

## Legal and Ethical Concerns in the Use of WhatsApp for Medical Treatment

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Cite this paper as: Imran Sabri, Naheed Kausar (2024). Legal and Ethical Concerns in the Use of WhatsApp for Medical Treatment. *Frontiers in Health Informatics*, 13 (8) 1680-1685

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### Abstract:

**Introduction:** WhatsApp has become a vital tool in healthcare, facilitating real-time communication between providers and clients due to its multimedia capabilities, user-friendly interface, and accessibility. Widely adopted in private practices, especially in high-income countries, WhatsApp often surpasses traditional communication methods like telephone and email. Its benefits include efficient communication, timely support, and strengthened clinician-client relationships. However, the platform's use in healthcare raises significant legal and ethical concerns, including issues of confidentiality, informed consent, and data security. The informal nature of messaging apps can blur professional boundaries, posing risks to the therapeutic relationship. Research highlights WhatsApp's strategic importance in healthcare management and its potential as a behavioral health tool, but also emphasizes the need for providers to adhere to ethical and legal standards. As new technologies often outpace regulations, proactive steps are required to educate patients about risks and ensure the responsible use of digital communication in clinical practice.

**Legal and Ethical Issues:** The use of WhatsApp in healthcare introduces significant legal and ethical challenges, primarily revolving around confidentiality, data security, informed consent, and maintaining professional boundaries.

**Legal Considerations:** Healthcare providers are bound by strict confidentiality and data protection laws. Breaches can lead to professional misconduct charges, civil claims, and even loss of practice rights. Providers must ensure patient data is protected, conversations are documented accurately, and messages are not preserved unnecessarily. Errors, such as sending information to the wrong recipient, can have catastrophic legal consequences. Ignorance of these responsibilities is not a valid defense in law.

**Ethical Considerations:** Ethical challenges include obtaining informed consent for using a non-traditional communication platform and ensuring patients are aware of potential risks like hacking or privacy breaches. The informal nature of WhatsApp complicates maintaining professional boundaries and confidentiality, raising concerns about when communication shifts from professional to casual. Clear boundaries and policies are critical to prevent misuse and maintain therapeutic integrity.

**Patient Confidentiality and Data Protection:** Confidentiality breaches, such as sharing non-anonymized patient data, pose significant risks. WhatsApp's security vulnerabilities during transmission, storage, and access amplify concerns. Healthcare providers must prioritize transparency and secure

**Conclusion:** Author conclude that integration of WhatsApp in healthcare communication presents both opportunities and significant challenges. Legal and ethical issues, particularly concerning confidentiality, data protection, and informed consent, require healthcare providers to exercise extreme caution. Proper documentation, vigilant data protection measures, and proactive error prevention are essential to mitigate risks and ensure compliance with regulations. Ethically, the use of WhatsApp demands clear agreements and robust boundaries to preserve professional integrity and the

therapeutic relationship. Providers must avoid dual relationships and maintain professionalism to ensure patient trust and effective care. Ultimately, while WhatsApp enhances communication convenience, it necessitates rigorous adherence to legal and ethical standards, supported by well-defined policies and practices, to protect patient confidentiality and uphold the credibility of healthcare providers.

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### ***Introduction:***

Nowadays, WhatsApp is becoming an integral part of healthcare services. It is used as a means of communication between healthcare providers and clients. WhatsApp is popular due to various features that it offers, such as multimedia sharing, voice calls, video calls, a user-friendly interface, and easy accessibility. Many private practices in high-income countries have integrated WhatsApp as a means of communication between clinicians and clients for instantaneous help, often overshadowing traditional methods of communication such as telephone, SMS, or email. There are multiple benefits of using WhatsApp in the treatment setting. It provides efficient and flawless real-time communication between the clinician and the client. Both clients and clinicians can get timely support and information as and when they need. It leads to a good clinician-client relationship as clients think of them when they need help. The rapid proliferation of digital communication platforms has fundamentally transformed the landscape of healthcare delivery, with WhatsApp emerging as a prominent tool for facilitating patient-provider interactions. However, the integration of such technologies into clinical practice raises significant legal and ethical concerns that warrant thorough examination. As healthcare professionals increasingly utilize WhatsApp for treatment-related communications, they must navigate a complex web of regulations governing patient confidentiality, informed consent, and the security of sensitive health information. Furthermore, the informal nature of messaging applications can blur the lines between professional and personal boundaries, potentially compromising the therapeutic relationship. This article seeks to explore the multifaceted legal and ethical implications associated with the use of WhatsApp in treatment settings, highlighting the necessity for clear guidelines and best practices to ensure that patient care remains both effective and compliant with established legal frameworks.

Savio et al in 2021 described that how health care managers use WhatsApp in their professional practice, highlighting the importance of the application as a strategic tool in health care management, from real-time sharing and integration of information.

Edwards-Stewart et al., 2019 wrote that mobile applications [apps] to support behavioral health are increasing in number and are recommended frequently by medical providers in a variety of settings. As with the use of any adjunct tool in therapy, psychologists adopting new technologies in clinical practice must comply with relevant professional ethics codes and legal standards. However, emerging technologies can outpace regulations regarding their use, presenting novel ethical considerations. Therefore, it is incumbent upon providers to extrapolate current ethical standards and laws to new technologies before they recommend them as adjuncts to face-to-face treatment.

In addition to the challenges of maintaining confidentiality and professional boundaries, the use of WhatsApp for healthcare communication also raises pressing ethical considerations regarding informed consent and data protection. As patients may not fully understand the implications of sharing sensitive health information via a platform that lacks robust security measures, healthcare providers must take proactive steps to educate their clients about potential risks associated with digital communications

### ***Legal and Ethical Considerations***

A significant number of laws and regulations have a bearing on the use of WhatsApp for medical treatment.

Confidentiality is the cornerstone of medical ethics, and responsibilities exist under data protection law with regard to digital communication in healthcare. Breaches of all data protection laws and confidentiality commitments are subject to investigation by data protection agencies and petitioned as civil actions before the courts. Depending on the case, the usual legal consequences of a breach include professional misconduct, institutional supervision, and civil claims for compensation. The WhatsApp healthcare user is responsible for the contents of the conversations, just as with verbal or email communication. Correct spelling and syntax are less important medico-legally than complete documentation of conversations and treatments. Healthcare providers who choose to use WhatsApp for medical conversations must be certain that they are protecting patient data. It is important to ensure that the messages between you and healthcare providers are not preserved or maintained after the conversation has ended. The WhatsApp provider should not be able to access the data transmitted.

The misuse of WhatsApp extends beyond mere communication errors; it can also lead to significant misinformation and the spread of harmful content. For instance, during recent elections in various countries, including Brazil and India [Melo et al 2019], WhatsApp was exploited as a vehicle for unfounded rumors and misleading narratives that swayed public opinion. This phenomenon highlights the urgent need for users to critically evaluate the information shared within these platforms, particularly when it concerns sensitive topics medical treatment and privacy of the patients.

One of the jurisprudential inquiries that necessitates resolution in this context pertains to whether the WhatsApp correspondence is conveyed to an erroneous numeral that pertains to a distinct patient as a consequence of human oversight. Legal responsibilities and patient protection requirements concerning the exchange of information using telecommunication channels are essential for each healthcare expert to know. Ignorance is not a defense in law. The legal consequences of mishandling patient data are still potentially catastrophic for the patient and healthcare provider in several areas. In instances of gross misconduct, the provider can be put out of practice.

From an ethical perspective, using WhatsApp to deliver treatment raises several concerns. Utilizing a digital platform for communication that is different from the one used in the clinical setting requires prior agreement by both parties and informed consent. When using WhatsApp, it may be difficult to maintain meaningful personal privacy and professional confidentiality. It may be difficult to inform the patient that the conversation will be saved and that conversations could be hacked. It may also be hard to set clear boundaries in a WhatsApp conversation regarding when the conversation is a professional one and when it overflows into more casual and friendly territory. We must remember, however, that our patients will expect not only that we maintain their professional confidence, but that the professional boundaries we set will primarily benefit them and not be to their detriment.

#### Confidentiality and Data Protection Laws

The primary importance of confidentiality and data protection within WhatsApp communication is relevant to consider when thinking about using this platform for therapy at a distance. From a legal point of view, data breaches and unauthorized access to patient information can have serious consequences. From an ethical point of view, patient consent and transparency are needed to protect the therapeutic relationship. Confidentiality and data protection are legal and professional issues that apply to all private health data in the United Kingdom and many other jurisdictions around the world. One of the most important obligations on healthcare professionals is the duty to keep doctor-patient communications confidential. A breach of confidentiality by a healthcare professional can have legal consequences, and anyone found guilty of this can face serious penalties.

#### Informed Consent and Boundaries

The provision of informed consent from patients is a fundamental plank of best practice in any approach to psychotherapeutic and counseling work, including digital therapy. Digital healthcare resources feature guidance on how to configure access to WhatsApp for patients. And yet, when considering the implications of such wide-scale adoption of WhatsApp as an intervention resource, it would appear that underlying ethical concerns have not been adequately addressed by service providers who anticipate remote and increasingly atomized models of mental health support and

therapy.

There are, for example, specific ethical considerations that relate to access to a clinician via WhatsApp, a social media platform. These include, but are not limited to, the method that is used to make patients aware that they are communicating via a largely social medium, and that there are constraints associated with the way in which mental health services can routinely access this platform, including possible breaches of the privacy of the patient and a lack of message-read receipts. In addition to informed consent, nowadays it is widely recognized that boundaries can be a matter of clinical and ethical importance. WhatsApp can be accessed by an individual at any time, which may challenge the congruence of a therapist having a personal phone number at which they are willing to receive text messages from patients, as well as their voicemail. In a therapeutic relationship, the maintenance of a boundary for the protection of the patient is regarded as preferable. It has been suggested, for example, that reducing the misuse of social media in the therapy relationship can be achieved by having a clearly outlined policy related to the need for professional-client boundaries [Reamer, 2021].

#### Professionalism and Dual Relationships

Professionalism refers to a commitment to patients, the public, and the whole health system, combined with a set of professional standards to guide behavior. One important tenet of professionalism in mental health is that professionals should establish appropriate professional-to-patient relationships and maintain appropriate treatment environments. If a health provider has multiple roles with a patient, it is considered a dual relationship. Dual relationships can be confusing for patients and can complicate the therapeutic process. They also undermine the professional phenomena that are essential to the therapeutic relationship. There is currently no concrete definition of what a psychotherapeutic dual relationship is, but it is clear that if it arises unintentionally, it should be approached with care [Reamer, 2021].

To sum up the use of WhatsApp as a platform for treatment in healthcare settings raises significant ethical implications, particularly concerning patient confidentiality and data security. While WhatsApp offers benefits such as cost-effectiveness, efficiency, and improved communication among healthcare providers, it also presents risks related to the handling of sensitive patient information. These risks are primarily associated with the potential for breaches in confidentiality and inadequate data protection measures. The following sections explore these ethical concerns in detail.

#### Patient Confidentiality

- A study conducted in a South African hospital found that 3.3% of WhatsApp messages contained non-anonymized patient information, highlighting the potential for confidentiality breaches [Meyer et al 2021].
- The frequent use of WhatsApp for clinical communication can lead to the inadvertent sharing of identifiable patient data, which poses ethical challenges in maintaining patient privacy [Morris et al. 2018].

#### Data Security

- Data transmitted via WhatsApp is at risk during transmission, storage on servers, and on the devices of both senders and receivers. This lack of robust security measures can lead to unauthorized access to sensitive health information [Morris et al. 2018].
- The absence of consent for using instant messaging in clinical settings further exacerbates concerns about data security and patient privacy [Morris et al. 2018].

#### Legal and Ethical Frameworks

- The current legal frameworks often do not adequately address the use of instant messaging apps like WhatsApp in healthcare, leading to a gap in guidelines for ensuring compliance and protecting patient data [Ignacio et al. 2018].
- Ethical recommendations emphasize the need for developing comprehensive guidelines to manage the use of digital communication tools in healthcare, ensuring that patient confidentiality and data security are prioritized [Gómez et al. 2024] [Ignacio et al. 2018].

While WhatsApp provides a convenient platform for healthcare communication, the ethical implications of its use necessitate careful consideration and the development of stringent guidelines to protect patient confidentiality and data

## Conclusion

In sum, while WhatsApp offers a convenient platform for healthcare communication, its use demands strict adherence to legal and ethical standards to protect both patients and providers. The potential for legal repercussions and ethical dilemmas underscores the need for rigorous guidelines and informed consent to safeguard patient confidentiality and professional integrity.

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