



May 28, 2026

The Honorable Phil Scott
Governor of Vermont
109 State Street, Pavilion
Montpelier, VT 05609

RE: ATA ACTION REQUEST FOR VETO OF H. 816

Dear Governor Scott,

On behalf of ATA Action, I am writing to share our association's concerns with H. 816, regarding regulating the use of artificial intelligence (AI) in the delivery of mental health services in Vermont, and request that you veto this legislation. 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, this proposal could cause confusion for providers and preclude positive uses of AI due to overly broad definitions. Our organization also believes that further consideration of this topic in the interim is necessary before signing legislation in this rapidly evolving field.

ATA Action is the affiliated policy and legislative advocacy arm of the American Telemedicine Association. ATA Action is the leading advocacy organization dedicated to advancing policy and accelerating the adoption of technology-enabled healthcare. Working collaboratively with federal and state legislators and policymakers, our organization drives industry momentum by influencing legislative and regulatory developments in telehealth, virtual care, remote patient monitoring, artificial intelligence in health, health data privacy, private sector healthcare investment, and more. We represent a diverse membership – including hospital systems, technology companies, professional associations, direct-to-consumer digital health providers, payers, pharmaceutical manufacturers, digital therapeutics developers, and remote monitoring organizations.

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 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. Amendments made to H. 816 throughout the legislative process addressed many of these issues, but we believe the bill remains to flaws to be signed into law as is.

Signing This Legislation Would be Premature

Earlier this year you signed H. 814 into law which directed the Artificial Intelligence Advisory Council to work with the Director of the Division of Artificial Intelligence in your administration to, among other charges, provide a written report to the General Assembly by January 15, 2027, recommending additional statutory changes including “guidance on the use of generative artificial intelligence by regulated professions.” Our organization believes that this report should be provided and reviewed by the General Assembly before further legislative action is taken to regulate the use of AI by licensed professionals.

Furthermore, H. 816 would direct the AI Advisory Council to submit a written report “regarding the regulation of the use of artificial intelligence by mental health professionals, including recommendations

ATA ACTION

13th St NW, 12th Floor Washington, DC 20005
Info@ataaction.org



for legislative action.” Our organization is deeply confused and concerned about the process of putting regulations regarding the use of AI in the delivery of mental health in statute while concurrently requiring experts to study the issue and provide legislative recommendations, long after the provisions of H. 816 have gone into effect.

Overly Broad Definition of “Therapeutic Communication”

H. 816 defines “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. 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.

Additionally, ATA Action is concerned that this broad definition could preclude the use of many beneficial AI tools currently being used by licensed providers to the benefit of their patients such as interactive journals or wellness check-ins between sessions. Furthermore, including “reassurance or empathy in response to emotional or psychological distress” in the definition of therapeutic communication could undermine the ability of AI systems to detect suicide and self-harm risks designed to protect users and required by recent laws enacted in other states.

This definitional overreach matters because the bill imposes 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.

Finally, this overly broad definition is made more concerning by the provisions of Sec. c(1) which applies the Consumer Protection Act, and thus the threat of a private right of action, to persons or entities using AI to aid in the delivery of therapy and psychotherapy. Our organization does not believe that a private right of action should be included in this policy due to the substantial potential liability for well-meaning entities based on nebulous standards. Instead, we encourage enforcement to be left in the capable hands of the Attorney General. Additionally, of the states who have passed legislation in this space (Illinois, Nevada and Maine) none have included a private right of action as an enforcement mechanism.

Thank you for the opportunity to comment. We urge you to veto H. 816 with the goal of using the impending report from the AI Advisory Council and continued work amongst stakeholders in the interim to strike 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,

A handwritten signature in black ink that reads "Hunter Young". The signature is written in a cursive, flowing style.

Hunter Young
Head of State Government Relations
ATA Action

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