

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill
3 No. 816 entitled “An act relating to regulating the use of artificial intelligence
4 in the provision of mental health services” respectfully reports that it has
5 considered the same and recommends that the Senate propose to the House that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 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 recovery support specialist pursuant to 26 V.S.A. chapter 60; a social worker
2 pursuant to 26 V.S.A. chapter 61; an alcohol and drug abuse counselor
3 pursuant to 26 V.S.A. chapter 62; a clinical mental health counselor pursuant
4 to chapter 65 of this title; a marriage and family therapist pursuant to 26 V.S.A.
5 chapter 76; a psychoanalyst pursuant to 26 V.S.A. chapter 77; an applied
6 behavior analyst pursuant to 26 V.S.A. chapter 95; a nonlicensed or
7 noncertified psychotherapist or a noncertified psychoanalyst; or any other
8 professional who provides mental health services.

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 any advice
12 related to diagnosis, treatment, or recovery, 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 thoughts;

15 (B) providing guidance, therapeutic strategies, or interventions
16 designed to achieve mental health outcomes;

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

19 (D) collaborating with a patient or client to develop or modify
20 treatment plans or therapeutic 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. “Therapeutic decision” does not include algorithmic risk scoring, data
6 analytics, or other clinical decision support tools when used under the
7 supervision and authority of a licensed mental health professional.

8 (b) An individual, corporation or other entity shall not offer or provide
9 mental health services through artificial intelligence without the involvement
10 of a mental health professional.

11 (c)(1) A violation of this section shall be deemed a violation of the
12 Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the
13 same authority to make rules, conduct civil investigations, enter into
14 assurances of discontinuance, and bring civil actions, and private parties have
15 the same rights and remedies, as provided under 9 V.S.A. chapter 63,
16 subchapter 1. Each violation of this section shall carry a civil penalty of
17 \$10,000.00 as set forth in 9 V.S.A. § 2461.

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

20 (d) Nothing in this section shall preclude a mental health professional who
21 is operating within the professional’s scope of practice from utilizing artificial

1 intelligence tools that are compliant with the Health Insurance Portability and
2 Accountability Act of 1996, Pub. L. No. 104-191 or authorized by the U.S.
3 Food and Drug Administration provided that the mental health professional
4 reviews and approves any therapeutic communication or therapeutic decision.

5 **Sec. 4. REPORT; USE OF ARTIFICIAL INTELLIGENCE IN REGULATED**
6 **PROFESSIONS**

7 On or before January 15, 2027, the Office of Professional Regulation and
8 the Board of Medical Practice shall jointly submit a written report to the House
9 Committees on Government Operations and Military Affairs, on Health Care,
10 and on Human Services and the Senate Committees on Government
11 Operations and on Health and Welfare containing recommendations for the
12 regulation on the use of artificial intelligence by regulated professionals,
13 including recommendations for legislative action.

14 **Sec. 5. EFFECTIVE DATE**

15 This act shall take effect on passage.
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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE