

Telepsychology and Interjurisdictional Practice

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3 CE Credits, Instructional Level: Intermediate
3 Contact Hours (New York Board of Psychology)

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Sara Smucker Barnwell, PhD

20 years in telehealth

Telepsychology Guidelines

Publications

Webinar series

Diverse telehealth environments



Disclosures/Conflicts of Interest

Dr. Smucker Barnwell is:

- Trustee on American Insurance Trust Board, TrustPARMA
- Consultant Telehealth Training Competencies Credential
- Chair, APA Telepsychology Guidelines revision working group
- Unabashed telehealth enthusiast

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Learning Objectives

1. Define interjurisdictional practice.
2. Describe three key legal and ethical issues to consider when delivering remote care interjurisdictionally.
3. Identify three practical considerations when practicing across jurisdictions.
4. Identify three important criteria in selecting technology modalities appropriate for interjurisdictional telepsychology.
5. Identify when psychologists ought to consider participation in PSYPACT versus other legal mechanisms for interjurisdictional practice.

Disclaimers



Offer best practice
recommendation



Guidance
developing
area



Best practices



Not legal
consult

Agenda

Definitions and history

Clinical considerations

Legal considerations

Practical considerations

Breaks for Q&A



Definitions and History

Telehealth

Provision of healthcare remotely by means of telecommunications technology

All manner of remote communication

Most people refer to videoconferencing, telephone

Telehealth Terms

Telehealth

Telemedicine

*Telemental
Health*

*Telebehavioral
Health*

Telepsychology

Interjurisdictional Practice (IJP)

Psychological practice across jurisdictional boundaries

Between states

Between provinces, territories

International

Interjurisdictional Practice (IJP)

Provider and client in different location

Typically refers to when client is in a different
licensure jurisdiction (state/ province/ country)

Or trainee, supervisor



All the Acronyms

IJP: Interjurisdictional Practice

ASPPB: Association of State and Provincial Psychology Boards

PSYPACT: Psychology Interjurisdictional Compact

E.Passport: Certificate for telepsychology

IPC: Interjurisdictional Practice Certificate for temporary in-person, face-to-face practice

APIT: Authorization to Practice Interjurisdictional Telepsychology

TAP: Temporary Authorization to Practice

The History

Telepsychology is not new

Late 1800's: Doctors use telephone

1950's: NASA, Nebraska Psychiatric Institute

2000's: Videoconferencing

2020: Widespread adoption



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The Research

Clinical outcomes non-inferiority
High patient satisfaction
Meaningful adoption
Provider satisfaction... except when not
Environments matter



Interjurisdictional Practice

Telepsychology and Interjurisdictional Practice

Telepsychology facilitates IJP

2021 APA survey: accidental IJP increasingly common

Impacted by mobility of patients, providers (telework)

Why Are We Discussing

Psychologists practice where licensed

Practice without a license is illegal

Telepsychology facilitates patient mobility

Telepsychology facilitates accidental IJP

Why Are We Discussing

Each jurisdiction possesses unique regulation, guidelines, etc.
Jurisdictional regulation protects public, providers
Licensure boards, regulations, psychological associations
Awareness of these regulations, guidelines governing practice

Why Are We Discussing

Interjurisdictional variations in regulations, guidelines (esp. in U.S.)

Potential jurisdictional conflicts

- Age of consent

- Duty to warn

- Mandated reporting factors

- Red flag laws

- Records and their maintenance requirements

- Scope of practice (prescription, psychedelic assisted therapies)

Telepsychology Guidelines

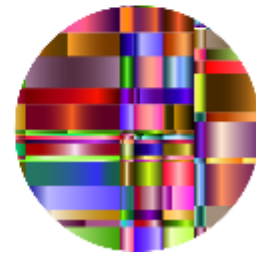
Psychologists seek to be well-versed in and comply with all relevant laws, mandates, and regulations when providing telepsychology services to patients/ clients/service recipients across jurisdictional borders, both domestic and international.

A Question

Remote practice?

Always confirm patient location?

Surprises?

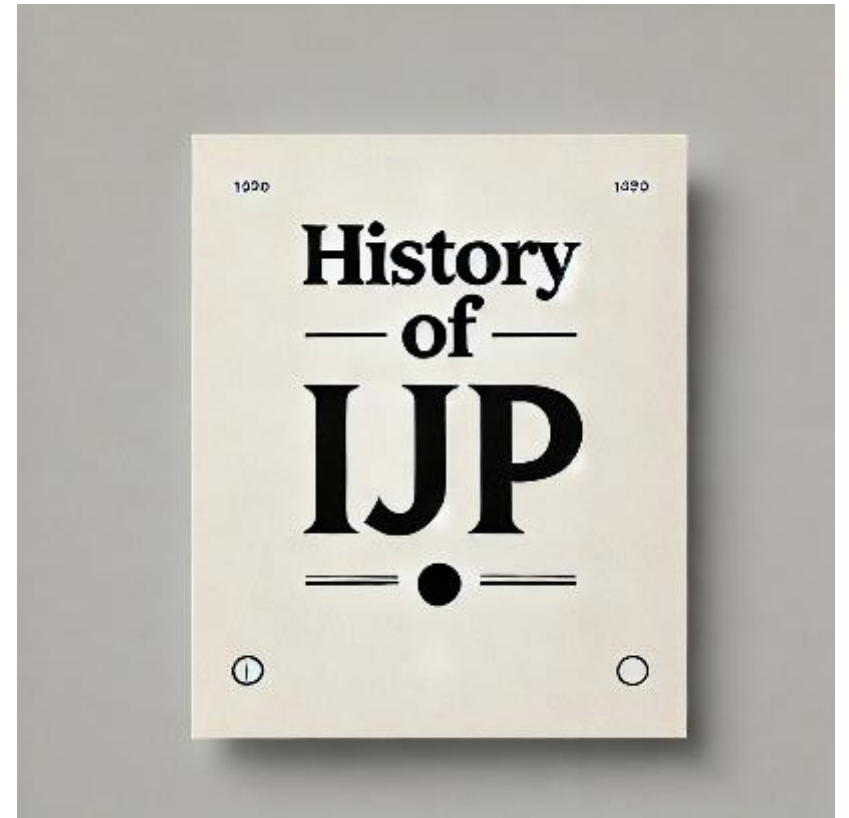


IJP History

Despite early data on
telepsychology satisfaction,
outcomes

Initial adoption struggled due to IJP
challenges

VA, DoD lead the way



IJP History

Multiple licensure is difficult (esp. at scale, in industry)

Dual licensure, limited temporary practice authorizations

Interstate compact (PSYPACT) available, limited adoption

2020 pandemic meaningfully accelerated

IJP History

Widespread adoption of telehealth

Meaningful capital investment in telehealth

Impact of IJP limitations more widely felt

Increased attention to IJP, PSYPACT

IJP History



Protection of public



Access vs. provider protection

Telepsychology Clinical Considerations

Is it IJP?

Patient is on vacation?

Provider is on vacation?

Emailing a patient regarding clinical content?

IJP Examples: Clinical

Any clinical activity for which psychologists are licensed:

Psychotherapy

Assessment/ feedback

Neuropsychological evaluation

Forensic assessment

IJP Examples: Clinical

Telepsychology refers to psychological services through telecommunications technologies

Diverse technologies

This can include telephone, messaging (!)

And... limited precedent for problems for administrative content

Is It Clinical Care?

Interjurisdictional practice chiefly concerns **clinical services**:

- Psychotherapeutic content
- Assessment
- Clinical recommendations
- Diagnosis or treatment planning
- Therapeutic follow-up or crisis support
- Prescription (where permitted)

Is It Clinical Care?

IJP can be hard to predict, control in telepsychology

Challenge to know origins/ ultimate physical destinations of contacts

Advance planning mitigates risks

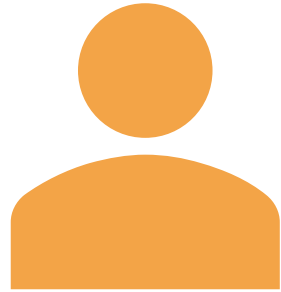
Is It Clinical Care?

Less risk for interjurisdictional discussion of administrative concerns

More risk for interjurisdictional clinical services

We make a plan for risk management

IJP Examples: Training and Education



Supervision of trainees



Opportunity to facilitate
specialty training more
widely

IJP Telepsychology Competencies

Psychologists practice within competencies
Competencies informed by jurisdiction



IJP Telepsychology Competencies

Telepsychology requires psychologists to resolve conflicts to prevent impairment of competencies

Scope of Practice and Telepsychology

Activities psychologist is permitted to perform

Telehealth population may have reduced access

Studies find more “scope creep” in telehealth

Importance of maintaining scope of practice

Inappropriate/ poor boundaries in relationships #1 source of complaint

IJP, Telepsychology, and Scope of Practice

Example: prescription privilege

Requires additional training

Only available in some jurisdictions

Scope of practice can vary across jurisdiction

Telepsychology Appropriateness Considerations

Data favors inclusion
Availability of options
Age of clients
Clinical diagnosis
 SUD, avoidance
Clinical stability



IJP expands this list to include jurisdictional considerations

Factors Impacting IJP

Age of consent

Necessary consent of guardians

Age of patient confidentiality



Factors Impacting IJP

Mandated reporting

Duty to warn

Red Flag laws

Factors Impacting IJP



Record keeping



Record maintenance

Factors Impacting IJP

Consult the laws of each jurisdiction

Consult appropriate boards

Make a plan to resolve conflicts

Discuss with the client

Conflicts in IJP

Awareness of discrepancies

Consultation (colleagues, risk manager, attorney)

Informed consent

Plan of action, referrals

Documentation

Why IJP?



Informed Consent (More to Come!)

IJP Telepsychology requires unique informed consent processes

Telepsychology consent

Recognition of IJP, location requirements

Recognition of any conflicts, how they will be resolved

Why IJP?



Important to ask



Opportunity to provide
meaningful access to
evidence-based care

Why IJP? Disparities in Telehealth

Access (See White-Williams, 2023)

Data shows widening gaps in care access related to income, race, gender

Cultural influences on remote interaction

National provider shortage

IJP offers us opportunity to expand care access to everyone

Clinical Best Practices in IJP

Resolving conflicts in IJP telepsychology requires us to:

Ask why IJP telepsychology

Understand the nature, duration of IJP telepsychology service

Clinical Best Practices in IJP

Determine if/ how we may deliver services appropriately

Practice only where permitted

Stay within scope

Clinical Best Practices in IJP

Go slow: confirm mechanism for appropriateness

Document: informed consent, telepsychology consent, emergency plan

Consult: boards, guidelines/ regulation, colleagues, malpractice carrier

IJP Resources

APA Ethics
Code

APA
Telepsychology
Guidelines

American
Telemedicine
Association

State Board
guidance

Empirical
literature

The Best Laid Plans...

Surprises happen

But we don't make changes "on the fly"

Meet circumstances with candor, clarity, boundaries

Reference policies established earlier

Accidents vs. recurrent issues

Questions

Break

Legal Considerations

Reminder: Types of IJP Legal Conflicts

Potential jurisdictional conflicts

- Age of consent

- Duty to warn

- Mandated reporting factors

- Red flag laws

- Records and their maintenance requirements

- Wacky laws

Mechanisms for IJP

Given potential conflicts, we again ask why
Examine availability of appropriate mechanisms
Primarily concerned with patient mobility

Mechanisms for IJP Telepsychology

Dual licensure

PSYPACT/ APIT

Temporary
practice
authorization

Dual Licensure

Licensure in both patient and provider jurisdictions

Dual Licensure

Licensure mechanism is clear

Psychologist must identify, resolve, document conflicts

Typically – follow rules of patient jurisdiction

Reflect these accommodations in informed consent

Dual Licensure

Reflect these accommodations in informed consent

Especially helpful if the **provider** is mobile

And reliably practicing out of limited jurisdictions

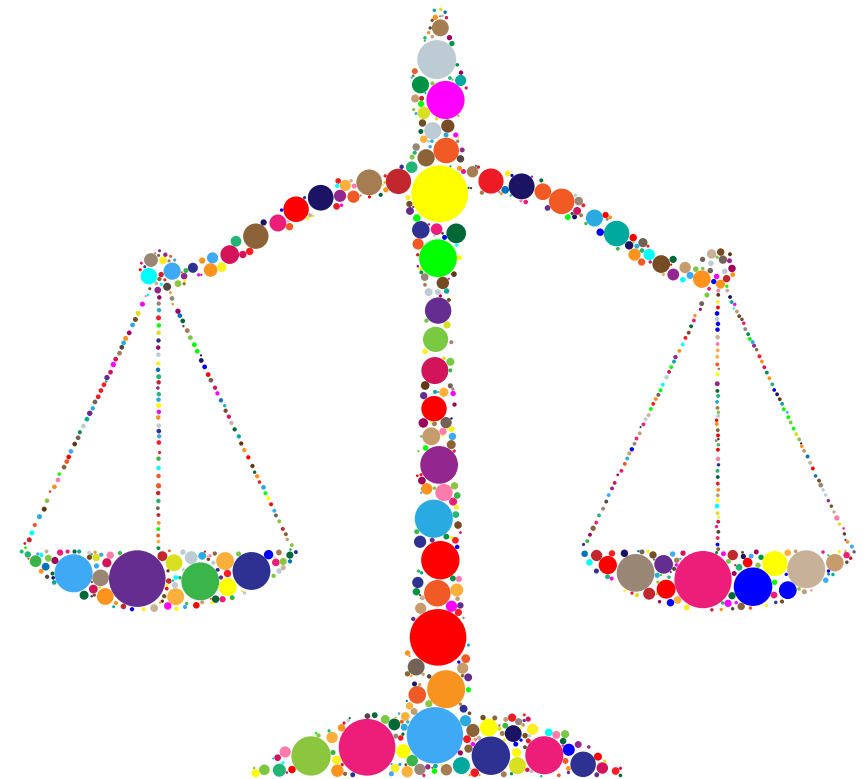
Dual Licensure

Can be expensive

CE's for multiple jurisdictions

Understand idiosyncrasies of laws

Formal complaint procedure



PSYPACT and APIT

PSYPACT (the *Psychology Interjurisdictional Compact*) allows licensed psychologists to provide **telepsychological services across state lines** in **participating PSYPACT states**, without having to obtain additional licenses in those states

PSYPACT and APIT

ASPPB's interstate compact to practice interjurisdictional psychology

PSYPACT is an interstate compact designed to facilitate the practice of telepsychology and temporary in-person services across state boundaries.

Authorization to Practice Interjurisdictional Telepsychology (**APIT**)

PSYPACT and APIT

To obtain APIT, psychologists must:

1. Hold a full, unrestricted license in a PSYPACT member state
2. Doctoral degree in psychology from an APA/CPA-accredited program,
3. Passed the EPPP (Exam for Professional Practice in Psychology)
4. Apply through the Psychology Interjurisdictional Compact Commission (PSYPACT Commission)
5. Complete the E.Passport credential through the Association of State and Provincial Psychology Boards (ASPPB)

PSYPACT and APIT



You must be licensed
in your home state



Home state must be a
PSYPACT state



Patient must be in a
PSYPACT state

PSYPACT and APIT

Licensure mechanism is more broad and costs less

Psychologist must identify, resolve, document conflicts

Follow rules of patient jurisdiction

Reflect these accommodations in informed consent

PSYPACT and APIT

3 annual CE relevant to telepsychology

Annual fees, renewal process

Clear complaint process, public protection

Your home state will judge complaint based on patient
state laws

Temporary Practice Authorizations

States may possess permissions to practice into their jurisdiction on a temporary basis

May/ may not require an application or notification process

Increase in 2020, followed by decline

Temporary Practice Authorizations



Typically brief
duration (days not
months)



Complaint process
less clear



Typically free or low
cost

Temporary Practice Authorizations

Always check with your board, patient board

Psychologist must identify, resolve, document conflicts

Consider rules of patient jurisdiction

Reflect these accommodations in informed consent

Supervisors and IJP

Interstate compact permissions (APIT/ PSYPACT) does not apply to trainees

Always check regarding temporary authorization

Always check regarding dual licensure/ permissions



Prescriptions Privilege and IJP

Interstate compact permissions (APIT/ PSYPACT) does not extend prescription privilege into a state

Temporary authorization will allow untrained psychologist prescriber to prescribe

Dual licensure/ appropriate training and certification

Provider Mobility and IJP

When the provider is mobile

Many jurisdictions are permissive

Always check with both jurisdiction where you/ patient located

PSYPACT requires you to be located in designated home state

You can change your home state (**if you are licensed there**)

Legal Best Practices

Why IJP

Define service/ duration

Understand rules of your licensure jurisdiction(s), your patients'

Participation in interstate compact



Legal Best Practices

Consider dual licensure

Availability of temporary practice authorizations

PSYPACT APIT

Legal Best Practices

A combination may be best
Board consultation
Discuss, consult, document

International Telepsychology

PSYPACT limited to United States/ participating states

Same principles apply – seek licensure or temporary practice authorization

More challenging (some countries do not license)

Practice where licensed

IJP Myths: Emergencies



Patient emergencies do count

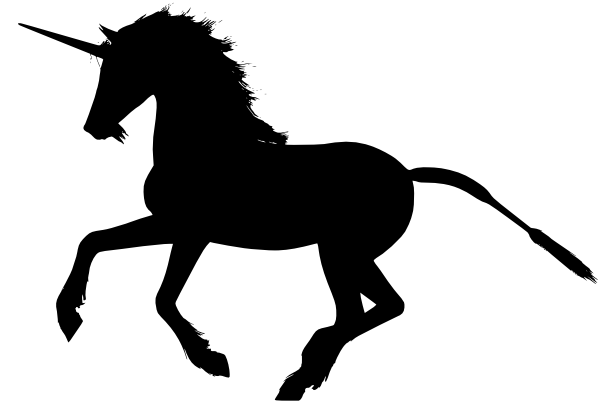
Historically, Boards deal favorably with psychologists who demonstrate forethought, prioritize patient care

Emergency planning is part of informed consent

IJP Myths: 30 days

30 days practice is not permitted in all jurisdictions

Psychologist's responsibility to research board regulations



Questions

Practical Considerations

Practical Considerations in IJP

Documentation
Billing and reimbursement
Malpractice
Technical requirements
Practice management
Big problems



Documentation for IJP Telepsychology

Informed consent/ telepsychology consent
Emergency plans

Documenting Informed Consent in Telepsychology



PROCESS AND
DOCUMENTATION

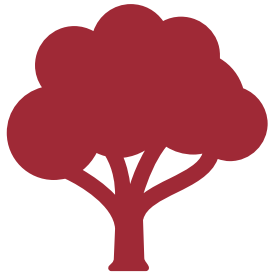


UNIQUE TELEHEALTH
CONSENT

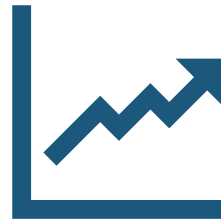


SIGNED

Documenting Informed Consent in Telepsychology



Nature of service



Risks and benefits IJP



Confidentiality,
privacy, security

Documenting Informed Consent in Telepsychology



Crisis management



Fees



Billing



Records



IJP conflicts and resolutions

Documenting Informed Consent in Telepsychology

How termination is managed in IJP

Referral process in IJP

How inappropriate interjurisdictional circumstances managed

Who is financially responsible in interrupted care

Documenting Informed Consent in Telepsychology

Clear language, accessible reading level

Appropriate technology use

Response to inappropriate use

Who is financially responsible for inappropriate use situations

Appropriate interactions, boundaries – IJP location

Social media

Treatment of unavoidable interactions

IJP Billing and Reimbursement

Awareness of differing jurisdictional laws regarding billing, reimbursement (e.g., some states require coverage, parity)

Clearly articulate financial responsibility if service not covered

Some private insurers specifically prohibit IJP

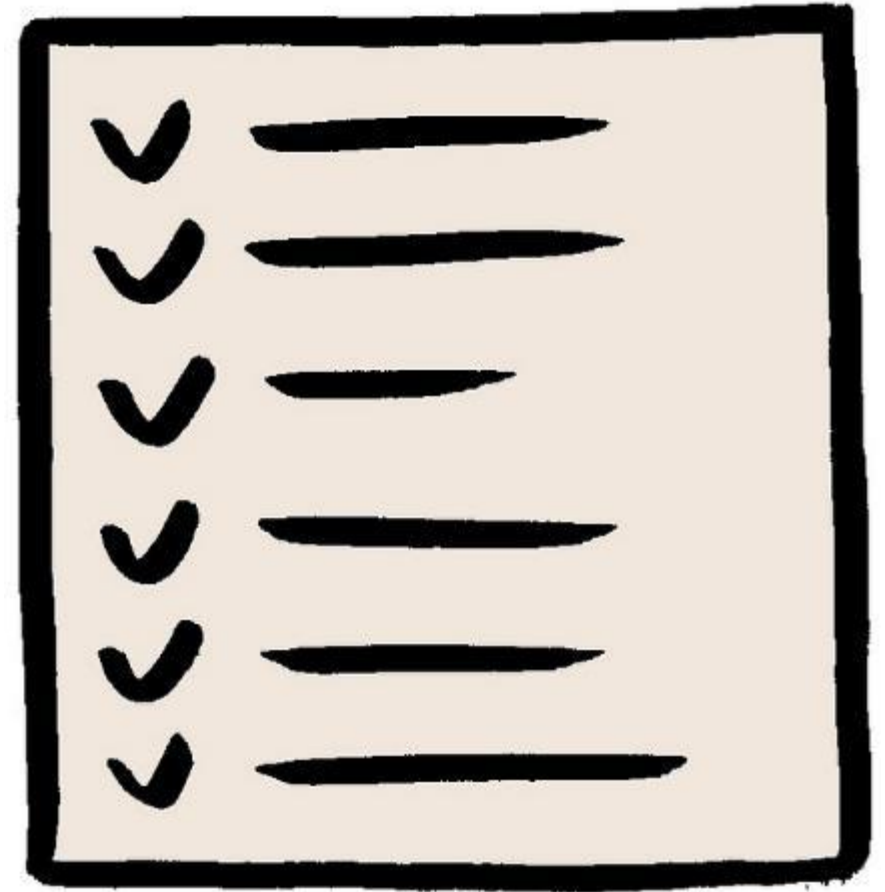
Document in informed consent

IJP and Malpractice

Consult with your malpractice carrier regarding IJP intentions

Malpractice carriers defend legal actions

Inappropriate IJP risks practicing outside of coverage



IJP and Malpractice

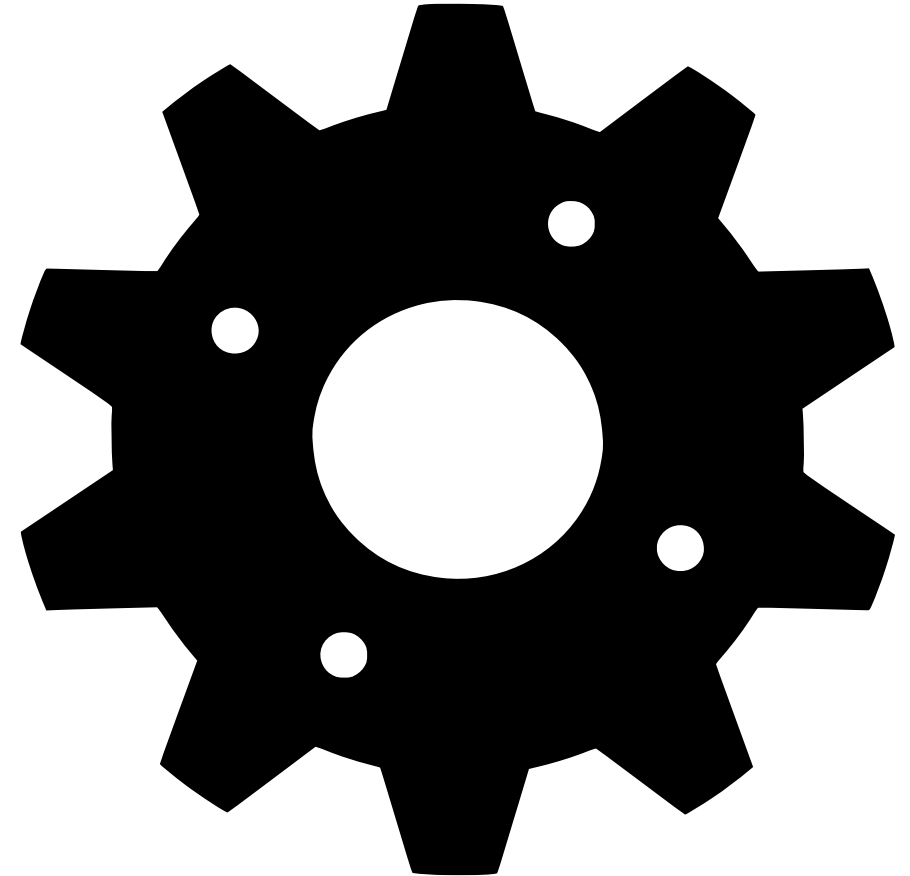
Consult with your malpractice carrier regarding IJP intentions
Malpractice carriers defend legal actions
Inappropriate IJP risks practicing outside of coverage

IJP Technical Requirements

Document exchange

Touchdown space
availability/necessity

Communication, messaging



IJP and Practice Management

Marketing and outreach

Understand and invest in the communities you serve

Remain within scope of practice, clinical competencies

Ethical abandonment

IJP and Practice Management

Select technology that is flexible

Select products that offer integrated messaging, payments

Document transfer, storage

Consider implications of IJP record keeping requirements

Consider integrated reminders (that control for time zones)

Practical IJP Best Practices

Informed consent unique to telepsychology

Explicitly discusses IJP conflicts, resolutions

Documented emergency plan with digital signature

Mechanism for document collection, messaging

Market thoughtfully, ethically

The Big Problems

Telehealth Emergencies

Medical, psychiatric, dangerous situations

Safety data comparable to in-person

See Luxton et al (2012)

Ongoing, collaborative safety planning

Emergencies, dangerous situations

Early as possible in care process

Telehealth Emergency Plan Components

Patient location

Patient contact information

What constitutes an emergency

Overview of what happens



Emergency Plan Components

Identification of local resources

Emergency resources (hospital)

Treating providers (PCP, prescriber)

Identification/ ROI support person

Presence of firearm, lethal means

Emergency Plan Components

How does remote care impact emergency response

Follow up after an emergency

Discharge planning

Stay the course (with patient and process)

Document!

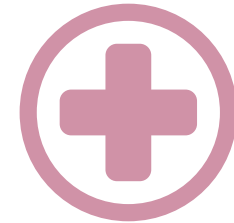
IJP and Emergencies



IJP impacts mandates
and laws related to
confidence, reporting



Red Flag laws



Awareness of
resources local to the
patient

IJP and Emergencies

What could this have been?

What should we consider if this was in a distant jurisdiction?

Telehealth and Suicidal/ Violent Ideation

Same standard of care as in-person

Evidence based assessment/ planning (e.g., CAMS; CDC Danger Assessment Tool)

Same reporting mandates apply

Know your jurisdictional mandated reporting/ rules

Safety data reassuring

Suicide hotlines

Unique considerations for telehealth

Telehealth and Suicidal/ Violent Ideation

Address in informed consent and safety planning

Recommend synchronous means

Stay on the line when possible

Discuss how inappropriate communications managed (esp., if identity cannot be verified)

IJP Telehealth and Suicidal/ Violent Ideation

Appropriate local resources in patient jurisdiction

Police, mental health professionals

Clear communication of safety concerns

Higher level of care transition

Expect additional communication, outreach

IJP Telehealth and Suicidal/ Violent Ideation

Is telehealth appropriate moving forward?

IJP referral and ethical abandonment

Document

Continuity of care

IJP Telehealth and Interpersonal Violence

This is a consideration as in-person care

Same clinical standards apply

Prioritize patient and provider safety

Same mandated reporting applies

Know your jurisdictional rules, conflicts, resolutions

IJP Telehealth and Interpersonal Violence

Include assessment for safety as part of intake

Interpersonal violence as part of safety planning

Thorough risk history (esp. prior behavior, lethal means)

Identify warning signs of interpersonal violence risk

Identify safe location(s) in patient jurisdiction

Identify resources for patient

Questions

Large Group Clinical Vignette: Dr. Spock

Dr. Spock is a pediatric neuropsychologist specializing in pediatric stroke

Also has prescription privileges

Delivers care in world class hospital

Telehealth can expand care to rural communities in need

Clinical Vignette: Dr. Spock

Dr. Spock wants to deliver telepsychological services

Wants to deliver assessment feedback to patients

In other states

In other countries

What should Dr. Spock consider with regard to IJP?

Dr. Spock's Considerations

Why telehealth/ why IJP

Patient and provider locations

Available appropriate mechanism

Additional documentation

What technology

How will documentation be managed

Scope of practice

Thank you!

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Q&A With Dr. Smucker Barnwell

- We will read select questions that were submitted via the Q&A feature throughout the presentation.
- Due to time constraints, we will not be able to address every question asked.

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