To: Senate Committee on Health & Welfare
From: Jessa Barnard, Vermont Medical Society
Date: April 9, 2026
RE: H.814 – An act relating to neurological rights and the use of artificial intelligence technology in health and human services

Good morning, and thank you for the opportunity to testify on H.814.

VMS recognizes the importance of the issues that this bill seeks to address. The rapid development of artificial intelligence and neurotechnology raises legitimate questions about privacy, autonomy, and protecting patients from misuse of their health care information. Establishing guardrails around neural data and the use of artificial intelligence in health care are thoughtful and forward-looking goals. At the same time, it is important to consider how the bill intersects with existing use and regulation of medical technologies.

Section 1 – Establishment of Neurological Rights

Section 1 creates affirmative rights in state law, including that an individual has the right to "mental and neural data privacy," "the freedom of thought," and "nondiscrimination in the development and application of neurotechnologies," the right to "change an individual's decision regarding neurotechnology," among other rights.

We recognize that in the House, this section of the bill was significantly streamlined and does not explicitly create an enforcement mechanism for these rights. **However, this section still raises significant questions and concerns for the medical field and we seek additional clarity of terms and scope.**

None of the terms in this section are further defined, enshrining in State statute very vague and potentially broad rights – What falls under the definition of "neurotechnology? What does "freedom of thought" mean? What does it mean to not discriminate in the development of neurotechnology? Which "decisions" regarding neurotechnology can be changed?

There is currently no clarity in scope regarding what entities must follow these new rights, creating conflict with HIPAA regulations. In the House we heard compelling testimony regarding the development and use of unregulated consumer products that can measure neural data. However, there is nothing currently limiting the scope of this section from health care providers using existing, well established medical tests such as:

- Electroencephalogram (EEG), a non-invasive diagnostic test that records the electrical activity of the brain using small metal electrodes placed on the scalp, commonly used to diagnose epilepsy, in sleep studies or to otherwise measure brain functioning
- Common brain scans such as CT (computed tomography), MRI (magnetic resonance imaging), PET (positron emission tomography), and SPECT (single proton emission CT), imaging techniques that diagnose tumors, blood vessel malformations, stroke, inflammation, injuries, scars, abnormal brain development, and hemorrhage in the brain
- Intraoperative neuromonitoring
- Other standard neurophysiologic or psychometric testing.

Clinical diagnostic data already falls under HIPAA and established professional standards, which apply detailed regulations specifying patient rights and how patient data must be protected and stored. It currently appears that the new rights established under this section also apply to entities and technologies that must follow HIPAA privacy regulations, creating a duplicative regulatory scheme.

We are also concerned that section could inadvertently expose medical professionals to additional liability for patient allegations of violating their neural rights. While an enforcement mechanism is not created in the bill, could a patient bring a civil suit seeking injunctive or declaratory relief for violations of these new rights?

Suggested Amendments:

- **Remove Section 2 and defer to Section 3, which already tasks the Artificial Intelligence Council with reporting back regarding "protections for neurological rights, protections related to neurotechnologies and proposed definitions for relevant terminology."**
- If Section 2 is retained, clarify that this section only applies to unregulated consumer products and not to HIPAA-covered entities.

Sections 3 & 4 – Artificial Intelligence Advisory Council

VMS supports expanding the membership and role of the Artificial Intelligence Advisory Council. The issues raised by artificial intelligence in health care are detailed and nuanced and justify study and input from experts around the State. We support adding a member with experience in health care and would be happy to assist with appointing that member. We also support the report asked for in Section 4 and believe it is important for a body of experts to examine and create recommendations regarding the use of artificial intelligence in health care, the use of AI by regulated professions and the use of AI in health insurance utilization review.

We do seek clarity regarding the overall statutory charge for the AI Advisory Council and how this underlying charge fits with the new areas of examination for the Council. Our understanding is that existing statute (3 V.S.A. § 5023 (a)) creates the Advisory Council to review the use of AI by/in State government. However, many of the areas the Advisory Council is now being asked to examine in health care do not appear to be limited to State government uses of AI – and we are seeking clarity regarding whether these new areas of examination are limited to state actors or other entities.

Thank you for considering our comments regarding H. 814. I would be happy to participate in any additional conversations regarding the future direction of this bill.