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**April 9, 2026**

**To: Hon. Virginia Lyons, Chair**  
**Senate Committee on Health & Welfare**

**From: S. Lauren Hibbert, Deputy Secretary of State**  
**Jennifer B. Colin, Director, Office of Professional Regulation**

**Re: H.816, An act relating to the use of artificial intelligence in the provision of mental health services**

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Dear Committee Members:

Thank you for the opportunity to testify about H.816, an act relating to the use of artificial intelligence in the provision of mental health services. The Office of Professional Regulation supports the concept of addressing the use of artificial intelligence in all of its regulated professions. OPR has concerns about the current bill because the language is limiting and prescriptive. OPR recommends a modified approach to simplify the bill and effectuate the protections of H.816 across regulated professions for Vermont patients and consumers.

**OPR's Interest in H.816**

As this Committee knows, OPR regulates over 50 diverse professions in Vermont, including most health care practitioners, from nurses, dentists, psychologists, pharmacists, and radiologic technicians, to engineers, land surveyors, and real estate appraisers, to cosmetologists, well drillers, and foresters. Professional regulation restricts market access to professional activities to ensure that providers have the minimum qualifications necessary to be competent. This is one primary way we protect the public. The other way we meet our public protection mission is through enforcement action, which enables us to remove incompetent practitioners and bad actors who are credentialed from the marketplace.

OPR regulates all the professions identified in H.816 except for allopathic physicians (MDs). We appreciate the opportunity to testify on this bill because the proliferation of artificial intelligence technology is an increasingly relevant concern in all regulated professions, not just for mental health practitioners.

### **Standard Protections in All OPR Occupations, Including Mental Health Professions**

Currently, unauthorized practice of a profession by an individual (or allowed by an employer) is illegal and punishable as set forth in 3 V.S.A. § 127. This law prohibits performing a regulated professional service or activity without a license, registration, or certification required by the law.

All practitioners credentialed by OPR are subject to professional conduct standards. Violation of the standards by a credentialed practitioner constitutes unprofessional conduct under 3 V.S.A. § 129a. OPR's unprofessional conduct statute prohibits the following actions by a regulated practitioner:

- Advertising, including advertising about health care services, that is intended or has a tendency to deceive or mislead;
- Delegating professional responsibilities to a person whom the licensee professional knows, or has reason to know, is not qualified by training, education, experience, or credentials;
- Willfully providing inaccurate health or medical information to a patient;
- Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession;
- Advertising, promoting or recommending a therapy or treatment in a manner tending to deceive the public to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment;
- Willful misrepresentation in treatment or therapies;
- Permitting one's name or license to be used by a person, group, or corporation when not actually in charge of, responsible for, or actively overseeing the professional services provided;
- Exploiting patients in a manner that threatens their health, safety or welfare;
- Engaging in conduct of a character likely to deceive, defraud, or harm the public; and
- Failure to practice competently by:
  - Performance of unsafe or unacceptable patient or client care; or
  - Failure to conform to essential standards of acceptable or prevailing practice.

See 3 V.S.A. §129a.

Arguably, these Title 3 provisions would prohibit:

1. An individual practicing the profession without a credential and using AI to do it; and
2. A credentialed practitioner from misusing any kind of artificial intelligence technology to make professional diagnoses, decisions, or treatment plans.

However, we understand the intention of H.816 to explicitly state that AI alone must not be used by individuals or entities to provide mental health services. Perhaps most concerning is the use of AI as a replacement for a professional's judgment, with or without notice to the public. Without a doubt, AI should not replace a credentialed individual's professional judgment in mental health professions. As a public protection measure, we recommend extending these concepts in 3 V.S.A. §§ 127 and 129a to all of OPR's professions.

### **OPR Concerns with the Current Language of H.816**

OPR's primary concerns with the current language are:

- By addressing the appropriate use of AI only in mental health professions, the unintended consequence would be that in other regulated occupations, the absence of such statutes would be interpreted as purposeful and, thus, as legislative intent to permit AI use without restriction and appropriate oversight;
- AI technology is evolving so quickly that overly prescriptive language and definitions may be limiting and create unnecessary complexity;
- Competency standards regarding the use of AI may vary among professions, the details of which are best addressed through administrative rules rather than statute (although we expect AI will always be a supplemental technology and not a replacement for professional judgment, which should be in statute);
- OPR-regulated professionals are most familiar with Titles 3 and 26. Title 18 is likely not the best place to address practice standards.

### **Recommended Replacement Language**

To address the concerns above, OPR proposes simpler, broader language to protect patients and consumers receiving services across all OPR-regulated professions.

#### **1. Added language to 3 V.S.A. §127 Unauthorized Practice:**

(d) An entity or individual engaged in the unauthorized practice of a regulated profession through the use of any form of artificial intelligence, including chat bots and generative artificial intelligence, shall be subject to the civil and criminal penalties provided in (b) and (c) of this section.

\*With this language inserted as (d), the lettering of current subsections (d), (e), (f) in 3 V.S.A. § 127 would also need to change to (e), (f), and (g), respectively.

## 2. Added language to 3 V.S.A. §129a Unprofessional Conduct:

(b) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes:

- (1) performance of unsafe or unacceptable patient or client care; or
- (2) failure to conform to the essential standards of acceptable and prevailing practice; or
- (3) the use of artificial intelligence as the sole, independent means of diagnosing, treating, therapeutic decision-making, rendering clinical or professional judgments, generating treatment plans, communicating clinical or professional information to clients or patients, or providing therapeutic or professional services to clients or patients.

If the Committee determines to take this approach, we would recommend similar language be added to the Board of Medical Practice Statutes in Title 26. Additionally, OPR does support the concept of including unlawful use of AI in the Vermont Consumer Protection Act in Title 9 chapter 63. We have reached out to both the Board and the Attorney General's Office and we recommend the Committee hear from both entities on the bill and OPR's proposed approach to address this issue.

### Conclusion

The proposed language provides sufficient and broad protections for the public in connection with the use of artificial intelligence in regulated professions. More detailed protections, including in connection with the use of AI in mental health services, can be developed and implemented through administrative rulemaking. OPR is currently in the process of working on mental health licensure reform, which will include rulemaking within the next three years. This will allow OPR to research additional protections implemented in other states and seek stakeholder input (from patients, the mental health boards, licensees, VDH, DVHA, VDMH, professional associations, and others) on what, if any, added measures would be appropriate to protect patients and clients receiving services from credentialed Vermont practitioners.