

Virginia Board of Psychology

Guidance on Electronic Communication and Telepsychology

The Board's opening statement in its Standards of Practice (Regulation 18VAC125-20-150) applies regardless of whether psychological services are being provided face-to-face, by technology, or another method; it is as follows: "The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Psychologists respect the rights, dignity and worth of all people, and are mindful of individual differences."

Electronic communication, such as texts and emails related to client/patient care, are included in the Board's interpretation of telepsychology. Telepsychology has become a burgeoning means of delivering both professional assessment and intervention services. Telepsychology services have been implemented in a number of diverse settings to a broad range of clients, and may even be a preferred modality in some instances. With the advent of these tools in the digital age come risks to privacy and possible disruption to client / patient care.

Not all domains and issues related to electronic transmission and telepsychology can be anticipated, but this document provides guidance to psychologists providing telepsychological services to clients in the Commonwealth of Virginia for compliance with the Standards of Practice in Regulation 18VAC125-20-150. These guidelines pertain to professional exchanges between licensed psychologists and their clients/patients/supervisees. Psychologists who choose to use social media are faced with a variety of additional challenges that are not addressed in this document.

Definition of Telepsychology

For the purposes of this guidance document, the Board has adopted the definition of telepsychology developed by the American Psychological Association (APA)/ Association of State and Provincial Psychology Boards/ APA Insurance Trust and reported in their *Guidelines for the Practice of Telepsychology* (2013, p. 792):

Telepsychology is defined, for the purpose of these guidelines, as the provision of psychological services using telecommunication technologies. Telecommunications is the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means (Committee on National Security Systems, 2010). Telecommunication technologies include but are not limited to telephone, mobile devices, interactive videoconferencing, e-mail, chat, text, and Internet (e.g., self-help websites, blogs, and social media). The information that is transmitted may be in writing or include images, sounds, or other data. These communications may be synchronous, with multiple parties communicating

in real time (e.g., interactive videoconferencing, telephone), or asynchronous (e.g., e-mail, online bulletin boards, storing and forwarding of information). Technologies may augment traditional in-person services (e.g., psychoeducational materials posted online after an in-person therapy session) or be used as stand-alone services (e.g., therapy or leadership development provided over videoconferencing). Different technologies may be used in various combinations and for different purposes during the provision of telepsychology services. For example, videoconferencing and telephone may also be utilized for direct service, while e-mail and text are used for nondirect services (e.g., scheduling). Regardless of the purpose, psychologists strive to be aware of the potential benefits and limitations in their choices of technologies for particular clients in particular situations.

Specific Guidance on Electronic Communication

Psychologists should be cognizant of particular risks for disclosure of confidential patient personal health information (PHI) through electronic (i.e., text and email) communications between mental health professionals and their patients. Although these communication methods share with telephone communications some significant security problems, electronic communications (i.e., phone text and email correspondence) carry particular risk as they can leave a written record of detailed information that is more easily retrieved, printed, and shared with others by any person who has or gains access to either computer device used in these two-way communications. Psychologists are advised to avoid using these tools for communicating any information that discloses a patient's personal health information or treatment details. Electronic communications are considered part of the patient's/client's health record.¹ Even for routine patient scheduling arrangements, psychologists should be aware of and advise patient/clients of associated security risks in the use of these tools. Psychologists should be cognizant of whether they are using a secure communication system. Electronic communications should be succinct and minimal in their number.

Specific Guidance on Treatment / Assessment / Supervision

(1) All provision of telepsychology services - therapeutic, assessment, or supervisory – is expected to be in real time, or synchronous.

¹ See Code of Virginia Section 32.1-127.1:03 definition: "Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

(2) Practitioners of telepsychology in the Commonwealth of Virginia must hold a current, valid license issued by the Virginia Board of Psychology or shall be a supervisee of a licensee.

(3) License holders understand that this guidance document does not provide licensees with authority to practice telepsychology in service to clients/ supervisees domiciled in any jurisdiction other than Virginia, and licensees engaged in out-of-state professional activities bear responsibility for complying with laws, rules, and/or policies for the practice of telepsychology set forth by other jurisdictional boards of psychology.

(4) Psychologists should make every effort to verify the client's/patient's/supervisee's geographic location at the start of each session. If the client/ patient/ supervisee is located outside of Virginia and any other jurisdictions where the psychologist holds a license, the psychologist should contact the psychology licensing board in that jurisdiction to determine whether practice would be permitted or reschedule the appointment to a time when the client/ patient/ supervisee is located in Virginia or another jurisdiction where the psychologist holds a current license.

(5) Psychologists who are licensed in Virginia but are not in Virginia at the time they want to provide telepsychology services to a patient/client/supervisee in Virginia should check with the jurisdiction where they are located to determine whether practice would be permitted.

(6) License holders practicing telepsychology shall comply with all of the regulations in 18 VAC 125-20-10 et seq., including the Standards of Practice specified in 18VAC125-20-150 and 18VAC125-20-160, and with requirements incurred in state and federal statutes relevant to the practice of clinical, school, or applied psychology.

(7) License holders practicing telepsychology should establish and maintain current competence in the professional practice of telepsychology through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge, and should limit their practice to those areas of competence. License holders should establish and maintain competence in the appropriate use of the information technologies utilized in the practice of telepsychology.

(8) License holders recognize that telepsychology is not appropriate for all psychological problems and clients/ supervisees, and decisions regarding the appropriate use of telepsychology are made on a case-by-case basis. License holders practicing telepsychology are aware of additional risks incurred when practicing clinical, school, or applied psychology through the use of distance communication technologies and should take special care to conduct their professional practice in a manner that protects and makes paramount the welfare of the client/ patient/ supervisee.

(9) Psychologists who provide telepsychology services should make reasonable efforts to protect and maintain the confidentiality of the data and information relating to their clients and

inform them of any possible increased risks of compromised confidentiality that may be inherent in the use of the telecommunication technologies.

(10) License holders practicing telepsychology should:

(a) Conduct a risk-benefit analysis and document findings specific to:

(i) The chronological and developmental age of the client/ patient, and the presence of any physical or mental conditions that may affect the utility of telepsychology. Section 508 of the Rehabilitation Act, 29 U.S.C 794(d) is pertinent to making technology available to a client/patient with disabilities.

(ii) Whether the client's/ patient's presenting problems and apparent condition are consistent with the use of telepsychology to the client's/ patient's benefit; and

(iii) Whether the client/ patient/supervisee has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.

(b) Not provide telepsychology services to any person or persons when the outcome of the analysis required in paragraphs (10)(a)(i) and (10)(a)(ii) and (10)(a)(iii) is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues.

(c) Consider the potential impact of multicultural issues when delivering telepsychological services to diverse clients.

(d) Upon initial and subsequent contacts with the client/ patient/ supervisee, make reasonable efforts to verify the identity of the client/ patient/supervisee;

(e) Obtain alternative means of contacting the client/ patient/supervisee (e.g., landline and/or cell phone);

(f) Provide to the client/ patient/supervisee alternative means of contacting the licensee;

(g) Establish a written agreement relative to the client's/ patient's access to face-to-face emergency services in the client's/ patient's geographical area, in instances such as, but not necessarily limited to, the client/ patient experiencing a suicidal or homicidal crisis that is consistent with the jurisdiction's duty to protect and civil commitment statutes;

- (h) Whenever feasible, use secure communications with clients/supervisees, such as encrypted text messages via email or secure websites and obtain and document consent for the use of non-secure communications.
- (i) Discuss privacy in both the psychologist's room and the client/patient/supervisee's room and how to handle the possible presence of other people in or near the room where the participant is located.
- (j) Prior to providing telepsychology services, obtain the written informed consent of the client/ patient/supervisee, in language that is likely to be understood and consistent with accepted professional and legal requirements, relative to:
 - (i) The limitations of using distance technology in the provision of clinical, school, or applied psychological services / supervision;
 - (ii) Potential risks to confidentiality of information because of the use of distance technology;
 - (iii) Potential risks of sudden and unpredictable disruption of telepsychology services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
 - (iv) When and how the licensee will respond to routine electronic messages;
 - (v) Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;
 - (vi) Who else may have access to communications between the client/ patient and the licensee;
 - (vii) Specific methods for ensuring that a client's/ patient's electronic communications are directed only to the licensee or supervisee;
 - (viii) How the licensee stores electronic communications exchanged with the client/ patient/supervisee;
- (k) Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons while the record is being maintained or when the licensee disposes of electronic equipment and data;
- (l) Discuss payment considerations with clients to minimize the potential for misunderstandings regarding insurance coverage and reimbursement.

(11) Documentation should clearly indicate when services are provided through telepsychology and appropriate billing codes should be used.

(12) Psychologists who offer assessment services via telepsychology are expected to have considered and addressed the following broad concerns for any and all tests used with technology:

- (a) Preservation of the acceptable psychometric properties (e.g., reliability, validity, normative reference group comparisons);
- (b) Maintenance of any expected standardization guidelines in test administration to allow prior psychometric research to remain applicable;
- (c) Adherence to scientifically accepted interpretation guidelines;
- (d) Acceptability of the evaluation environment;
- (e) Full disclosure of the unique risks to clients within a consent to evaluation process;
- (f) Anticipation and satisfactory management of technical problems that may arise;
- (g) Assurance that the examinee characteristics are adequately matched to normative reference populations;
- (h) assurance that examinee identity and associated text results are secure with respect to confidentiality.

(13) In the context of a face-to-face professional relationship, this document does not apply to:

- (a) Electronic communication used specific to appointment scheduling, billing, and/or the establishment of benefits and eligibility for services; and,
- (b) Telephone or other electronic communications made for the purpose of ensuring client/ patient welfare in accord with reasonable professional judgment.

Recommended References

The Board recommends any psychologist considering the use of telepsychology read and become familiar with the *Guidelines for the Practice of Telepsychology* and the "Practice Guidelines for Video-Based Online Mental Health Services" developed by the American Telemedicine Association (2013). Further, given the complexity associated with telepsychology, psychologists who want to offer such services will want to review other resources. The American Psychological Association (APA) has published several books (e.g., Luxton, Nelson, & Maheu, 2016), including an ethics casebook that is a companion to the APA's *Guidelines for the*

Practice of Telepsychology (Campbell, Millan, & Martin, 2018). In addition, the Ohio Psychological Association has developed a variety of resources, including a model informed consent document and a list of areas of competence for telepsychology (see <https://ohpsych.site-ym.com/page/CommunicationandTech>).

Other References

American Telemedicine Association. (2013). *Practice guidelines for video-based online mental health services*. Arlington, VA: Author. Available at https://www.integration.samhsa.gov/operations-administration/practice-guidelines-for-video-based-online-mental-health-services_ATA_5_29_13.pdf

Campbell, L. F., Millan, F., & Martin, J. N. (2018). *A telepsychology casebook: Using technology ethically and effectively in your professional practice*. Washington, DC: American Psychological Association.

Joint Task Force for the Development of Telepsychology Guidelines for Psychologists. (2013). Guidelines for the practice of telepsychology. *American Psychologist*, 68, 791-800. Available at <http://www.apa.org/pubs/journals/features/amp-a0035001.pdf>

Luxton, D. D., Nelson, E.-L., & Maheu, M. M. (2016). *A practitioner's guide to telemental health: How to conduct legal, ethical, and evidence-based telepractice*. Washington, DC: American Psychological Association.