Tele-therapy: A Christian Counselor’s Guide to the Ethical, Legal, & Clinical Challenges

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Notes: SoutheastPsychNashville.com/aacc
Where Are We Going?

• Big Issues in Teletherapy
  • Is it effective?
  • Major ethical, legal, & clinical issues
  • Guidelines

• Using Teletherapy in Practice
  • Practical issues
  • Recommendations
Deepwater Horizon

Many rural communities affected by loss of life, loss of jobs, community hostility.

Dr. John Wells of LSU implemented a large-scale tele-therapy program that was judged to be highly effective.
Among nearly 100,000 veterans, psychiatric hospitalizations decreased by 25% after the V.A. began offering tele-therapy services.

Godleski, Darkins, & Peters, 2012
3 Personal Examples

An ADHD college student with 3 failed attempts at college finished his degree after beginning tele-therapy.

An anxious young adult is able to maintain a job with the help of tele-therapy.

A working musician who experienced a traumatic event was able to keep touring because of tele-therapy.
Is Tele-therapy Effective?

• Yes, with a wide range of mental health issues and concerns.

• Effectiveness demonstrated with treatment of anxiety, PTSD, depression, grief, addictions, panic attacks.

• Not indicated with serious mental illness, suicidality, or high violence risk.
Tele-therapy Effectiveness

• The reason tele-therapy seems to work as well as in-person therapy is because of the relationship.

• Your ability to be empathetic, form an alliance, get feedback, form consensus on goals, collaborate, and show positive regard are still in play in tele-therapy.
Efficacy Research

• Meta-analysis found tele-therapy a) is generally associated with high client satisfaction and b) has similar clinical outcomes as traditional face-to-face therapy. (Backhaus, et al, 2012)

• Another meta-analysis found that tele-mental health “appears to be comparable to in-person care.” (Hilty, et al, 2013)

• VA mental health hospitalizations decreased by 25% since the use of tele-mental health services. Sample size: 98,609 patients.
Underserved and Minority Populations

- Tele-mental health services can increase access to rural populations.

- A review of the research found tele-mental health services is effective in reducing depression and anxiety and improving quality of life among Asian, African-American, and Hispanic clients. (Dorstyn, 2012).
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Some Potential Problems

- Lack of licensure or certification in other jurisdictions
- Range of clinical competencies
- Questions of multicultural competence
- Standard informed consent
- No discussion of fees
Some Potential Problems

- Appropriateness of each technology for each client’s needs
- Use of nonsecure platforms
- Appropriate insurance coding (if applicable)
- Verification of adult status
Early Survey of Tele-therapy Practitioners

- 75% provided services across state lines.
- 74% were uncertain or incorrect about each state’s tele-health laws.
- 60% inquired about each client’s state of residence.
- 50% made advance arrangements for responding to emergencies or crises.
- 48% used a formal informed consent procedure prior to providing services.

Maheu & Gordon, 2000
Big Ethical & Legal Issues

- Interjurisdictional licensing issues
- Duty to report or warn
- Confidentiality issues
Big Ethical & Legal Issues

- HIPAA compliance issues
- Informed consent issues
- Billing and insurance issues
Big Competency Issues

- Competence in tele-mental health
- Competence in relevant technology
- Competence in cultural issues
- Competence in clinical issues
APA’s Telepsychology Practice Guidelines

8 Guidelines designed to inform practitioners:

1 - Be technologically competent
2 - Meet standards of care
3 - Unique informed consent
4 - Protect confidentiality
APA’s Telepsychology Practice Guidelines

5 - Take reasonable security measures
6 - Dispose of data properly
7 - Consider unique assessment issues
8 - Know and follow all laws and regulations when crossing borders
Psychology Interjurisdictional Compact

- PSYPACT is an interstate compact that facilitates the practice of psychology using telecommunications
- Becomes operational when 7 states enact it into law*
- Allows psychologists to practice tele psychology or in-person across state lines without additional licensure.

*As of April 2019, 8 states have now joined
Using Tele-therapy in Practice

Practical Considerations
What About FaceTime?

- Apple will not assign a Business Associate Agreement (BAA), but Apple may not be a “business associate.”

- FaceTime could fall under the HIPAA Conduit Exception Rule* (can’t store, access, or decrypt any PHI).

- FaceTime uses end-to-end encryption, access controls are in place, and Apple cannot decrypt sessions.

*Which covers post office, couriers, ISP’s, phone companies, etc.
The Dilemma of Skype

- Skype Business can be HIPAA-compliant, but regular Skype is not.
- However, it is generally regarded as a pretty secure platform.
- The addition of a Virtual Private Network (VPN) is good, but does not guarantee security.
Issues Regarding Recording

- Videoconferencing is not normally stored.
- Not legal to record without client’s knowledge and consent.
- Client can record the session.
Practical Issues in Teletherapy

- Where to look
- Soundproofing issues
- Client names on contact list
- Unusual situations
Some Unusual Situations

• Client answers call dripping wet with towel wrapped around him. He just ran from the shower!
• Client has sleeping girl in bed behind him.
• Client in dorm room (or laundry room) with suite mates coming through the room.
Recommendations

• Follow the ethics code of your profession.

• Know the law in each state where you practice.

• Always assess client appropriateness for tele-therapy

• Take all reasonable steps to ensure confidentiality and security.
Recommendations

• Be aware of HIPAA requirements.

• Only offer services you are competent to offer.

• Know your software and hardware before starting.

• Be aware of cultural issues in other states and countries.

• Learn your duty to warn and mandatory reporting requirements in each state where you provide service.
Recommendations

• Know emergency and other support services in each area where you provide service.

• Document services just like in-person services.

• Seek consultation when you aren’t sure.

• Confirm your malpractice insurance covers tele-therapy services.

Adapted from Barnett & Kolmes, 2016
References


References


