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Membership Advisory

Telepsychology - Professional Considerations in Choosing an Online Conferencing Platform

The consideration of which online video conferencing platform to use for providing telepsychology services is an important one. The decision requires due diligence on the part of the psychologist to ensure that the video conferencing platform chosen is secure and meets the requirements of prevailing privacy legislation, as well as supports the psychologist's adherence to their professional obligations and responsibilities. As the regulatory body for the profession, the SCP cannot endorse or recommend a specific video conferencing platform. The decision about the video conferencing platform to be used for the provision of tele-psychology services is ultimately that of the psychologist.

Many online video conferencing platforms are owned and operated by entities outside of Canada, and while they may be compliant with the privacy legislation in the originating country this may not be sufficient to meet privacy requirements in Canada and/or this jurisdiction. One should not assume that privacy legislation in other locations around the world is congruent with Canadian legislation in terms of issues such as purpose, scope or authority. There also may be other legislation (e.g. Patriot Act, USA) within the originating country which potentially could impact the psychologist's ability to assure client privacy, or the confidentiality of their personal information / personal health information.

The privacy legislation that would be relevant to the provision of services via technology in this province is the provincial Health Information Protection Act (HIPA) and the federal Personal Information Protection and Electronic Documents Act (PIPEDA). Neither HIPA nor PIPEDA require third party service providers (such as online video conferencing platforms) to sign agreements relating to responsibility for any personal information and or personal health information which may be touched by a third-party service provider. Psychologists are trustees under HIPA and as such have an obligation to ensure that they take reasonable steps to protect the privacy and security of the information collected by them, or information in their custody or control. Private sector organizations are responsible under PIPEDA for maintaining the security and confidentiality of personal information in their possession that is maintained electronically.

When using an online video conferencing platform to provide healthcare services, consideration should be given to the following:

1. Am I required to input any identifying personal information / personal health information about the client into the video conferencing platform to access the service? If so, what protections exist for the security and confidentiality of the information? Depending on the nature and the extent of the personal information / personal health information that is required, an agreement with the third-party provider may be necessary to meet one's professional obligations.

2. Is the video conference recorded? If so, where is this stored and who has access to it? If the third-party provider has access to that recording, then an agreement requiring compliance with PIPEDA and HIPA is likely required. Consideration should be given to avoid recording if third party access is possible.
3. What record, if any, of your video conference with your client would be retained by the third-party service provider / the platform? If a log or other information is retained, does it contain any personal information / personal health information relating to the client? If so, an agreement with the third-party service provider may be required to meet your obligations.
4. Do I have a thorough understanding of the security features of the platform and how to apply them?
5. Do I have a written privacy breach policy that outlines how risk will be mitigated and managed?
6. Does my liability insurance cover services that are provided via an online video conferencing platform or other electronic means?
7. Obtaining full informed consent about services to be provided including the risks vs benefits of delivery via technology is essential. While it is unlikely that a video conference will be hacked, clients must be made aware that the psychologist cannot guarantee the security of the video conference.
8. Establish a plan for emergencies, especially in the event of a technology failure.

If the videoconferencing platform being used does not require personal information / personal health information to be provided, and does not compel one to record the sessions, and can assure one that no identifying information relating to the client is retained by the third party platform, then use of the platform likely complies with HIPA and PIPEDA.

It is also important to ensure that client privacy and confidentiality related to the provision of services by video conference or another electronic means of communication are protected at all times including:

- ensuring that the video conference / electronic communication cannot be seen or heard by anyone who are not providing the service to the client
- ensuring that any notes taken during the service or relating to it are kept confidential and secure, and are not accessible to anyone other than practitioner(s) providing the health service
- ensuring that notes stored electronically are not accessible to anyone other than practitioner(s) providing the health service
- encryption of electronically stored notes is advised

The Health Information Protection Act 2018

- Personal Information Protection and Electronic Documents Act (last amended 2019)
- SCP of Psychologists of B.C. Telepsychology Services Checklist
- Psychological Association of Manitoba Advisory
- Merrilee Rasmussen, QC, SCP Legal Counsel