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2 Introduced by Senators Gulick, Vyhovsky, Hardy, Lyons and White
3 Referred to Committee on
4 Date:
5 Subject: Health; mental health; professional regulation; consumer protection;
6 artificial intelligence; mental health services
7 Statement of purpose of bill as introduced: This bill proposes to prohibit a
8 person, corporation, or other entity from offering, providing, or advertising
9 mental health services delivered by artificial intelligence systems, with limited
10 exceptions. It further proposes to regulate the use of artificial intelligence by
11 mental health professionals.

12 An act relating to regulating the use of artificial intelligence in the provision
13 of mental health services

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. FINDINGS

16 The General Assembly finds that:

17 (1) Individuals are increasingly using chatbots to receive unlicensed
18 therapy from large language models (LLMs), and researchers from the
19 Stanford Institute for Human-Centered Artificial Intelligence, Carnegie Me
20 nity, the University of Minnesota Twin Cities, and the University of

1 Texas evaluated artificial intelligence systems against clinical standards for
2 therapists, finding that commercially available therapy chatbots responded
3 inappropriately to various mental health conditions, encouraged delusions, and
4 failed to recognize crises, contrary to clinical best practice.

5 (2) Researchers at the Center for Countering Digital Hate found patterns
6 of ChatGPT advice pertaining to mental health, eating disorders, and substance
7 use disorders on topics such as “how to ‘safely’ cut yourself,” “pills for
8 overdose,” “restrictive diet plans,” “appetite-suppressing medications,”
9 “personalized plans for getting drunk,” and “how to hide intoxication at
10 school”; the chatbot also generated a suicide plan and goodbye notes to family.

11 (3) Deaths by suicide have been reported after the deceased’s use of an
12 artificial intelligence tool, including an individual 14 years of age who died by
13 suicide after suicidal conversations with a chatbot and an individual 13 years
14 of age who was encouraged to take his own life by a chatbot.

15 Sec. 2. PURPOSE

16 It is the purpose of this act to safeguard individuals seeking mental health
17 services in Vermont from psychological harm, including death by suicide, by
18 ensuring that these services are delivered by mental health professionals and
19 not artificial intelligence systems.

1 Sec. 3. 3 V.S.A. § 129a is amended to read:

2 § 129a. UNPROFESSIONAL CONDUCT

3 (a) In addition to any other provision of law, the following conduct by a
4 licensee constitutes unprofessional conduct. When that conduct is by an
5 applicant or person who later becomes an applicant, it may constitute grounds
6 for denial of a license or other disciplinary action. Any one of the following
7 items or any combination of items, whether the conduct at issue was
8 committed within or outside the State, shall constitute unprofessional conduct:

9 * * *

10 (30) For any mental health professional, misuse of artificial intelligence
11 pursuant to 26 V.S.A. § 7101.

12 * * *

13 Sec. 4. 18 V.S.A. § 7115 is added to read:

14 § 7115. PROHIBITED USES OF ARTIFICAL INTELLIGENCE

15 (a) As used in this section:

16 (1) “Artificial intelligence” means any machine-based system, software,
17 or algorithm that, depending on human objectives, is capable of perceiving an
18 environment through data acquisition and then processing and interpreting the
19 derived information to take an action or to imitate intelligent behavior, such as
20 natural language processing, pattern recognition, predictive analytics, offering
21 recommendations, or decision making.

1 (2) “Mental health services” means peer support, counseling, therapy, or
2 psychotherapy services used to diagnose or treat an individual’s mental or
3 behavioral health or provide ongoing recovery support, including providing
4 therapeutic decisions, issuing direct therapeutic communications, generating
5 treatment plans or recommendations, or detecting or interpreting emotions or
6 mental states.

7 (3) “Therapeutic communication” has the same meaning as in 26 V.S.A.
8 § 7101.

9 (b) A person, corporation, or entity shall not offer, provide, or advertise
10 mental health services in the State that use artificial intelligence in whole or in
11 part, except as authorized pursuant to 26 V.S.A. § 7101.

12 (c)(1) A violation of this section shall be deemed a violation of the
13 Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the
14 same authority to make rules, conduct civil investigations, enter into
15 assurances of discontinuance, and bring civil actions, and private parties have
16 the same rights and remedies, as provided under 9 V.S.A. chapter 63,
17 subchapter 1. Each violation of this section shall carry a civil penalty of
18 \$10,000.00 as set forth in 9 V.S.A. § 2461.

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

1 Sec. 5. 26 V.S.A. chapter 120 is added to read:

2 CHAPTER 120. ARTIFICIAL INTELLIGENCE IN REGULATED

3 PROFESSIONS

4 Subchapter 1. General Provisions

5 § 7001. DEFINITIONS

6 As used in this chapter, “artificial intelligence” means any machine-based
7 system, software, or algorithm that, depending on human objectives, is capable
8 of perceiving an environment through data acquisition and then processing and
9 interpreting the derived information to take an action or to imitate intelligent
10 behavior, such as natural language processing, pattern recognition, predictive
11 analytics, offering recommendations, or decision making.

12 Subchapter 2. Use of Artificial Intelligence by Mental Health
13 Professionals

14 § 7101. PROHIBITED USES OF ARTIFICIAL INTELLIGENCE IN
15 THERAPEUTIC SETTINGS

16 (a) Definitions. As used in this section:

17 (1) “Administrative support” means a task, other than therapeutic
18 communication, that is performed to assist a mental health professional in the
19 professional’s delivery of mental health services, such as:

20 (A) managing appointment scheduling and reminders;
21 (B) processing billing and insurance claims;

1 or noncertified psychotherapist, noncertified psychoanalyst, or any other
2 professional that provides mental health services.

3 (4) “Mental health services” means peer support, counseling, therapy, or
4 psychotherapy services provided by a mental health professional to diagnose or
5 treat an individual’s mental or behavioral health or provide ongoing recovery
6 support.

7 (5) “Therapeutic communication” means a written, verbal, or nonverbal
8 interaction conducted in a professional therapeutic setting intended to diagnose
9 or treat any type of mental or behavioral health concern, provide ongoing
10 recovery support, or provide any advice related to diagnosis, treatment, or
11 recovery, such as:

12 (A) engaging in direct interactions with clients or patients for the
13 purpose of understanding or reflecting their thoughts, emotions, or
14 experiences;

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 conditions.

3 (b) Permitted uses.

4 (1) A mental health professional may use artificial intelligence for
5 administrative support to the extent that the professional reviews and assumes
6 responsibility for all tasks performed by, outputs created by, and data use
7 associated with the artificial intelligence system employed.

8 (2) If a mental health professional uses artificial intelligence for
9 transcription and recording purposes, the mental health professional shall first:

10 (A) inform the patient or client, or the patient's or client's legal
11 guardian, in writing of the specific purpose for which artificial intelligence is
12 being used and that any transcription or recording performed by artificial
13 intelligence shall be subject to the disclosure prohibitions in subsection (c) of
14 this section; and

15 (B) obtain consent from the patient or client, or the patient's or
16 client's legal guardian.

17 (c) Confidentiality. Any administrative support tasks conducted using
18 artificial intelligence shall be subject to the disclosure prohibitions in 18
19 V.S.A. §§ 1881 and 7103, including transcription and recording.

1 (d) Prohibited uses. A mental health professional shall neither:
2 (1) use artificial intelligence in the State to make therapeutic decisions,
3 issue direct therapeutic communications, generate treatment plans or
4 recommendations, or detect or interpret emotions or mental states; nor
5 (2) offer, provide, or advertise mental health services in the State that
6 use artificial intelligence in whole or in part, except as provided in subsection
7 (b) of this section.

8 Sec. 6. EFFECTIVE DATE

9 This act shall take effect on passage.