Ethics of Telehealth in the Schools – Handout

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Learning Objectives
1. Participants will be able to identify services that can be provided by telehealth in the schools.
2. Participants will be able to describe issues that need to be considered when deciding to be a virtual school psychologist.
3. Participants will be able to describe common legal and ethical pitfalls when using telehealth.

Virtual Services
- Providing services remotely, where the clinician and the client are physically located in two different locations and services are provided using technology via the internet.
  - Teletherapy
  - Telehealth
- Many current practices of school psychologists could fall under telehealth
  - Cloud-based student databases
  - Academic tracking software
  - Online education modules
  - Assessment scoring services
  - Organizational and practice apps
    - School Psychology Tools
    - Behavior Snap

Background
- Veterans Administration use of telehealth for mental health services for past couple of decades.
- Decrease expense of technology
- Shortages in professional service providers.
  - School psychologists

Service Model
- Gold standard of service – in-person and one-on-one setting
- Dimensions
  - Location
    - Hybrid
    - Combination of in-person with remote assistance
    - Telehealth-only
    - All services provided remotely
  - Employer
    - Within School District
    - Employed by district and use combination of in-person and remote services.
    - Contract
    - Third party provider located remotely

Benefits of Telehealth in Schools
- Access to remote or underserved populations
    - Allows services to be provided that not possible before
    - Cuts down on travel time between schools
    - Increases school psychologist efficiency in completing tasks
    - Cost savings and fewer student absences
- Counseling
    - Telehealth found effective for many disorders
    - Cognitive-behavioral therapy translates well online
    - Videoconference format most common though other audio and text-based methods have been used.
    - Types of Disorders
        - Social Anxiety, Depression, Bipolar Disorder, Suicidality, Generalized Anxiety, Obsessive-Compulsive Disorder, Post-Traumatic Stress Disorder
    - Therapeutic Model
        - Acceptance Based Therapy, CBT, Interpersonal Psychotherapy, E-therapy maintenance, Time sampling, Mindfulness
    - Modality
        - Videoconferencing, Website, Gaming App, Smartphone, Computer Adaptive Tests, E-mail, Telephone, Virtual Reality
    - Summary of Tele-counseling
        - Satisfaction studies have generally found strong favorability ratings from patients and clinicians for services delivered via telehealth.
        - Telehealth appears to show equivalency to in-person treatment in a variety of settings, populations, age groups, and diagnostic conditions.
        - E-health-related adjuncts to treatment have been generally found to be efficacious.
        - Telehealth can be a cost-effective form of treatment when travel expenses are considered
    - Equivalency Studies – documented comparability in populations of older children, adolescents, and the cognitively impaired.
    - Smartphones (e-Health adjuncts)
        - With the increased adoption of mobile technologies including smartphones, e-Health adjuncts intended to boost effectiveness of clinical care are developing rapidly.
        - Grassi, Preziosa, Villani, & Riva (2007) - used mobile phone applications to assist in relaxation exercises for nonpatient participants.
            - Participants receiving both audio and visual components (facilitation of calm environments and progressive muscle relaxation) had significant reduction in anxiety and improvements in self-efficacy.
- Consultation
    - Emerging research
    - Equivalent to in-person problem-solving consultation
    - Not limited to time school psychologist is in the school

- Assessment
  - Very limited research
  - Test in multiple locations in single day
  - Allows accommodation to finding students for testing in different locations
  - Common for speech therapists
- Supervision
  - Effective in providing quality supervision
  - Increases access to experts in particular areas of practice.
  - Interns and early career can receive supervision from university and senior school psychologists
  - More ways to provide supervision

Concern of Telehealth in Schools
- Professional Issues
  - Third-party or Independent providers
  - Privacy and confidentiality of student's information
  - Equipment malfunction
  - Feelings of less personalized care
  - Lack of cultural awareness and sensitivity
  - Schools prefer telehealth over in-person services
    - Anecdotal – schools prefer in-person
  - Requirement of aides when providing services
    - Background and training of aide
  - Informed consent – specify through telehealth
- Assessment
  - Least explored area of telehealth
  - One small study – Presence Learning sponsored equivalent of WJ-IV Cognitive and Achievement.
  - Other providers have school psychologists use any test they prefer
  - Concerns regarding reliability and validity
  - Maintaining test integrity
    - Level of distraction
    - Presence of others in room
- Storage and Sharing of Data
  - Type of storage system used
  - Level of security
  - Level of access – FERPA standards
- Social Networking and Apps
  - Discussion of students
  - Apps – tracking student information (e.g. - Mood Tracker)

Kentucky Law
- 201 KAR 26:310
  - Requires a treating psychologist utilizing telehealth to ensure a patient's informed consent and to maintain confidentiality.
  - Requires a credential holder using telehealth to deliver psychological services to do the following **upon initial contact** with the client:
    - Verify the identity of the client
    - Obtain non-electronic alternative means of contact
    - Provide to the client non-electronic alternative means of contacting the credential holder
    - Document if the client has the necessary knowledge and skills to benefit from the type of telepsychology provided by the credential holder
    - Use secure communications with clients, including encrypted text messages via e-mail or secure Web sites, and not use personal identifying information in non-secure communications
    - Inform the client in writing about:
      - The limitations of telehealth-based services
      - Potential risks to confidentiality of information
      - Potential risks of disruption
      - When and how the credential holder will respond to routine electronic messages
      - Plan for alternative communications in emergencies
      - List of who can access communications
      - Contact info for the provider
      - How client data is stored
      - The limits of confidentiality
  - Throughout the provision of services, telehealth providers must:
    - Comply with state law where the credential holder is credentialed and be licensed to practice psychology where the client is located
    - Comply with section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities;

Risk Management – Data Security & Privacy Considerations
- Here are some general risk management recommendations related to data security and privacy.
  - Ensure access to proper technological resources in emergencies
  - Ensure legal compliance with the most strict laws concerning privacy & security
  - HIPAA requires that clinicians' educate their staff, conduct regular risk assessments for all technologies used, and have written breach remediation plans.
  - Electronic data must be encrypted before transmission in order to prevent threats to privacy.
    - Current HIPAA standards require a minimum of 128-bit encryption of electronic PIH, and this can be ensured with a variety of technological tools.

- Mobile devices, such as smartphones and tablet PCs, have helped to create new and exciting possibilities for telehealth delivery.
    - However, the use of devices equipped with wireless capabilities threatens the privacy and security of patient's data.
    - Best practice would be to ensure that all data stored or communicated is encrypted.
- Ensure the room location at the originating and patient sites contain elements of comfort, privacy, and confidentiality.
    - Identify all individuals located in the provider room
    - Scan the camera around the room to verify who is present
    - Explain the audio and video privacy present in the environment.
    - Consider using spaces that ensure that no one tampers with or has unlawful access to equipment.
- Planning for Emergencies
    - Safety planning in order to resolve emergencies is a necessary component of telehealth care delivery.
    - It is necessary to assess the resources available at the patient's site, including obtaining information on local regulations and emergency resources and identifying potential local collaborators to help with emergency protocols for all telehealth services with clear explanation of roles, responsibilities, and procedures in emergency situations.
    - It is vital that emergency protocols clearly delineate how two geographically distant sites will collaborate in technical, clinical, and medical emergencies. You need plans for…
        - What constitutes an emergency?
        - When emergency resources will be accessed?
        - Secondary method to immediately contact patient site
        - The responsibilities of all staff during emergencies
        - Emergency contact numbers for both sites
- Informed Consent
    - Kentucky Law, KRS 319.140, requires the following elements in the informed consent process.
        - Must be obtained before telehealth services are provided
        - Confidentiality of PHI must be ensured
    - The American Telemedicine Association's guidelines provide some recommended additional elements for informed consent:
        - Explain the limits to confidentiality inherent in telehealth services
        - Emergency plan and contact information for local resources
        - Process for documentation and storage of information
        - Potential for technical failure and procedures for coordination of care with other professionals
        - Protocol for contact between sessions
        - Conditions under which telehealth services are terminated and a referral for face-to-face care made.

- Other recommended items covered under risks and expectations include:
    - Scheduling
    - Frequency of communication
    - Attendance policies
    - Use of other communication methods
    - What happens if a security breach occurs.
    - Disclosure about data storage and disposal.

Addressing Telehealth Concerns
- Assessment
    - Equipment necessary
        - Camera 1 – interact with student
        - Camera 2 – observe student completing task
        - High speed internet connection
        - High quality video and audio
- Ethics regarding appropriate fit for student with telehealth service
- Issues to consider
    - Complexity of student's condition
    - Context and environment in which student interacts
    - Comfort student has using technology
    - Nature and complexity of service/intervention required by school
    - School psychologists knowledge, skill, and competence in using telehealth

Third Party Providers and Contracting - Elephant in the room
- Hiring school psychologists to contract remotely with school districts
- Many cross state lines in providing services
- Telehealth concerns often result from school psychologists not being an employee of school districts.
- Hire school psychologists as independent contractors
- Market facilitators between school psychologist and school district
- Provide technology support
- Track hours of service
- Stream all services
- Send all records to contract school district
- Working as independent contractor
    - Need to ensure liability insurance covers telehealth practice
    - Not an employee of a school district
- Crossing state lines – license/credential issue
    - Need to be able to independently practice in jurisdiction where school psychologist located AND where student located.
- Laws
    - FERPA continues to be in effect
    - HIPAA applies as working for provider outside of school district

- Due Process and Legal Proceedings
  - Unchartered territory
  - Possibility of needing legal representation as independent contractor
  - Possibility of needing to travel to court where student provided service

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