ata ACTION
Telehealth Policy to Transform Healthcare

February 18, 2026

The Honorable Alyssa Black
Chair, Committee on Health Care
Vermont House of Representatives
115 State Street
Montpelier, Vermont 05633

RE: ATA ACTION COMMENTS ON H. 644 AND H. 816

Dear Chair Black and members of the Committee on Health Care,

On behalf of ATA Action, I am writing to share our association's perspective on H. 644 and H. 816, both of which propose to regulate the use of artificial intelligence (AI) in the delivery of mental health services in Vermont. Our organization appreciates the General Assembly's focus on patient protection and the quality of mental health services, and we are broadly supportive of the intent of this legislation. However, we are concerned that, as written, both proposals could cause confusion for providers due to overly broad definitions, unnecessarily restricting licensed clinicians from using beneficial AI tools consistent with their scope of practice and a failure to consider FDA-cleared products.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system–by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

ATA Action has followed and engaged in the development of state policies regarding the use of AI in healthcare, including the recently enacted Illinois AI mental health framework (HB 1806)–which appears to have served as the inspiration for both H. 644 and H. 816. Illinois enacted HB 1806 with significant flaws in place, over our opposition, including a failure to consider FDA-cleared products, overly broad definitions, and arbitrary restrictions that limit licensed clinicians from using AI tools consistent with their scope of practice and the standard of care. Unfortunately, both Vermont bills appear to have imported many of these issues, and we believe amendments are necessary if either bill is to be advanced.

Overly Broad Definition of "Therapeutic Communication"

Both H. 644 and H. 816 define "therapeutic communication" in ways that are overly broad and risk capturing every day, non-clinical speech that unlicensed persons, health coaches, and community health workers routinely use. Under both bills, the definition reaches any written or spoken interaction intended to diagnose or treat a mental or behavioral health concern, or to provide any advice related to diagnosis, treatment, or recovery – language broad enough to sweep in general wellness conversations and health education interactions that have never been considered the exclusive domain of licensed professionals.

This definitional overreach matters because both bills impose significant restrictions and prohibitions predicated on whether an interaction constitutes "therapeutic communication." If that term is not carefully tailored to capture what is truly clinical speech delivered by a licensed professional, the downstream

restrictions will be applied far too broadly, potentially chilling beneficial tools and services that cause no patient harm. We urge the Committee to ensure this definition is narrowed to reflect the actual scope of licensed clinical practice.

Licensed Clinicians Must Be Able to Use AI Tools Consistent with Their Scope of Practice

A central concern in both bills is the scope of how licensed clinicians are permitted to use AI. H. 644 limits supervised AI use to "administrative support" tasks only. H. 816 adds a category of "supplementary support," which is a step in the right direction, but both bills still prohibit clinicians from using AI in ways that could meaningfully enhance the care they deliver – such as tools that detect or interpret a patient's emotional state or mental health trends over time.

ATA Action believes that licensed mental health professionals should be able to use AI tools in their practice consistent with their license, the standard of care, and appropriate clinical oversight. The restrictions in these bills go beyond what patient safety requires and would effectively bar clinicians from beneficial, supervised uses of AI that have real value. For example, AI tools capable of detecting shifts in a patient's emotional state or recognizing signs of suicidal ideation between sessions are precisely the kind of tools that can save lives, yet both bills would prohibit their use. Several other states are in fact considering mandating that AI tools deployed in mental health contexts have this functionality. Vermont should not inadvertently ban what others are requiring.

We urge the Committee to revise the permitted use provisions in both bills to ensure that licensed clinicians retain the ability to deploy AI tools with appropriate oversight and accountability in ways that go beyond administrative and supplementary support, consistent with their professional scope of practice and the evolving standard of care

Both Bills Fail to Account for FDA-Cleared Products

As currently drafted, neither H. 644 nor H. 816 distinguishes between FDA-cleared AI products and unregulated consumer apps, treating all products the same. We believe this is potentially harmful to patient care and inconsistent with sound regulatory policy.

FDA-regulated digital therapeutics and AI tools are held to rigorous standards, including quality management systems, cybersecurity requirements, and mandatory adverse event reporting, ensuring both safety and efficacy. Our organization represents Digital Therapeutics – clinically validated, FDA-regulated Software as a Medical Device products that incorporate artificial intelligence and other technologies into treatments delivered to patients through phones, tablets, computers, and VR headsets. The FDA cleared its first prescription digital therapeutic in 2017 and has since approved more than 20 through this rigorous review process under both the Biden and Trump administrations.

These products undergo clinical validation, are subject to pre- and post-market oversight, and involve regulated healthcare practitioners as gatekeepers, protecting patients throughout the care process. In contrast, unregulated mobile health apps operate without these safeguards, rely only on general consumer protections, and may compromise patient data while making unproven health claims. Maintaining the distinction between regulated and unregulated products is essential to protect patients while allowing safe, evidence-based digital interventions to thrive. Indeed, given the existing federal oversight, Colorado's AI Act–the country's first comprehensive AI law–exempts high-risk AI systems already approved, authorized, or certified by the FDA.

ata ACTION
Telehealth Policy to Transform Healthcare

We urge the Committee to add an exemption to both H. 644 and H. 816 for artificial intelligence systems that have been reviewed and cleared for use by the FDA or another federal agency tasked with approving AI and AI algorithms for use in health care. Failing to do so would place Vermont in the anomalous position of treating rigorously reviewed, federally approved medical products the same as unvetted consumer chatbots.

Thank you for the opportunity to comment. We urge the Committee to consider our feedback before advancing either H. 644 or H. 816, with the goal of striking the best balance between patient safety, clinical innovation, and regulatory clarity. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

Kind regards,

Hunter Young

Hunter Young
Head of State Government Relations
ATA Action