



May 13, 2026

Representative Alyssa Black, Chair
House Committee on Health Care
State of Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Honorable Chair Black and Honorable Members of the House Committee on Health Care,

I am writing on behalf of the New Hampshire Psychological Association (NHPA) regarding **H. 816, An Act Relating to Regulating the Use of Artificial Intelligence in the Provision of Mental Health Services**. As your neighboring state, NHPA has a number of our members who practice in Vermont either directly licensed by the Vermont Board of Psychological Examiners or as a PSYPACT authorization holder, which allows psychologists to practice across state lines.

We appreciate and agree with many legislators' concerns regarding harms that have occurred as a result of the public's use of large language models, and we appreciate efforts to address public safety. However, we have concerns regarding H. 816 given the broad definitions of artificial intelligence, mental health services, and therapeutic communication. In addition, what level of human review and what "approve" actually requires is ambiguous. The following are unclear, placing risk on to licensed professionals:

- What level of review is required,
- Whether review must occur before delivery,
- Whether every AI-generated interaction must be reviewed,
- Whether retrospective review is sufficient
- Whether automated triage is permissible,
- Whether any AI interactions are allowed before clinician review

To place the risk of unprofessional conduct on licensed professionals who may be using technology tools in good faith with patients during a time when AI is embedded in ways we may not be aware of places undue risk both on professionals and the public. The bill states "For any mental health professional, engaging in the prohibited use of artificial intelligence pursuant to 18 V.A.A 7115" yet it is unclear to what that is referring. AI is embedded in much of the technology we all use. After reviewing this bill, we are unclear the level of liability licensed professionals would have in the following scenarios, of which these are only a few of the myriad of examples:

- (1) Licensed professionals using FDA approved digital therapeutics, given section 5 (b) on page 2 as the device could be providing services alongside the oversight of the mental health professional. For example, Sleepio Rx provides CBT-I, and if a licensed professional gives this to a patient, who is responsible if the digital therapeutic malfunctions? It is akin to a medical professional prescribing a medication – is the physician responsible for a manufacturing error of the medication?

- (2) AI tools that are embedded into complex EHR systems. For example, in integrated healthcare settings, the EHR may use an alert system based on embedded assessment tools such as PHQ-9 for possible suicide risk. Who would be considered providing the service – the corporation that owns the EHR or the physician or licensed professional who receives the alert? Lifesaving technologies could be paused as organizations try to determine what is legally allowed and the level of liability.
- (3) Licensed professionals who discuss calming apps, meditation apps, weight loss apps, executive functioning tools such as calendars that are not HIPAA compliant – is this considered unprofessional conduct, even when no specific app was recommended but was used as part of the therapy session by the patient?

HIPAA compliance is about privacy, security and data handling – all critically important for healthcare. However, HIPAA compliance does not address:

- Whether the AI interaction is lawful,
- Whether sufficient review occurred,
- Whether the AI crossed into prohibited therapeutic communication,
- Whether the clinician exercised adequate oversight.

We agree with the need to protect public safety from companies that are creating chatbots posing as therapists, but we also believe there needs to be regulations for generative AI that have user agreements that indicate they are not therapists or licensed professionals. We appreciate the purpose of the bill to maintain therapy under the purview of licensed professionals. However, it is critical not to let urgency unintentionally result in licensed professionals being at risk of unprofessional conduct when they are treating patients during a mental health crisis. AI is complicated and is rapidly being interwoven into our everyday life. We respectfully express our concerns about placing a consumer protection bill under professional conduct.

Sincerely,

A handwritten signature in purple ink that reads "Julie B. Wolter Psy.D." The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Julie B. Wolter, Psy.D.

Director of Professional Affairs

Chair, Behavioral Healthcare Advocacy Committee