promote growth or address  
2           mental health outcomes.

3           (5) “Therapeutic decision” means the final clinical determination  
4           regarding diagnosis or the selection, modification, or termination of treatment  
5           or care.

6           (b) A corporation or entity shall not provide, advertise, or otherwise offer  
7           mental health services, including through the use of artificial intelligence, to  
8           the public unless the mental health services are provided by a mental health  
9           professional.

10          (c)(1) A violation of this section by a corporation or entity shall be deemed  
11          a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney  
12          General has the same authority, and private parties have the same rights and  
13          remedies, as provided under 9 V.S.A. chapter 63, subchapter 1. Each violation  
14          of this section shall carry a civil penalty of \$10,000.00 as set forth in 9 V.S.A.  
15          § 2461.

16          (2) Nothing in this section shall be construed to preclude or supplant any  
17          other statutory or common law remedies.

18          (d) Nothing in this section shall preclude a mental health professional who  
19          is operating within the professional’s scope of practice from utilizing artificial  
20          intelligence tools that are compliant with the Health Insurance Portability and

1 Accountability Act of 1996, Pub. L. No. 104-191, provided that the mental  
2 health professional reviews and approves any mental health services.

3 Sec. 4. 26 V.S.A. § 1354 is amended to read:

4 § 1354. UNPROFESSIONAL CONDUCT

5 (a) Prohibited conduct. The Board shall find that any one of the following,  
6 or any combination of the following, whether the conduct at issue was  
7 committed within or outside the State, constitutes unprofessional conduct:

8 \* \* \*

9 (3) engaging in the prohibited use of artificial intelligence pursuant to  
10 18 V.S.A. § 7115;

11 \* \* \*

12 Sec. 5. 3 V.S.A. § 5023 is amended to read:

13 § 5023. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL

14 \* \* \*

15 (b) Members.

16 (1) Members. The Advisory Council shall be composed of the  
17 following members:

18 \* \* \*

19 (I) the Director of Professional Regulation or designee;

20 (J) the Executive Director of Racial Equity or designee; and

21 (J)(K) the Attorney General or designee.

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**Sec. 6. USE OF ARTIFICIAL INTELLIGENCE BY MENTAL HEALTH  
PROFESSIONS**

On or before January 15, 2027, the Artificial Intelligence Advisory Council established in 3 V.S.A. § 5023 shall submit a written report to the House Committees on Government Operations and Military Affairs and on Health Care and to the Senate Committees on Government Operations and on Health and Welfare regarding the regulation of the use of artificial intelligence by mental health professionals, including recommendations for legislative action.

**Sec. 7. EFFECTIVE DATE**

This act shall take effect on passage.

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE