

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 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 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.

6 (b) An individual, corporation, or other entity shall not offer or provide
7 mental health services through artificial intelligence without the review and
8 approval of a mental health professional.

9 (c)(1) A violation of this section by a corporation; an entity; or an
10 individual who is not licensed, certified, or rostered as a mental health
11 professional shall be deemed a violation of the Consumer Protection Act, 9
12 V.S.A. chapter 63. The Attorney General has the same authority, and private
13 parties have the same rights and remedies, as provided under 9 V.S.A. chapter
14 63, subchapter 1. Each violation of this section shall carry a civil penalty of
15 \$10,000.00 as set forth in 9 V.S.A. § 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 18
10 V.S.A. § 7115;

11 * * *

12 Sec. 5. REPORT; USE OF ARTIFICIAL INTELLIGENCE IN REGULATED
13 PROFESSIONS

14 On or before January 15, 2027, the Office of Professional Regulation and
15 the Board of Medical Practice shall jointly submit a written report to the House
16 Committees on Government Operations and Military Affairs, on Health Care,
17 and on Human Services and the Senate Committees on Government
18 Operations and on Health and Welfare containing recommendations for the
19 regulation of the use of artificial intelligence by regulated professionals,
20 including recommendations for legislative action.

1 Sec. 6. EFFECTIVE DATE

2 This act shall take effect on passage.

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9 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE