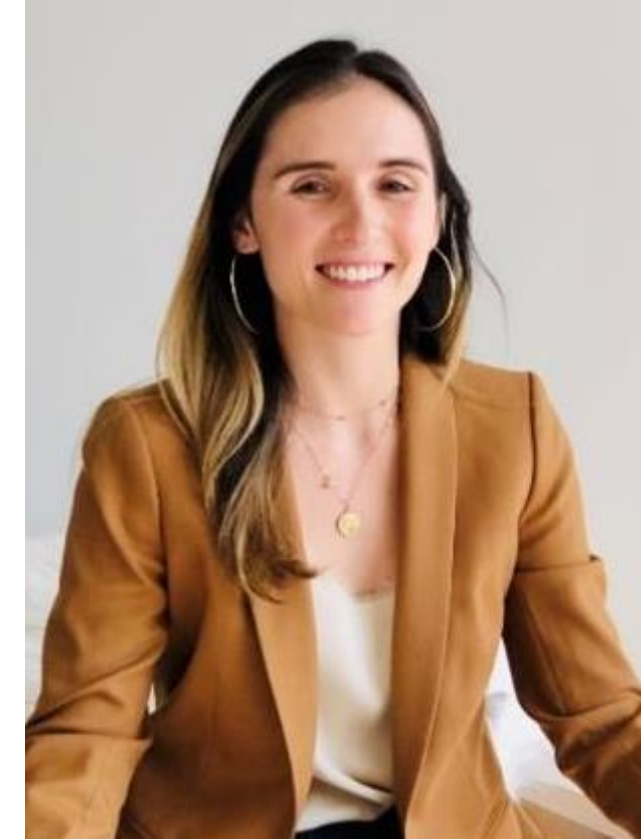


Transitioning to Telepsychology: Practical, Ethical, and Risk Management Issues

Drs. Julian Ford, Jana Martin, Morgan Sammons, and Melissa Wasserman

Sponsored by the National Register of Health Service Psychologists in partnership with The Trust and APA Interdivisional Task Force on the Pandemic



Today's Participants

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Disclosures/Conflicts of Interest

- Dr. Jana Martin discloses that she is CEO of The Trust and does not represent the views of the American Psychological Association.
- Dr. Morgan Sammons discloses that he is CEO of the National Register of Health Service Psychologists and does not represent the views of the American Psychological Association.
- Dr. Julian Ford has no relevant conflicts of interest to disclose.
- Dr. Melissa Wasserman has no relevant conflicts of interest to disclose.

Learning Objectives

1. Describe the reactions of patients to telepsychology in the first six months of the pandemic, as perceived by psychologists in practice
2. Describe a potential contraindication for telepsychology identified by psychologists in practice
3. Identify risk management issues for psychologists conducting services by telehealth and utilize strategies to address them.

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- Clinician Support Collaborative. Eventbrite. <http://cliniciancollab.eventbrite.com/>
- For sample Telepsychology, Teleneuropsychology, Return to In-person, and Walk and Talk Therapy consent forms, see The Trust COVID-19 resources site <https://parma.trustinsurance.com/Resource-Center/COVID-19-Resources>

Telepsychology: Key Ethical and Risk Management Considerations

Jana N. Martin, PhD
CEO, The Trust

Telehealth During and After COVID-19

- There are no per se legal or ethical requirements that one return to in-person care, so continued telehealth will be an option
- Quite a few patients/clients and clinicians may prefer to continue with remote care
- As noted earlier, as COVID recedes, reimbursement changes could affect whether continued remote care is financially feasible for some patients/clients
- Of course, as with any professional activity, there are risks that should be considered and addressed

Telehealth During and After COVID-19

Key ethical and risk management considerations

- Access
- Informed consent
- Privacy
- Competence
- Patient/client suitability
- Licensure
- Emergency/crisis planning
- Finances

Key Ethical and Risk Management Considerations

Access

- Can patients/clients access the technology and use it?
- There's increasing evidence that the enormous shift to telehealth during COVID-19 has left many traditionally marginalized communities behind.
- For example, in a December 2020 study, Eberly et al. found that “lower-income, ethnic minority, non-English-speaking, and older patients had increased barriers to engaging in care via telemedicine during the COVID-19 pandemic, suggesting that the rapid adoption of technology might have exacerbated existing inequities in healthcare access.”
- Thus, individualized decisions for each patient/client will be necessary as to whether to meet in-person vs. remotely.

Key Ethical and Risk Management Considerations

Informed Consent

- Using a **telepsychology-specific consent** form is important (and required in an increasing number of states; e.g., California)
- Among other things, it can set an effective structure for:
 - Addressing risks and benefits specific to remote services
 - Highlighting privacy issues relevant to patient/client location
 - Clarifying technology needs, issues and alternatives
 - Anticipating crisis management
 - Communications policies outside of the session
 - Addressing financial aspects of care

Key Ethical and Risk Management Considerations

Privacy

- In addition to the technological aspects, there are at least two aspects of privacy concerns that do not exist with in-person office services:
 1. The privacy of the patient's/client's location
 - DV and abuse issues
 - Being overheard by roommates, family members
 2. The privacy of the psychologist's location
 - Does the clinician have a home office, or are they using shared space?
 - Is the home office private? Secure?
 - Is there adequately secure and private storage for professional records?

Key Ethical and Risk Management Considerations

Is it true that HIPAA has been waived during the COVID-19 crisis?

- NO!
- Only a limited aspect of enforcement has been temporarily waived - but virtually ALL remaining aspects of HIPAA are in force (and SO ARE ETHICS CODES and state licensing regulations)
- The DHHS Office of Civil Rights (OCR) “enforcement discretion” of March 17, 2020, allows the use of nonpublic-facing telehealth platforms, like Facetime, Skype, Zoom, without requiring a Business Associate Agreement (BAA)
- BUT - be careful: regulations and the APA Ethics Code confidentiality provisions have *not* been relaxed, and OCR can still engage in enforcement if there’s a documented violation of either state or professional standards

Key Ethical and Risk Management Considerations

Privacy

- The DHHS waiver of enforcement for video chat platforms will probably not extend past the end of the official public health emergency (PHE)
- Appropriate use of privacy controls and BAAs with communications platforms is essential, even with the waiver
- Once the PHE has ended, full compliance with all aspects of the Security Rule will be required once again
- The Privacy and Breach Notification Rules have and will continue to be enforced

Key Ethical and Risk Management Considerations

Competence

- Technical knowledge is, of course, essential (e.g., video chat platforms)
- Continuing to develop and maintain knowledge and skills as the context for remote services evolves is important
- A recurrent issue for many psychologists during and undoubtedly after COVID-19 recedes is practice across state lines
- This dimension has been and will continue to be an issue
 - What to do when your client moves or travels out of state? Is your jurisdiction in PSYPACT? Considering it? If not, what can one do?

Key Ethical and Risk Management Considerations

Interjurisdictional Practice

- PSYPACT has added substantial range for many practitioners
- As of Monday, March 15, 2021, 16 jurisdictions signed on (including DC), so it has grown quickly and is in effect
- Another 14 states have pending legislation, so it's likely that within the next year close to half of the states in the U.S. will be members
- The E.Passport will allow remote services within all the member states
- The Commission's Interjurisdictional Practice Certificate will provide up to 30 days per calendar year of in-person services in member states

Key Ethical and Risk Management Considerations

Interjurisdictional Practice

- For remaining non-PSYPACT states, or if your patient/client travels to such a state), many allow some kind of temporary practice
- Even for those that do not, there are ethical aspects of determining whether to engage in cross-jurisdictional care, including:
 - Patient/client welfare
 - Continuity of care
 - Beneficence
 - Nonmaleficence

Key Ethical and Risk Management Considerations

Interjurisdictional Practice

- A central concern is patient/client suitability
 - That is, are they a person who is in a risky situation, or who by virtue of symptoms or characteristics, carry more risk? For example:
 - A person who is involved in a custody battle
 - Treating the child of a divorcing couple
 - A patient/client with suicidal ideation, struggling with an addiction, with unregulated bi-polar illness, etc.
- Whether the services will be temporary (shorter term will carry less risk) or long term is important to weigh

Key Ethical and Risk Management Considerations

- Prepare for and be able to address emergencies/crises across state lines
 - Remember: calling your local 911 number will not help if the person is located 1500 miles away, and the call will not be transferred
 - Do your due diligence regarding other patient/client-local resources, as well (e.g., hospitals, DV shelters)
- Investigate, discuss and engage in good informed consent about whether any relevant third-party payer will continue to reimburse for cross-jurisdictional care, even if you are out of network and do not bill health insurance

Key Ethical and Risk Management Considerations

Interjurisdictional Practice

- Practitioners also should be familiar with the laws where the client/patient is located and abide by them as much as possible
- For those in private practice, or covered in their agencies, malpractice insurance covers interstate services for malpractice and for any related licensing board complaints - if properly licensed (but check your carrier)
- BUT...none will give coverage for criminal prosecutions for unlicensed practice
- Malpractice coverage is probably more complex for international practice

Key Ethical and Risk Management Considerations

Is it any different for international practice?

- The considerations are very similar to continuing care between states, though:
 - Many nations do not regulate the practice of psychology (e.g., Singapore, France, India)
 - Among those that do regulate practice (e.g., Britain, Canada, Mexico, China), there may be little objection to following patients, as long as one does not “hang out a shingle” - either online or with a physical presence in the forum country
 - Temporary practice provisions may exist in some nations
 - Patient/client suitability, crisis/emergency preparation, is still a crucial issue
 - The nature of the services - temporary, a transitional period, or permanent (the latter carrying more risk with less suitable patients/clients) will also be relevant
 - It is very unlikely that with a short term, suitable patient, most countries will create an international incident over a few video chat calls

Trends in Telepsychology: Past, Present, and Future

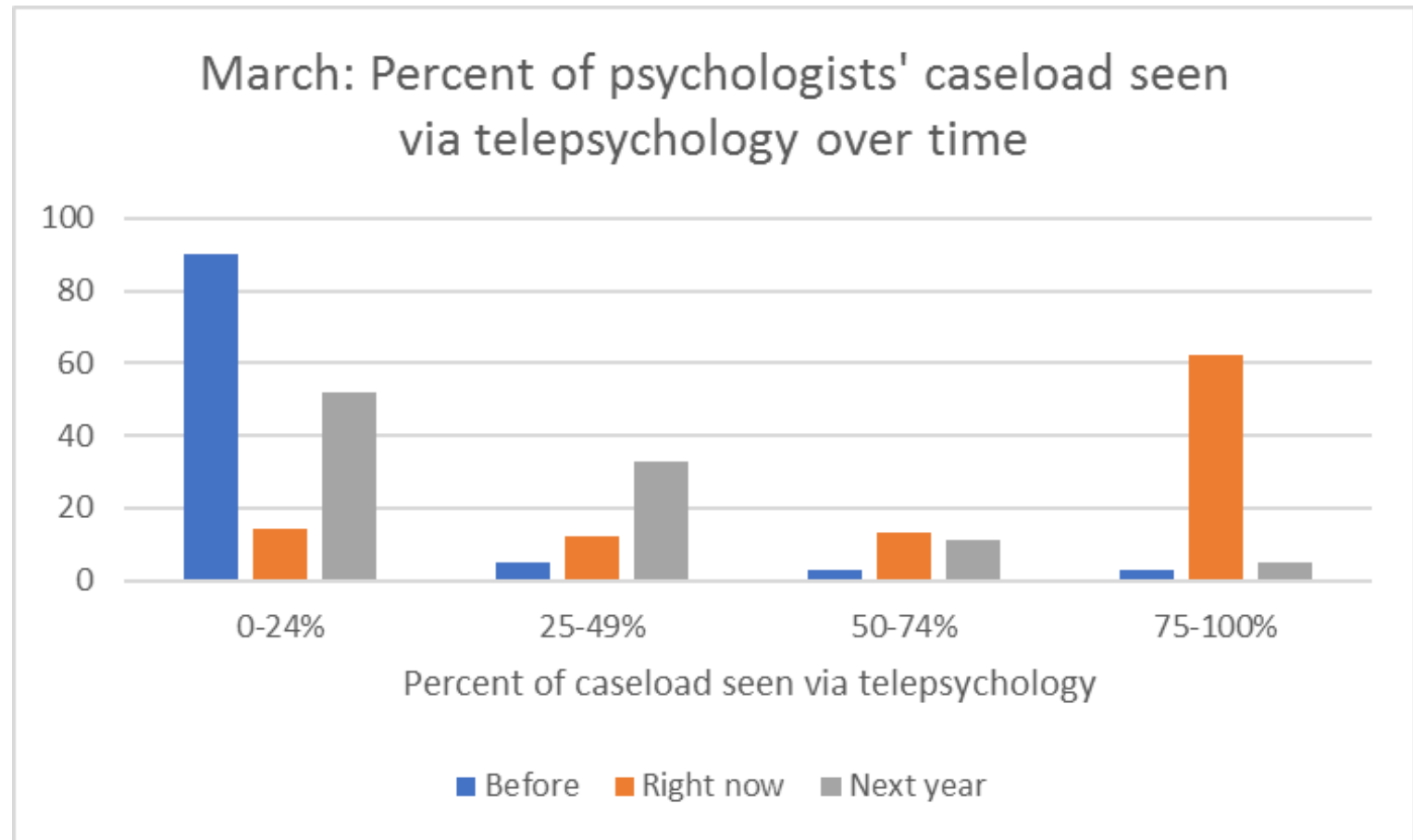
Morgan T. Sammons, PhD, ABPP

CEO, National Register of Health Service Psychologists

Surveys of Telepsychology Practice

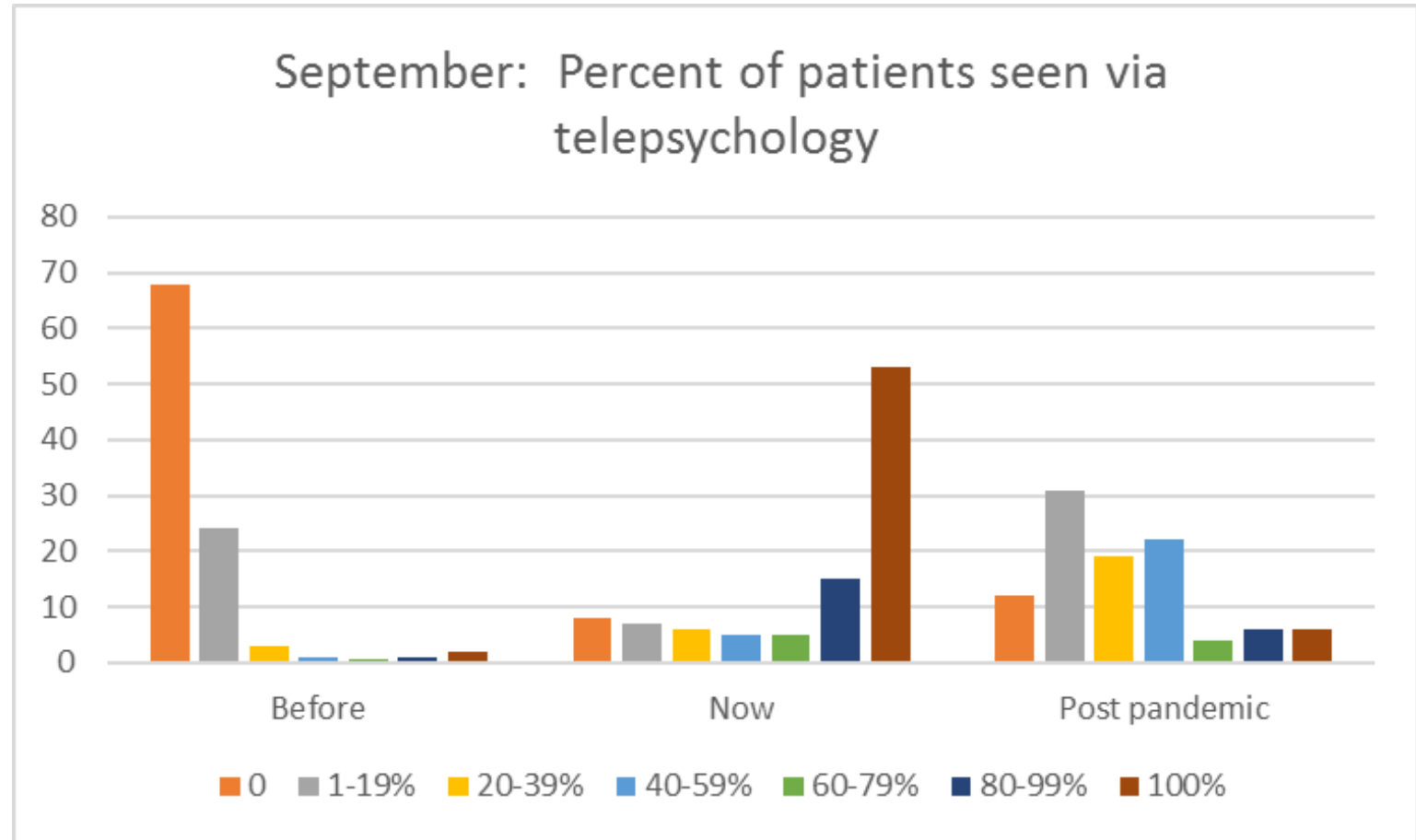
- NR and Trust: Two Surveys, April and September 2020
 - Convenience sample of NR members and Trust policy holders
 - Consistent and high response rate for both surveys ($\approx 13\%$)
 - Consistent and robust participation ($N \approx 3,000$)
- We believe these surveys are highly representative of psychologists practice and attitudes towards telepsychology.
 - Third survey will assess practices upon return to office
- Other surveys:
 - Marra et al. (2020), survey of neuropsychologists during the pandemic.
 - Pierce et al. (2020), survey of psychologists during the pandemic.

NR/Trust Survey of over 3,000 licensed psychologists



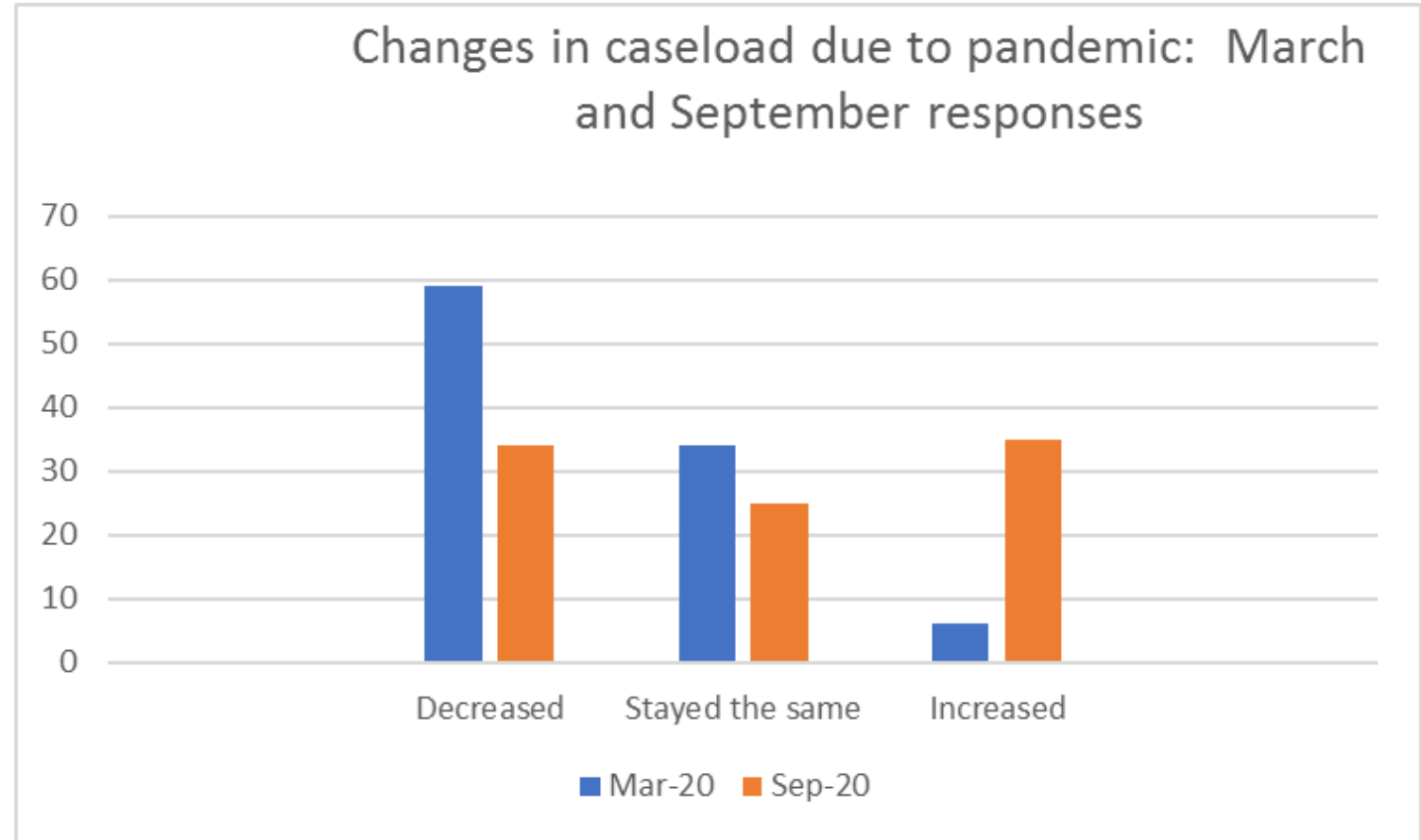
Sammons, VandenBos, Martin, & Elchert, 2020

Shift to telepsychology has been rapid and is likely permanent



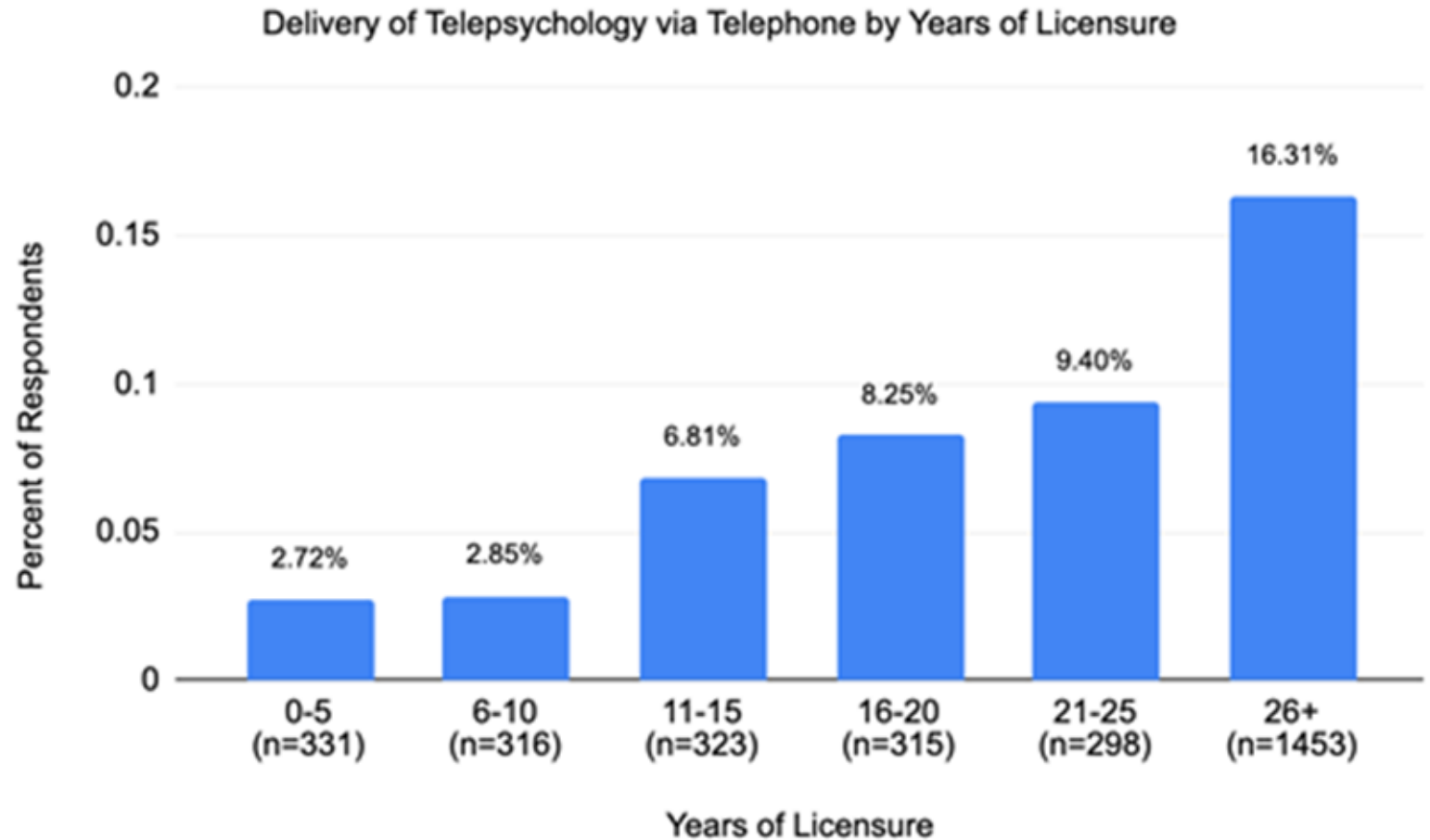
Sammons, VandenBos, Martin, & Elchert, 2020

Early effects of pandemic difficult for psychologists, now stabilizing



Sammons, VandenBos, Martin, & Elchert, 2020

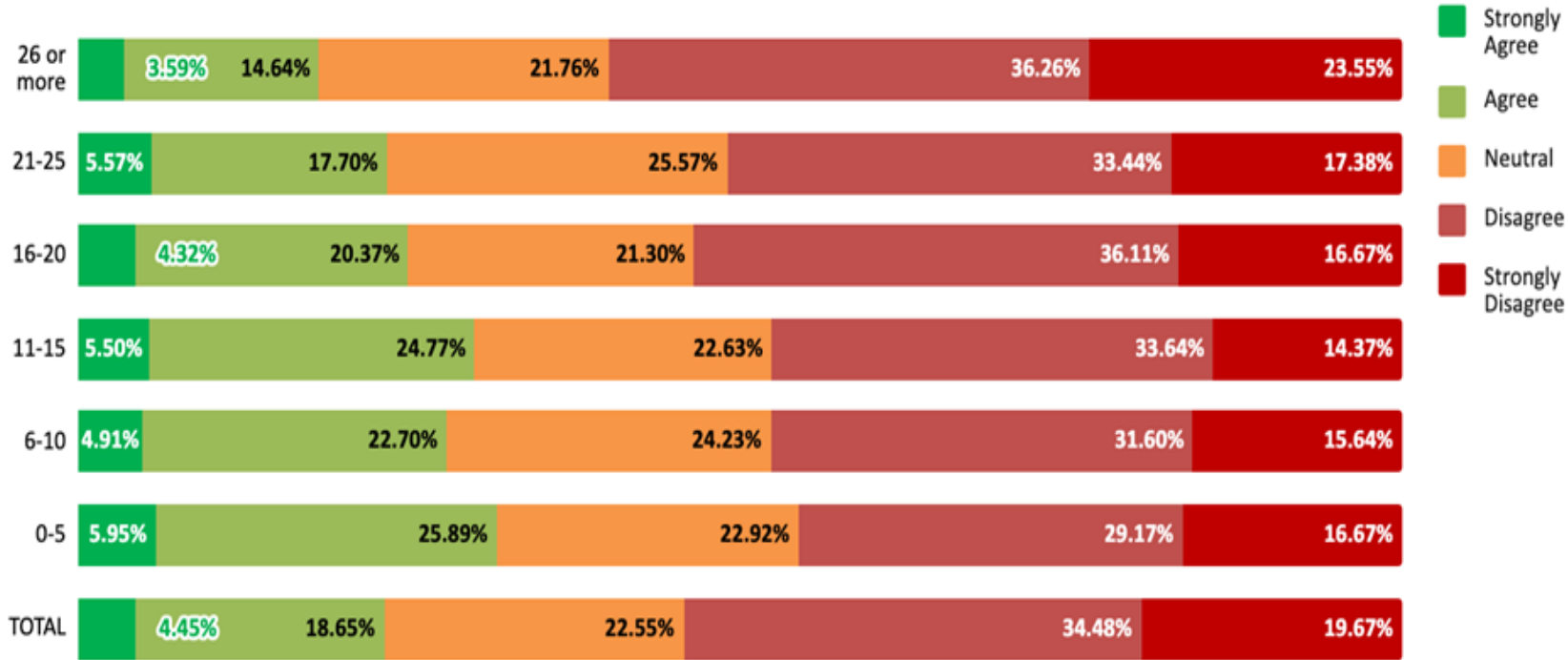
More experienced psychologists prefer telephone over video



Sammons, VandenBos, Martin, & Elchert, 2020

Pandemic exposes weaknesses in training

I feel comfortable providing telepsychological services to patients who are at higher risk for suicidal behavior.



↑
Years of licensure

→
Level of discomfort

Sammons, VandenBos, Martin, & Elchert, 2020

The Near- and Long-Term Future of Telepsychology

- The shift to telepsychology is permanent, but most providers will employ hybrid in person and distance service provision.
- Increasing corporatization by insurers, big PHRMA, and entry of non-health focused corporations into the market (i.e., Target, Amazon)
- Estimated growth of ‘telemental health’ to ≈25B by 2026, 25% annual growth rate predicted.
- Digital divide persists: Low income and rural populations significantly less like to use telehealth.
- Unexpected developments may become commonplace
 - Patented/prescribed behavioral interventions, whether delivered via telepsychology or in person, will become more common in telepsychology.
 - “Wearables” incorporated into telepsychology – increased technological integration and sophistication will provide better outcomes, but will threaten patient privacy.

Clinician Support Collaborative Initiative

Many themes have emerged through discussion in these meetings

- personal and professional isolation
- work/life boundary management
- challenges that arise in the context of shared stressors/trauma
- anxiety of the unknown
- concern about possibly returning to in-person practice
- concerns about risk management via telepsychology
- secondary traumatic stress
- compassion fatigue and compassion satisfaction
- managing zoom fatigue



CLINICIAN SUPPORT COLLABORATIVE

The APA's Interdivisional COVID-19 Task Force is pleased to announce a resource for mental health clinicians. The Professional Support for Psychologists Subcommittee is hosting video conferencing support meetings throughout the week for mental health clinicians to join and connect during the pandemic.

Examples of themes discussed:

- Coping with personal/professional isolation
- Work/life boundary management
- Secondary traumatic stress
- Compassion fatigue
- Maintaining therapeutic boundaries in the novel context of shared stressors/trauma with clients
- Zoom Fatigue

Meets Mondays 12PM ET
Access is free and available to
mental health providers

Sign up online!

CLINICIANCOLLAB.EVENTBRITE.COM/

Q&A