

Practicing psychiatry via Skype: Medicolegal considerations



Helen M. Farrell, MD, and Douglas Mossman, MD

Dear Dr. Mossman:
I practice in a region with few psychiatrists and very little public transportation. For many patients, coming to my office is inconvenient, expensive, or time-consuming. Sometimes, their emotional problems make it hard for them to travel, and sometimes, bad weather makes travel difficult. I am considering providing remote treatment via Skype. Is this a reasonable idea? What are the risks of using this technology in my practice?

Submitted by "Dr. A"

Diagnosing and treating patients without a face-to-face encounter is not new. Doctors have provided "remote treatment" since shortly after telephones were invented.¹ Until recently, however, forensic psychiatrists advised colleagues not to diagnose patients or start treatment based on phone contact alone.²

The Internet has revolutionized our attitudes about many things. Communication technologies that seemed miraculous a generation ago have become commonplace and have transformed standards for ordinary and "acceptable" human contact. A quick Internet search of "telephone psychotherapy" turns up hundreds of mental health professionals who offer remote treatment services to patients via computers and Web cams.

Physicians in many specialties practice telemedicine, often with the support and encouragement of state governments and third-party payers. To decide whether to

include telepsychiatry in your psychiatric practice, you should know:

- what "telemedicine" means and includes
- the possible advantages of offering remote health care
- potential risks and ambiguity about legal matters.

Defining telemedicine

Studies of remote, closed-circuit "telediagnosis" extend back more than 4 decades, closely following mid-20th century advancements in audio and video relay technologies that made space broadcasts possible.³ Then as now, "telemedicine" simply means conveying health-related information from 1 site to another for diagnostic or treatment purposes.⁴ It's an adaptation of available technology to deliver care more easily, with the goal of improving patients' access to care and health status.

Telemedicine usage accelerated as the Internet and related technologies developed. Telemedicine programs in the United States increased by 1,500% from 1993 to 1998.⁴ Telemedicine use has grown 10% annually in recent years and has become a \$4 billion per year industry in the United States.⁵ Recently enacted federal legislation is likely to extend health care coverage to 36 million Americans and require coverage of pre-existing conditions. To make these changes affordable, health care delivery will need to exploit new, efficiency-enhancing technologies.⁶

DO YOU HAVE A QUESTION ABOUT POSSIBLE LIABILITY?

■ Submit your malpractice-related questions to Dr. Mossman at douglas.mossman@qhc.com.

■ Include your name, address, and practice location. If your question is chosen for publication, your name can be withheld by request.

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Table 1

Potential benefits of telemedicine

Category	Benefit(s)
Access	Patients can see specialists more readily Addresses regional doctor shortages Reduces health care disparities between urban and rural areas
Urgent care	Facilitates information transfer for rapid interventions
Productivity	Provides a conduit for clinicians to share skills and expertise Facilitates remote monitoring and home care
Cost	No travel costs Alternative revenue stream for health care organizations that offer more broadly delivered medical services
Patient-centric care	Care is taken to the patient Translator services are more readily available

Source: Reference 4

Advantages of telemedicine

State governments and some third-party payers have recognized that telemedicine can overcome geographic and cost barriers to health services and patient education.^{5,7-9} Although closed-circuit video transmission has served this purpose for some time, Skype—free software that allows individuals to make video phone calls over the Internet using their computers—is an option that doctors are using to treat patients.¹⁰⁻¹²

Research suggests that telepsychiatry may provide huge benefits to medically underserved areas while reducing health care costs.⁴ Telepsychiatry can reduce travel time and expenses for professionals and patients, and it also may lower wait times and “no-show” rates (*Table 1*).⁴ Telepsychiatry lets patients see caregivers when winter weather makes roads unsafe. It may allow geriatric patients who can no longer drive to access psychiatric care and it lowers health care’s “carbon footprint,” making it “eco-friendly.”¹³

Social media strategies are playing an expanding role in medical education,^{14,15} and this probably will help practitioners feel more at ease about incorporating the underlying technologies into work with pa-

tients. Increased use of laptops and mobile phones lends itself well to telepsychiatry applications,¹³ and studies have examined the feasibility of psychotherapies delivered via remote communication devices.¹⁶ Smartphone apps are being designed to assist mental health professionals¹⁷ and consumers.¹⁸

Potential pitfalls and drawbacks

Although convenience, access, cost, and fossil fuel savings may favor video-chat doctor visits, telemedicine has downsides, some of which apply specifically to psychiatry. First, no current technology provides psychiatrists with “the rich multidimensional aspects of a person-to-person encounter,”¹⁹ and remote communication may change what patients tell us, how they feel when they tell us things, and how they feel when we respond. Often, an inherent awkwardness affects many forms of Internet communication.²⁰

Also uncertain is whether Skype is compliant with the Health Insurance Portability and Accountability Act and protects doctor-patient privacy well enough to satisfy ethical standards—although it probably is far better than e-mail in this regard. Third-party pay-

Clinical Point

Telepsychiatry can reduce travel time and expenses for professionals and patients along with reducing patients’ waiting time

Clinical Point

Remote communication may change what patients tell us and how they feel when they tell us things

Table 2

Telemedicine services available in different states

State/Network	Description
Arizona www.narbha.org ⁷	The Northern Arizona Regional Behavioral Health Authority manages a comprehensive telemental health network (NARBHAnet) that uses 2-way videoconferencing to connect mental health experts and patients. It has provided >50,000 clinical psychiatric sessions
Kansas www.kumc.edu ⁸	The University of Kansas Medical Center provides specialty services (including telepsychiatry) through 14 clinical sites in rural Kansas. Cost-sharing helps the telepsychiatric application be successful
Montana www.emtn.org ⁹	Eastern Montana Telemedicine Network is a consortium of not-for-profit facilities that link health care providers and their patients in Montana and Wyoming. This telemental health network includes shared sites for all physicians practicing in the network and has yielded large out-of-pocket savings for patients
Oregon www.ortelehealth.org ²²	The Telehealth Alliance of Oregon, which began in 2001 as a committee of the Oregon Telecommunications Coordinating Council, was created by the legislature and has served as advisors to the governor and the legislature regarding telecommunications in Oregon
Texas www.jsahealthmd.com ²³	The Burke Center provides services to people in 12 counties in East Texas. It uses telepsychiatry services to conduct emergency evaluations, therefore keeping people in mental health crises out of emergency rooms

ers often will not reimburse for telephone calls and may balk at paying for Skype-based therapy, even in states that require insurers to reimburse for telemedicine.

Psychiatrists typically have limited physical contact with patients, but we often check weight and vital signs when we prescribe certain psychotropic medications. Results from home- and drugstore-based blood pressure monitors may not be accurate enough for treatment purposes. Remote communication also reduces the quality of visual information,²⁰ which can be crucial—for example, when good lighting and visual resolution is needed to decide whether a skin rash might be drug-induced.

Telemedicine raises concerns about licensure and meeting adequate standards of care. Medical care usually is deemed to have occurred in the state where the patient is located. For example, only physicians licensed to practice medicine in California are legally permitted to treat patients in California. As is the case with any treatment, care delivered via telemedicine must include appropriate patient examination and diagnosis.²¹

Help and guidance

Despite these potential drawbacks, many state agencies recognize the promise of telemedicine, and have developed networks to promote it (Table 2).^{7-9,22,23} These networks have various goals but share a common pattern of establishing infrastructure, policies, and organized results. In the future, states may adopt laws or regulations that address conflicts in malpractice standards and liability coverage, licensing, accreditation, reimbursement, privacy, and data protection policies that now may impede or inhibit use of telepsychiatric services across jurisdictional boundaries. Last year, Ohio produced regulations to guide psychiatrists in prescribing medication remotely without an in-person examination. The University of Hawaii suggested steps that its state legislature might take to help providers predict the potential legal ramifications of telemedicine.⁶

Further help for telepsychiatry practitioners may be found in practice standards and guidelines developed by the American Telemedicine Association.^{24,25} These documents gave guidance and support for the

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practice of telemedicine and for providing appropriate telepsychiatry health services.

What should Dr. A do?

In answer to Dr. A's question, many factors favor including telepsychiatry in her practice. Yet we know little about the accuracy and reliability of psychiatric assessments made solely via Skype or other remote video technology in ordinary practice. Legislation and legal rules about acceptable practices are ambiguous, although in the absence of clear guidance, psychiatrists should assume that all usual professional standards and expectations about adequate care apply to treatment via Skype or other remote communication methods.

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Bottom Line

Despite some clinicians' qualms about the practice, telepsychiatry via Skype or other remote video technology is becoming widely available. Even though the popularity of telepsychiatry is increasing, legislation and legal rules about acceptable telepsychiatry practices are ambiguous.

Related Resources

- Skype. www.skype.com.
- American Telemedicine Association. www.americantelemed.org.

Disclosure

The authors report no financial relationship with any company whose products are mentioned in this article or with manufacturers of competing products.

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Clinical Point

Psychiatrists should assume that all professional standards and expectations apply when using telepsychiatry