

Reviewing Options for Videoconferencing

This article helps practitioners assess alternatives for videoconferencing related to telehealth service delivery.



Increasing patient demand and the growing availability of technology have driven a significant upsurge in the delivery of health care services via telehealth.* For many licensed psychologists, the use of telehealth may still be a new and perhaps daunting prospect. While phone therapy may seem familiar and easy to use, the idea of using other technology may not.

Psychologists may find themselves contemplating the use of telehealth in response to patient demand. The typical scenario is that a patient has asked to conduct some of his or her regularly scheduled appointments by Skype or FaceTime because the individual is either home-bound due to illness or health issues, is traveling for a period of time or has temporarily relocated. Sometimes the patient may be in a location where the psychologist is not licensed to practice. Whether the patient wants to use insurance benefits or pay out-of-pocket for his or her telehealth therapy sessions varies from one situation to another. But the common question for practitioners is: Can I use telehealth to provide therapy or other services to a patient in another location?

APA has developed guidelines for telepsychological practice (available at www.apa.org/practice/guidelines/telepsychology.aspx) that address issues a psychologist should consider when deciding whether to engage in telepractice. This article focuses on technological considerations psychologists should take into account if they decide that telepsychology is appropriate for a particular patient.

Federal, state and payer policies recognizing coverage for telehealth services identify videoconferencing as the acceptable modality for providing telehealth services. This article examines important features that psychologists ought to think about when reviewing videoconferencing platforms for providing telepsychological services.

Videoconferencing platform versus online therapy platform

There has been an uptick in the past several years in companies offering both online therapy tools and/or online

Checklist for Assessing Videoconferencing Options

This checklist identifies several questions to consider when researching videoconferencing options:

- Is this videoconferencing platform a tool by which I can communicate with my patients? Or is it a videoconferencing platform that offers online therapy service to the public and seeks to recruit me as a provider?
- Is the videoconferencing technology easy to use? Is it offered through a web-based platform? In other words, can the psychologist and patient separately log onto the site? Or does it require specific hardware or downloading proprietary software? What is the video and audio quality?
- Is the videoconferencing platform Health Insurance Portability and Accountability Act (HIPAA)-compliant?
- What are the costs?

therapy services. Therefore, it is important to discern whether the videoconferencing website you are viewing is providing access to technology tools to facilitate telepractice or soliciting your participation as a therapist to offer online therapy services to users who subscribe to the company's services – either through videoconferencing or sometimes through text messaging.

The analysis for companies offering videoconferencing capability as a practice tool is much simpler and more straightforward as compared to companies offering online therapy services. If the company offers online therapy services and markets its services as an opportunity for additional income and practice expansion to therapists as a recruiting tool, you need to consider carefully how the company markets its services to consumers.

One particularly important consideration is the interjurisdictional practice issue. A psychologist's ability to practice is governed by the psychologist's professional license. Licensure is defined by state law, and a number of state licensing boards specify that health care providers be licensed in the jurisdiction where the patient is receiving health care services.



It is important to be aware of whether you might be providing online therapy services to patients who are in other states where you may not be licensed. For example, at least one online therapy site offers consumers the option of accessing online therapy services anonymously. Thus it is possible that as a participating online therapist, you might not know where the consumer is located. Likewise, it is important to know what licensure and credentialing information the online therapy site offers about its therapists. The consumer may be able to confirm that the therapist is licensed and what the therapist's licensed profession is, but not know where the therapist is licensed to practice.

Another issue to consider is that some companies have disclaimers about the limits of the therapy services offered. A common disclaimer is to refer potential users who may be in crisis or suicidal to a suicide hotline or the nearest emergency room. Other disclaimers may include no services to minors, to individuals diagnosed with a severe mental illness or to those required to undergo therapy by court order or other authority. Some websites may specify that the services offered may not be covered by health insurance. If the services involve online messaging, it is very likely that those services would not be covered by most health plans.

Ease of use

It is important to ascertain whether the videoconferencing platform is accessible through a web-based portal on any type of communications device (for example, desktop, tablet or smartphone) or if it requires a specific software program to be downloaded to each user's device to communicate. Using a web-based portal that is compatible with all kinds of devices is likely the most user-friendly option. It may also be the most secure, as the additional portal login could protect private patient information from being accessed by others who may have obtained the patient's tablet or smart phone, for

example. Increasingly, developers are creating more simplified technology solutions that can be easily accessed online.

Many developers offer a free consultation where they can guide you through their system and demonstrate the various functionalities offered. This could provide a first opportunity

to assess the quality of the video and audio transmission. Is the video stream clear and in high-definition or is it often pixelated? Is the audio clear or is it sometimes out of sync with the video transmission?

While the psychologist is not expected to be a technical expert, it is incumbent on the practitioner to be familiar with the platform's functionality. If there is a technical problem or disruption, know where or how to get technical assistance or customer support. Psychologists who are not technologically savvy ought to take steps to become more comfortable with the particular modality before incorporating it into their practice.

HIPAA compliance

Most psychologists who are health service providers are subject to the requirements of the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act. HIPAA and HITECH focus on how covered entities, including providers, must maintain patient health information and have reasonable safeguards in place to protect against unauthorized or unintended disclosures of such information.

In particular, HIPAA's Security Rule governs electronic patient health information, requiring covered entities to take reasonable steps to protect against any unintended or malicious disclosure, alteration or loss of patient health information. Such steps may include implementing access controls (for example, password protection) to block unauthorized individuals or parties from accessing certain data, security controls (such as encryption) to impede others from accessing or intercepting protected health information and audit controls to determine what information may have been breached and who may have accessed that information inappropriately.

Some companies offering videoconferencing capability cite the "conduit exception" – provided for in the HIPAA

final rule – to avoid complying with HIPAA. However, this exception is a very narrow one that the Department of Health and Human Services (HHS) has stated is “intended to exclude only those entities providing mere courier services, such as the U.S. Postal Service or United Parcel Service and their electronic equivalents, such as internet service providers (ISPs) providing mere data transmission services.”¹ To clarify the definition, HHS “modified ‘business associate’ to include a party who ‘creates, receives, maintains, or **transmits**’ (emphasis added) protected health information on behalf of a covered entity.”²

Given that a number of videoconferencing developers have included other functionalities such as scheduling or appointment calendars, secure messaging or secure document sharing, those companies clearly do not qualify as conduits. Therefore, they are business associates under HIPAA.

What does this mean for psychologists who must comply with HIPAA? It means that not only should the psychologist look for a videoconferencing platform that claims to be HIPAA-compliant offering secure, encrypted transmissions; the company should also be willing to sign a business associate agreement – either one developed by the company or the psychologist. This agreement should acknowledge that the business associate may perform certain functions or provide services to a covered entity that involve the use or disclosure of protected health information. Under the agreement, the business associate agrees that it will appropriately safeguard the protected health information it receives or creates on behalf of the covered entity and, in the event of a breach, will take reasonable steps to remedy the breach.³

Often information about HIPAA compliance and business associate agreements is not easy to find on the websites for these videoconferencing platforms. Sometimes, the company’s policies can be found in a Frequently Asked Questions (FAQ) section, under its terms and conditions or in its privacy policy. If it is not readily accessible, the psychologist should contact the company directly to confirm whether the company is HIPAA-compliant and, equally as important, whether it is willing to sign a business associate agreement.

1 HIPAA Omnibus Final Rule, Federal Register, Vol. 78, No. 17, January 25, 2013, p. 5571.

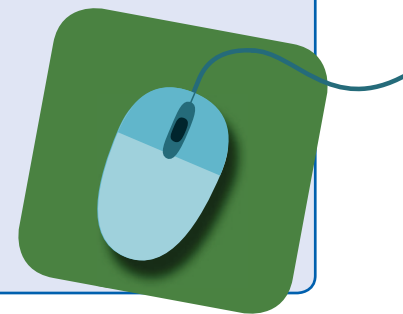
2 *Id.* at 5572.

3 HHS-OCR Guidance on Business Associates, available online at <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/businessassociates.html>

SAMPLE VIDEOCONFERENCING SITES

Here are several websites that market videoconferencing services to health care providers. The sources in this list state that their platforms comply with HIPAA, and they all offer a business associate agreement. Please note that this list is not exhaustive nor does it represent endorsement of the individual videoconferencing service providers by the APA Practice Organization.

cloudvisittm.com
etherapi.com
hipaachat.com
thera-link.com
virtualtherapyconnect.com
wecounsel.com
zoom.us



Having signed business associate agreements with any third parties that might have access to patient health information maintained in a psychologist’s practice (for example, billing/claims service, accountant, attorney, practice management software, etc.) should be part of the psychologist’s overall Security Rule risk assessment and compliance plan. More information on Security Rule compliance is available at apapracticecentral.org/business/hipaa/index.aspx.

Costs

Because some web-based videoconferencing services are free, it is not surprising that psychologists and their patients may be reluctant to use a videoconferencing platform that charges for use of its technology. However, it is important to note that the fee structures for accessing this technology vary by company.

Some may offer a free trial or free access if the service is used less than a certain number of minutes per month. Most have tiered pricing structures based on estimated usage within a month period. Some of the pricing options may be per individual provider, while other options may allow access for several providers per subscription. Those costs would be incurred by the psychologist as the service subscriber. By contrast, those platforms that offer direct-to-consumer online therapy services bill the patient or consumer rather than the provider.


Whether the psychologist may bill the patient for the technology-related costs will depend on several factors.

The psychologist might decide that based on the frequency (or infrequency) of using videoconferencing, he or she will absorb the costs as part of the business of practice.

The psychologist would also need to determine whether the patient is using insurance coverage for therapy. If so, the psychologist needs to determine whether the state where he or she practices has enacted a telehealth mandate that prohibits insurance companies from refusing to cover services provided via telehealth if those same services would be covered if provided in-person. Also, if the patient is using insurance benefits and the psychologist is an in-network provider, the psychologist may not be permitted to bill the patient for the technology costs associated with the telehealth service as those may be beyond what is allowed under the plan – such as a co-pay or co-insurance. This relates to the larger informed consent discussion that the psychologist ought to have with the patient prior to initiating telehealth about the potential risks and benefits, along with billing considerations.

Conclusion

The prospect of incorporating videoconferencing into your practice may seem intimidating, or it may be a logical next step. However, the deliberation should not end at whether the psychologist and patient are comfortable with videoconferencing. The psychologist ought to consider the issues outlined in the *APA Guidelines for the Practice of Telepsychology* and discuss those issues with the patient at the outset as part of the informed consent process. And as part of the psychologist's self-assessment about technological competence, the psychologist should carefully consider the type of videoconferencing platform selected, being mindful of HIPAA compliance requirements.

*The terms “telehealth,” “telepsychology” and “telepractice” are often used interchangeably to describe the provision of psychological services using devices and electronic communications where the psychologist and the patient are not in the same location. 

Please note: The information in this article should not be used as a substitute for obtaining personal legal and technical advice and consultation prior to making decisions regarding individual circumstances. The service providers and products mentioned in this article are provided simply as examples and do not constitute endorsements by the APA Practice Organization. There may be similar products and services available on the market that are not identified in this article.

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