



Ohio Board of Psychology

COVID-19 Alert

October 6, 2020

Telepsychology: Crisis Management vs. Establishing and Maintaining Ongoing Compliance

In March 2020, we released two Alerts in the context of the unprecedented disruptions to in-person services experienced by license holders and clients/patients resulting from emergency stay-at-home orders implemented to reduce the spread of COVID-19. The sudden realities of stay-at-home orders in the Spring required quick and creative responses to ensure continuity of care. This Alert serves to provide updated guidance, given that most license holders have undertaken professional practice involving telecommunications, the anxiety and chaos of the Spring is behind us, and the long-term use of telepsychology seems more and more likely. As psychologists' telecommunications roots get deeper, it is important to undertake a review of how you got here, what practice changes might be indicated, and what should be left alone (such as doing a self-assessment about what if any additional education and training might be needed for telepsychology competence).

The Board and many others have tried to empower psychologists to prioritize meeting the needs of clients/patients during the emergency, with an eye on establishing novice-level competence and progressively building intermediate and advanced competence. This is a good time for psychologists and school psychologists to step back and review the privacy protection features of the remote communications platforms being used. Telepsychology practice is certainly going to take on a permanence that was not necessarily anticipated back in March and understanding the requirements to ensure compliance moving forward seems wise.

For example, the Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) enforces HIPAA. The Board, as a state agency, only enforces the Ohio Revised Code and the Board rules in the Ohio Administrative Code. By announcement dated March 17, 2020, OCR advised healthcare providers (including psychologists) that they are exercising discretion to not enforce penalties for noncompliance with HIPAA rules in connection with good faith provision of remote services like telepsychology during the COVID-19 crisis. That release, available on the Board's website, indicates that federal enforcement of HIPAA is being temporarily relaxed. Please review that document if you want more information on HIPAA enforcement discretion and on the obligations that remain in effect. That is a federal issue, not something under the enforcement of the Ohio Board. Nonetheless, psychologists are encouraged to use HIPAA-compliant software whenever possible to better assure client privacy and security and to get explicit consent for use of telecommunications.

The Board's Alerts dated March 11 and March 20, 2020 include clarifications of the Board's telepsychology rules, which remain in force and unamended. Those Alerts also include descriptions of the important differences between fostering client welfare between in-person sessions (i.e., dealing with between-session emergencies by phone) and undertaking

telepsychology as a practice area requiring attention to more details and accumulating competence. The telepsychology rules certainly allow for the use of non-secure methods of *emergency communication* to ensure client welfare between face-to-face sessions. This is a good time to review the use of distance communications with clients and patients, now that there is a clear long-term aspect to telepsychology for many psychologists. As psychologists become more rooted in the use of distance communications for service provision, those who opted to transition from in-person services to telephone and other unsecure communications to address the emergency needs of clients should be transitioning to secure web-based communication platforms. Although the Board does not make specific recommendations for platforms, professional associations such as OPA and APA provide reviews and recommendations. Colleagues may also serve as experienced resources about the various options out there.

By undertaking reasonable efforts to ensure the use of secure methods of communicating with clients and patients remotely, psychologists and school psychologists will maximize the privacy and security of professional communications. This is critical for the rights of people receiving psychological services and represents good risk management by complying with professional standards of care and the Board's telepsychology rules.

As always, questions about laws and rules may be directed to the Board office. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Ross", written in a cursive style.

Ronald Ross, Ph.D., CPM
Executive Director

October 6, 2020