Telemental Health Best Practices: Do's and Don'ts to Developing a Thriving Service

NORTHWEST REGIONAL TELEHEALTH RESOURCE CENTER

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www.Telehealth.Org

Disclaimer

- WHO I AM: I am a licensed psychologist, not an attorney, physician, marketing or information technology (IT) professional.

- MY GOALS: TMHI webinars are educational only. I will outline the issues and alert you to what's happening in a way to help think through the issues, manage your risk and your clients or patients. However, *no warranty, guarantee, or representation is made as to the accuracy or sufficiency of the information contained in my presentation for your specific circumstance. I assume no responsibility in connection with your choices*.

- YOUR PART: Get fully trained to be "competent." Seek written approval from your legal, regulatory, ethical and malpractice bodies before offering any online services or programs to consumers. Have your *informed, trusted, local, clinical and legal consultants review* all written responses from the authorities for their full significance.

We are retooling
2014

Learning Objectives

- Describe how to develop a legal and ethical service over state lines with videoconferencing
- Outline at least two reasons that Skype has been identified as inappropriate for behavioral care by the NASW and APA
- Name where to go to get the names and web addresses to over sixty HIPAA-compliant alternatives to Skype
- Explain why a standard informed consent document is inadequate for telemental health
- Describe at least two multicultural issues of relevance to distance counseling
- Name at least three steps for managing risk associated with mandated reporting, suicide and homicide
- List at least five evidence-based models for successful distance counseling practice

TMHI's Online Clinical Practice Management (OCPM) Roadmap

Over 75% of Mayo Clinic telephone survey respondents stated they'd be interested in being seen online for healthcare (September, 2014)

Original Research

Perceptions of Video-Based Appointments from the Patient's Home: A Patient Survey

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Abstract

Background: *We examined patient interest in a telehealth model in which the patient supplies the hardware and Internet connectivity to meet with a healthcare provider from his or her home via video call (video appointment). We hoped to understand prospectively the desirability, feasibility, and viability from the patient perspective.* ***Materials and Methods:*** *A phone survey was conducted of a random sample of patients who had been seen in the outpatient setting at a single institution. The sample was stratified by proximity to the local institution with oversampling for patients living outside a 120-mile radius.* ***Results:*** *Out of 500 total patients, 301 patients responded, and 263 met the inclusion criteria. Of those 263 respondents, 38% indicated "very likely" to accept an invitation to see their provider via video, 28.1% "somewhat likely," and 33.8% "not at all likely." Of respondents, 75% have broadband, although only 36% reported having a Web camera. The primary factors affecting willingness to participate in a video appointment include comfort in setting up a video call, age, and distance participants would have traveled for an in-clinic appointment.* ***Conclusions:*** *Patient survey data indicate that most patients are likely to be accepting of telehealth care to the home using video call and that most have the required technology. Nevertheless, there are still significant hurdles to effectively implement this adaptation of telehealth care as part of mainstream practice.*

Key words: *appointment, feasibility, patient survey, prospective, telemedicine, video, videoconference, video appointment, video call*

Introduction

We have observed within practice a slowly increasing interest from both patients and providers to connect with each other over video call when they would have been otherwise meeting face to face. Telemedicine, like any service that we wish to grow and be sustainable, requires adequate supply and demand. From the supply perspective, one study by Grigsby et al.[1] illustrated the many ways physician participation may limit the adoption of telemedicine, but the patient's interest and participation must also be a factor to consider. This study aimed to round out the factors that might affect patient adoption of telemedicine.

Many studies have measured the effectiveness of and satisfaction with specific telemedicine offerings in defined medical contexts.[2–4] Other studies have focused on an age group.[5,6] A review of similar survey studies pointed out the current challenges with patient satisfaction studies.[7] Similar to our study, at least one study has requested input on a prospective service, but did so within a limited medical population, asking patients to rate use-case scenarios.[8] In contrast, our study was designed to understand patient perceptions of an in-home video appointment as a particular service offering on a prospective basis with the hope to better understand general potential uptake across healthcare service lines. Because we aimed to get broad general representation across the institution, it was not limited by age, geography, or medical condition.

Materials and Methods

To get a broad representation of patients, we included patients seen by both primary care and specialist providers from a single academic institution in Minnesota that serves primary care, community, and regional specialty needs. For inclusion, the patients' last visit was required to be outpatient, under the assumption that an inpatient care episode aligned with acuity that would not be suitable for a video appointment. Because the institution serves the local and regional area, as well as subspecialty needs from a geographically much larger national and international draw, we randomly pulled 250 records of patients with addresses in the community and 11 surrounding counties (the "local" population) and 250 records for domestic patients with addresses outside those counties ("non-local"). All participants and all potential participants were over 18 years of age and had been seen at the institution between July 1, 2011, and July 31, 2012.

The survey questionnaire included questions about estimated future visits to the local institution, familiarity with video calling, patient technology ownership, preference for video appointments and factors informing those preferences, patient qualitative valuation of a video appointment, and fact collecting about the costs of travel to be evaluated in-person at the local institution (see Supplementary *Fig. S1*; Supplementary Data are available online at www.liebertpub.com/tmj). We augmented survey questions with demographic information accessed from the electronic medical record, including age, sex, and geographic location. The Institutional Review Board approved the study. Informed consent was obtained from all potential participants.

Readmission Rates by Frequency

Rank	Primary Diagnosis	Medicare	Medicaid	Commercial
1	Pneumonia	18.3%	13.3%	9.6%
2	Mood Disorders	20.2%	17.2%	10.2%
3	Osteoarthritis	5.4%	6.0%	3.1%
4	Congestive Heart Failure	25.3%	29.8%	19.7%
5	Cardiac Dysrhythmias	16.6%	18.5%	9.2%
6	Septicemia (except in labor)	22.0%	23.7%	15.7%
7	Coronary Atherosclerosis	15.3%	17.4%	9.0%
8	Childbirth Trauma	0.0%	0.8%	0.6%
9	COPD & Bronchiectasis	21.9%	25.0%	14.4%
10	Nonspecific Chest Pain	12.8%	14.8%	5.0%
	All	15.8%	16.7%	9.6%

Source: hcupnet.ahrq.gov

Benefits of
Telemental Health &
Goals of HCR
1. Increase access
2. Decrease costs
3. Deliver improved care

Size of Evidence Base

- More than 3500 references exist
- Free list of 1000+ searchable telemental health references:

www.telehealth.org/bibliography

Recent Supporting Research

- Godleski, Darkins & Peters reported in April of 2012 that hospital utilization in psychiatric populations at the Veterans Administration were decreased by an average of 25% since the use of telehealth. It is worthy of note, however, that:
  - *This study focused on clinic-based, high-speed videoconferencing and did not include any home telehealth encounters. Mental health patients were referred for telecare by clinicians. Typically, telemental health services were provided remotely at community-based outpatient clinics by mental health providers of all disciplines located at larger parent VA hospital facilities.*
  - Godleski, L. Darkins, A. & Peters, J. Outcomes of 98,609 U.S. Department of Veterans Affairs patients enrolled in telemental health services, 2006–2010. Psychiatric Services, 63(4). 383-385.

Recent Supporting Research

Backhaus and colleagues (May, 2012) reported in their abstract of a meta-analysis that:

- *821 potential articles were identified, and 65 were selected for inclusion.*
- *The results indicate that VCP is feasible, has been used in a variety of therapeutic formats and with diverse populations, is generally associated with good user satisfaction, and is found to have similar clinical outcomes to traditional face-to-face psychotherapy.*

– Videoconferencing psychotherapy: A systematic review. Backhaus, Autumn; Agha, Zia; Maglione, Melissa L.; Repp, Andrea; Ross, Bridgett; Zuest, Danielle; Rice-Thorp, Natalie M.; Lohr, James; Thorp, Steven R. Psychological Services, Vol 9(2), May 2012, 111-131. doi: 10.1037/a0027924

Online Norm vs. Traditional Telemental Health

Traditional Online Therapy

- Mostly Email & Chat
- Anonymity
- Accept self-referral online
- Disclaim Responsibility w/ Website Disclaimers
- No Clear Channels for Mandated Reporting
- No Patient Records

Traditional Telemental Health

- Video
- Verify clients/patients
- Rely on referrals from clinical offices
- Use informed consent processes/documentation
- Engage in mandated reporting
- Document as required by law

All Existing Legal
& Ethical
Rules
Apply

Relevant Professional Association Standards & Guidelines

- American Counseling Association (2014). 2014 ACA Code of Ethics
- American Psychological Association (2103). *Guidelines for the Practice of Telepsychology*
- American Telemedicine Association (ATA). (2013). *Practice Guidelines For Video-Based Online Mental Health Services.*
- *National Association of Social Workers (2008). Standards for Technology and Social Work Practice*

Telemental Health Standards & Guidelines

American Medical Association. (2000). Guidelines for Patient-Physician Electronic Mail

American Counseling Association. (1999, 2005, 2013). ACA Code of Ethics

American Mental Health Counselors Association. (2000). Code of Ethics of the American Mental Health Counselors Association, Principle 14, Internet On-Line Counseling

American Psychological Association. (1997). APA Statement on Services by Telephone, Teleconferencing, and Internet, A statement by the Ethics Committee of the American Psychological Association

American Psychological Association. (2010). Ethical principles of psychologists and code of conduct

American Telemedicine Association. (2009). Evidence-Based Practice for Telemental Health

American Telemedicine Association. (2009). Practice Guidelines for Videoconferencing-Based Telemental Health

American Telemedicine Association. (2013). Practice Guidelines For Video-Based Online Mental Health Services.

Australian Psychological Society. (2004). Guidelines for Providing Psychological Services and Products on the Internet

British Psychological Society. (2009). The Provision of Psychological Services via the Internet and Other Non-direct Means

Canadian Psychological Association. (2006). Ethical Guidelines for Psychologists Providing Psychological Services via Electronic Media

Federation of State Medical Boards of the United States, Inc., Report of the Special Committee on Professional Conduct and Ethics. (2002) Model guidelines for the appropriate use of the Internet in medical practice

National Association of Social Workers. (1999), 2008). Code of Ethics

National Board for Certified Counselors and Center for Credentialing and Education, (2001). The Practice of Internet Counseling. (2001)

New Zealand Psychological Psychologists Board (2011). Psychology services delivered via the internet and other electronic media

Ohio Psychological Association. (2010). Telepsychology Guidelines

http://telehealth.org/ethical-statements

Multicultural Issues & Diversity

Multicultural /Multlingual Issues

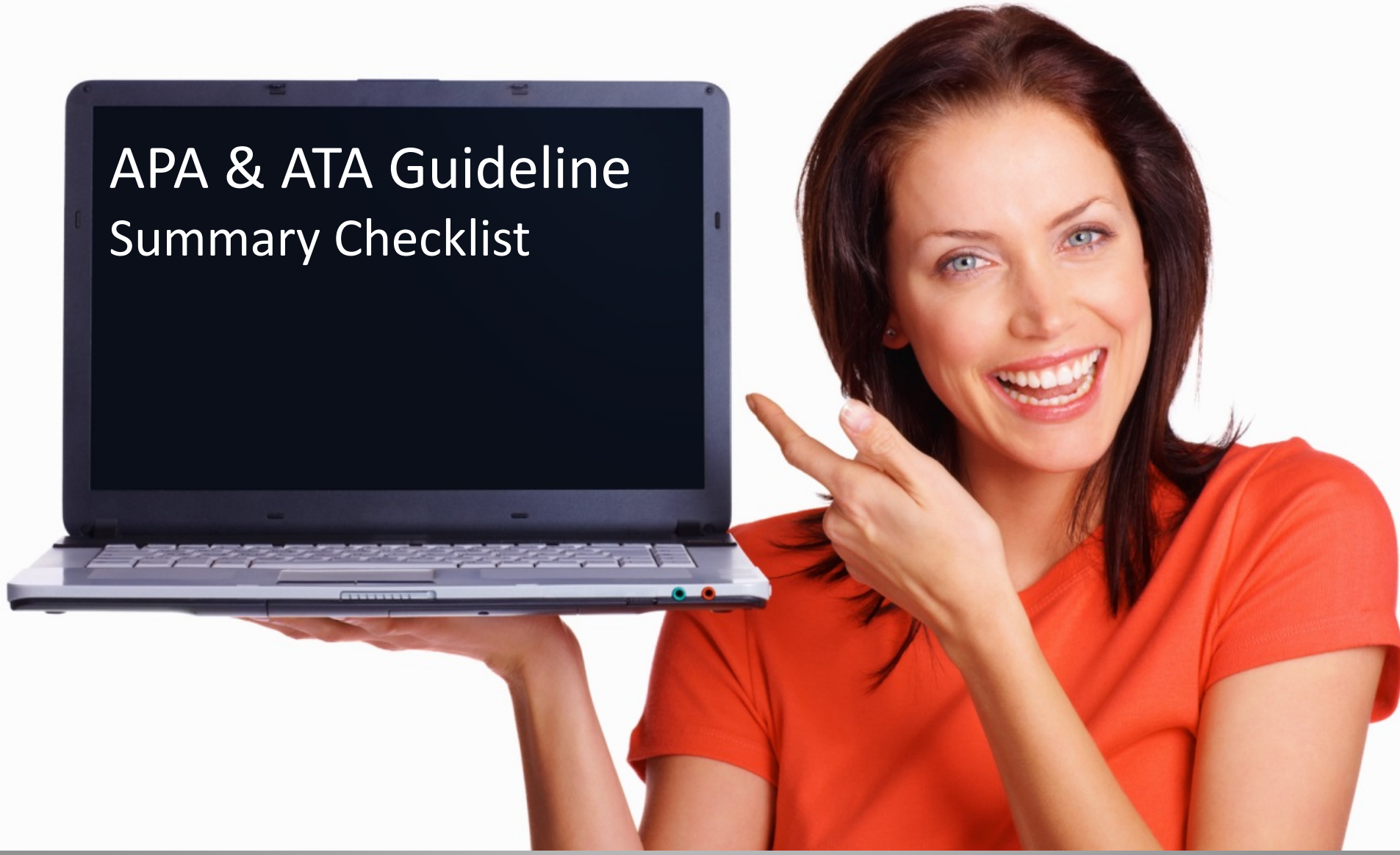
Issue

- Global nature of the Internet – worldwide audiences
- Multicultural issues are quite visible in the document, but English as a second language issue are not mentioned
- Rarely mentioned anywhere

How to measure?

- Search online for various instruments that might be valid for your population
- Look for English proficiency tests
  - Free
  - Easy to take
  - Get to know the norms
- Spoken English is different from written English

OCPM: Online Clinical Practice Management Roadmap



Behavioral Telehealth Best Practices Checklist

Derived from APA& ATA Guidelines, 2013

Marlene M. Maheu, Ph.D. &Massimo Agnoletti, Ph.D.

This best practices and documentation checklist is derived from a TeleMental Health Institute review of 2013 American Psychological Association and American Telemedicine Association's Guidelines.*

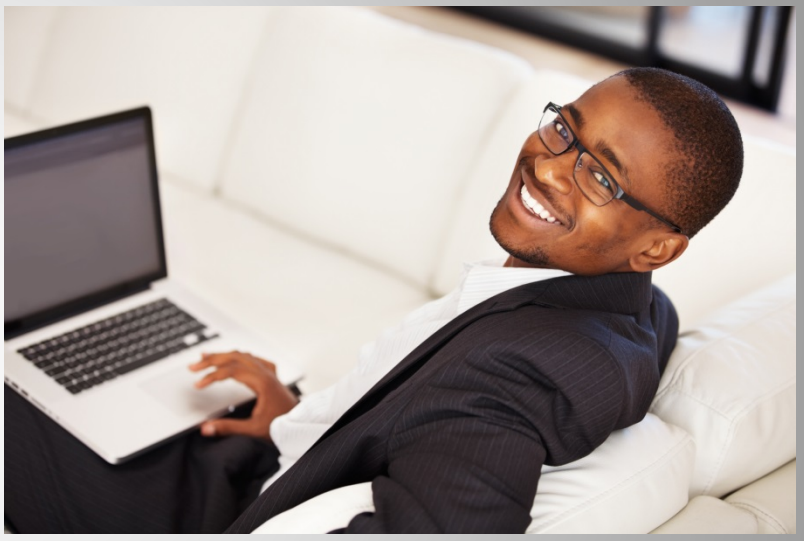
2013 APA & ATA Guideline Similarities
Both documents do not purport to establish binding legal standards and defer to clinical judgment in any specific circumstance
Both documents recommend: o Adherence to local, state (licensing laws, interjurisdictional practice, mandatory reporting), federal laws (e.g. HIPAA and HITECH), & ethical codes of profession o Competency of practitioner (adequate professional and technical knowledge and skills, etc.) o Competency of client/patient (e.g., appropriateness for telepractice services, technical competencies, cooperation) o Informed consent o Careful and ongoing assessment o Emergency planning o Privacy, security and confidentiality and risk management o Documentation

2013 APA & ATA Guideline Differences	
APA Written for *Psychologists*	ATA Written for All *Telemental Health Providers*
Global perspective	Specific perspective
Scope is email, telephone, social networking and video teleconferencing (requires broad principles)	Scope is real-time, videoconferencing via personal computers and mobile devices allows for specificity (e.g., connectivity

Legal Issues

Privacy & Confidentiality

- Privacy & Confidentiality
  - Understand your technology (email, texting, video) and its clinical repercussions related to privacy and technology



Inter-jurisdictional Practice

Licensing Boards that may assert jurisdiction:

- The one in your state(s) of licensure
- The one in the client/patient's state of location at time of call
- Both

Safest Practice:

- Provide services only where licensed
- Require client/patient to attest to his or her location on every call

American Psychological Association

Practice Directorate, Legal & Regulatory Affairs

Telehealth 50-State Review

March 2010

State	Psychologist Telehealth Provision	General Telehealth Provision	Other Notable Activities	Temporary / Guest License Availability	Penalties for Violation
		although no specific statutory rules exist on this issue) - Requires a face-to-face consultation between a patient and physician when the physician has not seen the patient following an initial telemedicine service - Texas has created pilot telehealth programs for other health professions (Tex. Gov't Code §531.02171)		from the time the application is approved - Licensed out-of-state practitioner must be supervised by a licensed Texas psychologist	
UTAH	No	Yes (U.A.C. R432-100-32) - Grants hospitals the right to engage in telemedicine practices - If a hospital chooses to use telemedicine, the hospital itself must develop and implement governance practices	** Establishes rules governing reimbursement policies when telemedicine health care services are provided to patients (Utah Code Ann. §26-18-13)	Yes (Utah Code Ann. §58-1-307) - Licensed out-of-state practitioners may practice in the state only if called for a consultation by an individual licensed in Utah - Services performed must be limited to the consultation - Time period is not to exceed the duration of the consultation event - No specific language requiring advanced notification to the board	3rd Degree Felony (Utah Code Ann. §58-61-501) - Possible fine up to $5000 dollars AND/OR - Possible imprisonment up to 5 years
VERMONT	Yes (26 V.S.A §3018) - Psychologists who provide services via electronic means are deemed to be engaging in telepractice	No	See the Vermont Board of Psychological Examiners website for disclosure requirements (per Rule 3.10) for psychologists who provide services via the	Yes (CVR 04-030-270) - Licensed out-of-state practitioner may practice for no more than 10 days or 80 hours in any 12-month period	General Misdemeanor (3 V.S.A. §127; 26 V.S.A. §3002) - Possible fine up to $5000 dollars AND/OR - Possible imprisonment up to 1

Sticky Note 9/6/2010 9:04:21
marlenemaheu Options
Penalty for both Utah and Vermont is harsh

Disclaimer: This document does not constitute legal advice and should not be relied upon, as it is not routinely updated and was prepared with information from other sources, whose accuracy was not independently verified by APA. APA strongly encourages the reader to independently verify the information contained herein and/or consult with independent legal counsel if the reader intends to use or otherwise rely on such information. Because the law and related information continually change and because APA relied on other sources to compile information contained herein, APA cannot guarantee the completeness, currency or accuracy of this document.

How can you legally practice over state lines?

Legally Practicing Over State Lines

① Look at professional code for state/country
② Do not be dissuaded by telephone responses
③ Get information related to “temporary license”
④ Apply and pay state fees for temporary license
⑤ Take exam if needed
⑥ Maintain CEs or CMEs
⑦ Inform your malpractice carrier
⑧ Be in touch with regulatory associations

Mandated Reporting

Behavioral professionals are mandated reporters

- Duty to Report
  - Child abuse
  - Elder Abuse
  - Spousal Abuse
- Duty to Warn
  - Tarasoff

Informed Consent

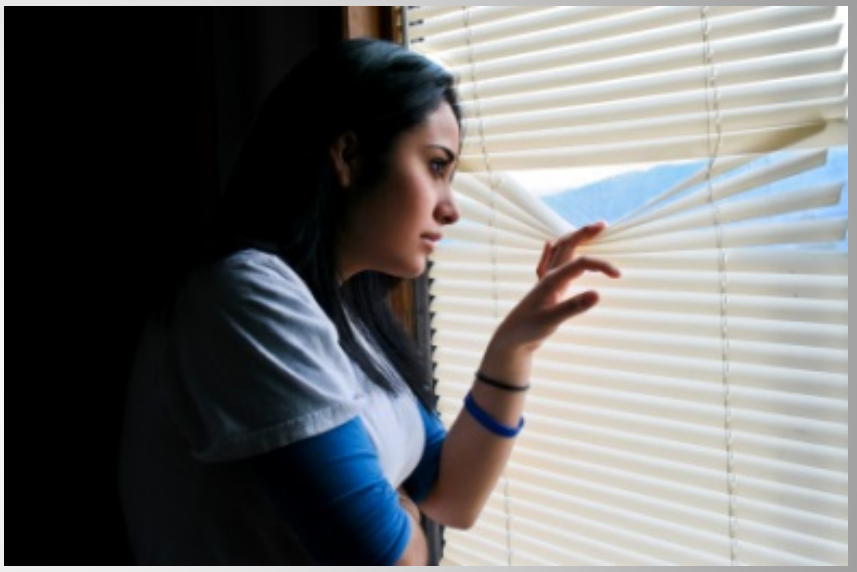
Informed Consent

- Represents a “meeting of the minds”
  - Information is influenced by many factors, including
    - Client/Patient’s capacity for absorbing information
    - Time limits
    - Clinician’s schedule
  - Subject matter is often complex and technical
  - Clinician thinks she is speaking English
  - Client/Patient may be under stress (or may assert so later)
  - Mental illness
- Document only serves as important evidence

Specific Informed
Consent Processes and
Documentation

TMHI Informed Consent Documentation Basics

- Date
- Diagnosis
- Outline of intervention
- Risks and benefits of each technology used
- Risks and benefits of competing approaches
  - Including no service



TMHI Informed Consent Documentation Basics

- Emergency Resources and Plan including names and contact information for local, trusted person(s) to be contacted at the discretion of the clinician
- Document advantages and disadvantages of using technology
- Document evidence-base supporting counseling plan
- Document client preferences re: technology

TMHI Informed Consent Documentation Basics

- Confidentiality and limits thereof as related to mandated reporting (suicide, homicide, abuse)
- Fees, if any
- Statements* similar to:
  - *My questions have been answered to my satisfaction in language I understand*
  - *As of the time of my signing, all blanks have been filled in*
- Document method & procedures for data storage
- Document adherence to local and distant regulations

* Obtain full legal review with a local telehealth attorney prior to using any TMHI sample wording with clients either verbally or in in your informed consent document.

TMHI Informed Consent Documentation Basics

- *Some risks may not yet be unknown**
- *No physical exam**
- Identify both the clinician's & client's/patient's physical location
- Statements* such as: *Professional will rely on information provided by the client/patient and by any on-site practitioners or other sources*
- Potential problems could arise with electronic transmission in telepractice:
  - distortion, delays, interceptions, interruptions
- Document all communications with client (written, audio, video or verbal)

* Obtain full legal review with a local telehealth attorney prior to using any TMHI sample wording with clients either verbally or in in your informed consent document.

TMHI Informed Consent Documentation Basics

- Discuss the purpose of remote contact
- Inform clients of who will have access to their email address, phone number, or any other contact information
- Inform the client of who else might contact the client on your behalf
- Discuss multi-cultural and diversity issues

TMHI Informed Consent Documentation Basics

- Describe the specific roles of any consultant or local referring practitioner and who will have ultimate authority over the client's treatment
- Discuss whether client information will be stored in a computerized database
- Provide written procedures for various types of follow-up when client does not appear for remote consultation
  - Time limit for non-response before collateral person will be contacted if professional is concerned

TMHI Informed Consent Documentation Basics

- Describe how deficiencies electronic equipment could possibly cause interference with diagnosis or treatment
- Make provision for non-receipt of email, delayed receipt, problems with servers, or unannounced changes in the schedule of email communications
- Mention how easily human error could lead to incorrectly delivered messages or other unforeseen events

Emergencies

Have a plan.

- Discuss carefully
- Write plan in your informed consent document
- Develop prior relationships with local community:
  - Physician
  - Family
  - School personnel
  - Other leaders (AA, religious?)
  - Emergency response team
  - Know community resources (hospitals, drug/alcohol treatment facilities, etc.)
  - Know your local collaborators

Know who and when to call for local assistance.

- Inform client of when you will contact local leaders, what you will tell them.
- Cover your termination procedure (i.e., “I will make 2 telephone calls, leave you 2 messages, send you a letter in surface mail with a copy to your physician.”)

American Telemedicine Association

Videoconferencing Guidelines – Emergencies (2009)

- A patient site assessment shall be undertaken, including obtaining information on local regulations & emergency resources,

  and identification of potential local collaborators to help with emergencies

- Emergency protocols shall be created with clear explanation of roles & responsibilities in emergencies

American Telemedicine Association

Videoconferencing Guidelines – Emergencies (2009)

- Determine outside emergency coverage
- Establish guidelines for determining at what point other staff and resources should be recruited to help manage emergencies
- Be familiar with local civil commitment regulations and have arrangements where possible to work with local staff to initiate/assist with civil commitments

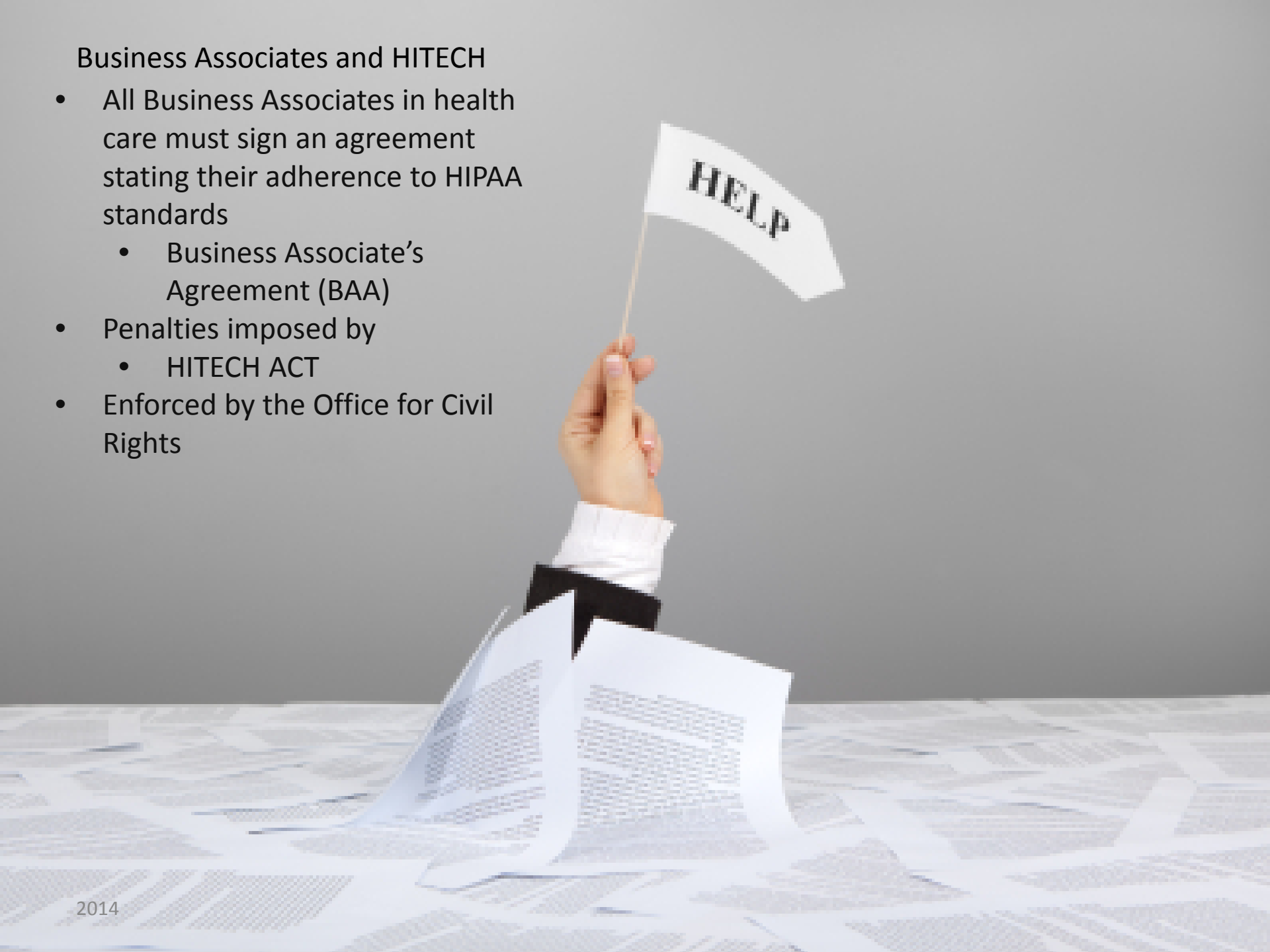
OCPM: Online Clinical Practice Management

Three HIPAA Rules:

- Transmission
- Security
- Privacy

Business Associates and HITECH

- All Business Associates in health care must sign an agreement stating their adherence to HIPAA standards
  - Business Associate's Agreement (BAA)
- Penalties imposed by
  - HITECH ACT
- Enforced by the Office for Civil Rights



Skype?

HIPAA requires an “audit trail” and “breach notification tools,’ which Skype doesn‘t provide.

Telepsychiatry: The Perils of Using Skype

Blog | March 28, 2013 | Telepsychiatry

By Marlene M. Maheu, PhD and Joseph Mcmenamin, MD, JD

First released in 2003, Skype offers free, worldwide video access to any patient with an Internet connection, either by mobile device or desktop computer. What it does not offer, however, is a means of communication clearly suitable for clinical services—especially in mental health. According to estimates reported by groups such as the Institute for Healthcare Consumerism, telehealth is poised to grow by 55% in 2013 alone, and 6-fold by 2017.[1,2] Wisely or otherwise, some of this growth will likely occur via Skype. Thus, it is prudent to consider the issues.

The Health Insurance Portability and Accountability Act

Ordinarily, neither federal nor state law is designed to regulate specific proprietary entities such as Skype and its competitors. Video-chat platforms were developed for marketing to the general consumer, and not for health care. The Health Insurance Portability and Accountability Act (HIPAA) holds professionals responsible for conducting their own internal risk assessments regarding their chosen technologies. Before using any equipment, the professional should require documentation that explicitly promises "HIPAA compliance" or "HPAA compatibility." One could take further comfort in a designation of Federal Information Processing Standard (FIPS) certification, a standard that may meet and exceed HPAA standards.[3]

HIPAA requires the use of equipment that allows for audit trails. According to the American Health Information Management Association, audit trails allow breaches to be traced.[4] Like other proprietary platforms, Skype makes it impossible to conduct approved security audits via audit trails. Skype itself is not

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Search for drugs:

Enter drug name here...

FaceTime is HIPAA compliant and encrypted, could change the way physicians and patients communicate

Sep 26, 2011 *by* Brittany Chan

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Commentary Featured mHealth News

Healthcare communications is rapidly changing – patients now routinely email their physicians, physicians connect with each-other via mobile-based professional networks, and more. The introduction of Apple's FaceTime video chat sparked excitement and discussion in the healthcare community about its possible use in telemedicine. However, many were wary about associated patient privacy issues and HIPAA compliance.

It seems that this question has now been answered. According to Apple, calls made via FaceTime can be HIPAA-compliant with the appropriate security configuration. The news that this ubiquitous, free communications platform meets these rigorous standards has potentially wide implications for how patients, physicians, and others in healthcare communicate.

To be fair, its not quite as simple as just opening FaceTime and calling your patient. Specifically, the WPA2 Enterprise configuration provides an extra level of authentication when establishing a wireless connection. WEP does not provide the appropriate level of security, and WPA and WPA2 personal settings are questionable. FaceTime calls are fully encrypted as well.

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mHealth / at a glance

Latest

The freshest mobile health content

Smart Pill bottles, medication adherence, and preventing readmissions
15 days ago

How to cite a Tweet and other social media in a medical journal
17 days ago

FDA warns of medical device hacking
Jun 20, 2013

Team explores using Google Glass for remote patient diagnosing

Video Teleconferencing Companies Claiming "HIPAA Compliance"

As you probably know, companies offering "encryption" such as Skype are often not secure enough to meet all HIPAA standards. Welcome to the TMHI list of video teleconferencing companies claiming HIPAA-compliance, or what is more precisely known as "HIPAA-compatibility."*

The page below also shows you some companies which offer you a signed "Business Associate Agreement," and the price range for services, if their price range was publicly visible on their website.

You may also want to consider taking a video-training course to be sure you have mastered needed competencies related to legal, ethical and clinical issues associated with video, as evidenced by completion of approved courses of professional training before using technology.

Title	HIPAA Compatibility or Business Associate Agreement	Cost per Month
Access Psychiatry	Business Associate Agreement	
AMD Global Telemedicine	Company claims HIPAA compliance	

HIPAA HITECH COMPLIANT
EXTEND YOUR PRACTICE
EASY TO USE
AFFORDABLE
we are thera-LINK
CLICK HERE TO LEARN MORE
Use promo code TELE2014 and get 50% off your 1st month!

Simple. Reliable. Affordable.
SecureVideo.com
HIPAA-Compliant Videoconferencing

ARCADIAN telepsychiatry
Click here

UPCOMING Webinar

www.telehealth.org/video

Evidence-based practice models for working from home or office.

① Nursing Homes

② Employee Assistance Programs (EAPs)

③ Rural Hospitals

④ Schools

⑤ Specialty Schools, Residential Treatment, Hospitals

⑥ Migration Model

⑦ Private Companies Serving Consumers Online*

- Register for employment with these companies here:

  WWW.PROVIDERPANEL.COM

⑧ Home Health

⑨ Correc
Facilit

⑩ Military & Veteran's
Administration

OCPM: Online Clinical Practice Management Roadmap

Reimbursement

- Medicare & Medicaid already pay for VTC. Many 3rd party carriers do, too.
  - Require HIPAA compliance
  - Designated sites
  - Rural areas
  - Not to the home yet, but such reimbursement is coming soon – new bill by Senator Mike Thompson is being proposed now

Questions?

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