



To: Senate Committee on Health & Welfare  
From: Jessa Barnard, Vermont Medical Society  
Date: April 9, 2026  
RE: H.816 – An act relating to regulating the use of artificial intelligence in the provision of mental health services

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Thank you for the opportunity to testify this morning regarding H.816.

VMS supports the primary intent of this bill, which as we understand it, is to limit or prohibit the use of autonomous artificial intelligence “chatbots” providing mental health therapy without the involvement of a mental health professional. Preserving human clinical accountability in mental health services, particularly for vulnerable patients, is a reasonable and widely shared goal.

VMS is concerned however that as the bill is currently drafted it will have broader operational impact than intended, limiting mental health professionals from using existing and future tools that can improve both clinical and operational outcomes.

Modern mental health practices use AI tools in many contexts. Just some examples include tools to:

- Draft clinical notes (as you know from H. 84)
- Summarize records for pre-visit planning
- Assist with patient appointment scheduling
- Draft portal responses to patients
- Assist with billing codes selection
- Extract quality metrics
- Populate measurement-based dashboards
- Provide clinical-support recommendations such as
  - Suicide risk stratification,
  - Draft treatment plan templates auto-populated by diagnosis
  - Flag medication interaction alerts.

As defined by H. 816, these would fall variously in the buckets of administrative support, supplementary support, and therapeutic communications. While it appears that H. 816 is not intended to outright preclude use of AI tools for these purposes, the definitions and descriptions of permitted and prohibited uses leave many gray areas and would make implementation by mental health professionals difficult. In more detail:

### **Section 3 - Prohibited uses of Artificial Intelligence**

It is our understanding from talking to stakeholders involved in suggesting bill language that this section is primarily aimed at prohibiting the use of chatbots providing mental health services by AI companies. However, currently, the section also applies to professionals by stating the prohibition applies not only to companies but to persons and states that AI can be used by mental health professionals only in certain situations (for “administrative, documentation, operation or quality improvement” when the professional “retains clinical responsibility”) but does not address the use of AI for clinical support. Concerningly, the section also makes violations of the statute a violation of the Consumer Protection Act including a private right of action, rather than unprofessional conduct – the typical pathway for discipline of licensed professionals.

### **Suggested Approach:**

- **Limit prohibited activities and penalties to companies providing autonomous, non-FDA regulated therapeutic communications.** Do not address professional conduct in this section.

### **Sections 2 & 4 – Unprofessional Conduct**

Sections 2 and 4 state that misuse of artificial intelligence is unprofessional conduct. Section 4 then goes on to detail permitted and prohibited uses of artificial intelligence by mental health professionals.

Our concerns with these sections include:

- **Professionals covered**
  - The bill only applies to mental health professionals, not all health care professionals, setting up different standards for similar professionals -and professionals who work in the same practices with each other, making compliance difficult
  - Physicians who “are licensed to provide mental health services” are included but it is unclear if that means psychiatrists or other physicians such as family medicine who also provide mental health services
  - Excludes individuals who still provide services to individuals in vulnerable situations such as religious counseling and peer support
- **Definitions of permitted and prohibited uses of AI leave it unclear whether and in what situations AI can be used to support clinical decision-making**
  - Compare: allowed for: “administrative support, supplementary support, and operational or quality-improvement functions, provided the professional retains sole responsibility for therapeutic decisions” with
  - Prohibited “shall not use artificial intelligence in a manner that allows the artificial intelligence to independently make therapeutic decisions, independently diagnose, independently determine treatment, or independently generate treatment plans.”

Given that these sections are creating new forms of unprofessional conduct we strongly encourage the Committee to hear from the Office of Professional Regulation and Board of Medical Practice regarding creating clear, understandable and enforceable standards.

### **Suggested Amendment:**

- **Remove Sections 2 and 4 and defer to H. 814, which already tasks the Artificial Intelligence Council with reporting back regarding “guidance on the use of generative artificial intelligence by regulated professions.”**
- Add to the Council or require the Council to consult with the Office of Professional Regulation and Board of Medical Practice.

Thank you for considering our feedback and we look forward to staying engaged on this important topic.