AI Transcription Tools in Medicine and Dentistry: Risks and Rewards

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The rise of artificial intelligence (AI) will fundamentally change how medical and dental practitioners create their clinical records, referral letters and discharge summaries.

In this webinar, we will explore how AI transcription tools are impacting clinical practice, highlighting risks and opportunities.

We will look at the many benefits, like how AI can make workflows more efficient, giving busy practitioners more time and potentially boosting the accuracy of their documents. We will also discuss the potential medico-legal risks related to consent, data retention, privacy, and the inaccurate outputs.

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Learning outcomes

At the end of this webinar, attendees will be able to:

- Describe what AI transcription tools are, including their functionalities, capabilities, and applications and limitations in medical and dental clinical practice
- Identify the potential benefits and key risks associated with integrating AI transcription tools in healthcare, such as improved efficiency and concerns related to data privacy, security, and algorithmic biases.
- Plan strategies to effectively leverage AI transcription tools while mitigating medico-legal risks.

Frequently Asked Questions

Informed consent

What are the clinico-legal risks of not obtaining consent from patients prior to recording the consultation with Artificial Intelligence ('AI') tools?

In New South Wales, South Australia, Tasmania, Western Australia, and the ACT, it is a criminal offence to record consultations without the consent of everyone present. While it is generally not a criminal offence in Victoria, Queensland, and the Northern Territory, the Medical Board of Australia may consider recording without consent to amount to unprofessional conduct, and could take action against practitioners. Furthermore, practitioners using telehealth need to be aware that if patients are interstate or overseas, the laws in both or either jurisdiction may apply.

How should clinicians obtain consent from patients when using AI transcription tools during consultations? Is there a specific consent form that should be used?

Consent may be given verbally or obtained in writing. If verbal consent is given, the clinician should document the details of the information provided and the patient's consent in the medical record. If consent is withheld, then records should be generated in the usual manner and the AI transcription tools should not be utilised. Patients need to understand that the consultation will be recorded, Transcribed verbatim, and that AI will be used to generate a record or referral. Patients also need to understand where information is stored and for how long. Patients should also be given the opportunity to withdraw their consent at any time, in

which case, the recording should be stopped. This does not necessarily mean that any health information collected during the recording must be deleted.

Should clinicians obtain consent to use AI tools in every patient consultation?

Given that this is new and emerging technology, and the law has not yet been tested in this area, MIPS recommends a prudent approach. While a detailed explanation of how the software works is required in order to obtain consent prior to the first consultation that is recorded, a detailed explanation is unlikely required before subsequent consultations. Instead, it may suffice to remind patients that the intention is to record the consultation and to check that the patient still consents to the consultation being recorded. This should then be documented in the medical record to mitigate against any allegations that a consultation was recorded without the patient's knowledge or consent.

How much information should clinicians provide to patients about the AI technology so they can make an informed decision?

Patients also need to understand where information is stored and for how long. Patients should also be given the opportunity to withdraw their consent at any time, in which case, the recording should be stopped. From a practical perspective, and to ensure that consent is informed and free from coercion, patients should be made aware of the proposed use of an AI transcription tool ahead of the consultation, such as through the clinic's website, privacy policy, patient registration forms, and/or information pamphlets.

What should clinicians do if a patient declines to consent to the use of AI transcription tools during a consultation?

If the patient declines to consent to the use of the software, you should not use the software. You can still consult with the patient but should document your records in the usual way.

Privacy and data retention

What are the privacy and data retention considerations with using AI transcription tools during patient consultations?

Any health information collected using AI transcription tools must be stored in compliance with local health privacy laws and national privacy laws which apply to all personal information. This includes transcripts created during consultations, as well as summarised medical records generated. In NSW, VIC, and the ACT, health information laws require health information to be retained for at least seven years from when a patient was last seen or until a child reaches the age of 25 years.

Privacy laws also require practitioners to obtain consent from patients before allowing health information to be transferred and stored overseas in jurisdictions where health information privacy laws are not substantially similar to those in Australia.

Can I share health information collected during consultations with third parties within Australia?

Even if health information remains within Australia, it should not be inadvertently shared with third parties for the purpose of AI learning. Clinicians should ensure that generative AI tools used in their clinical practice do not breach Australian privacy laws by using or disclosing confidential patient information as part of the learning process. You should discuss this issue with any software developers and understand all data flows before choosing a tool to use. You must only share health information in accordance with local health privacy laws and national privacy laws.

Are AI transcription tools trustworthy and accurate?

As AI technologies are still under development, there is the likelihood of inaccuracies. There can be errors in the transcription of spoken words to text, or there can be errors in how written transcripts are summarised. Adverse patient outcomes may occur when other practitioners caring for a patient rely on inaccurate health information. You as the clinician have an obligation to ensure that you always check the output for accuracy and clinical relevance, as despite the use of AI transcription tools, they are still your records of the consultation, and you are responsible for them.

Medicare and regulatory compliance

What are clinicians' obligations under Medicare?

For the purpose of billing under Medicare, there are obligations under the Health Insurance Regulations to maintain clear, contemporaneous, accurate, and adequate records that facilitate the ongoing treatment of the patient. As most commercially available AI transcription tools are compatible with existing clinical software, it should be easier for practitioners to comply with these basic requirements for clinical records.

Are AI transcription tools approved by the TGA?

AI transcription tools are currently exempt from TGA regulations. This means it is critical that you trial them first before committing to incorporating them into your regular practice. This will help you understand (and see for yourself) how they work and whether they meet your needs.

How do the Medical and Dental Boards codes of conduct impact the use of AI transcription tools in clinical practice?

The Medical and Dental Board of Australia Codes of Conduct both set out some basic requirements of good clinical practice that include ensuring that medical records:

- are accurate, up to date, legible, relevant and can be understood by other health practitioners; and
- show respect for patients and do not use demeaning or derogatory remarks; and
- are sufficient to facilitate continuity of patient care; and
- are made at the time of the events, or as soon as possible afterwards; and
- are dated when any changes or additions are made

What is MIPS position on AI transcription tools?

MIPS recognises that these are emerging technologies that have the potential to fundamentally change the practice of medicine for the better. However, MIPS urges members to contact MIPS if they have questions or if they are still in the process of understanding all of the medicolegal implications. MIPS is supportive of individual practitioners making their own informed decisions based on the nature of their practice and their clinical and commercial needs – and MIPS stands with its members in helping them to practice smartly and safely.

Will I be covered by MIPS if I decide to use AI transcription tools in my practice to generate medical records?

Subject to the full terms and conditions of the policy, yes - there is no specific exclusion relating to the use of AI transcription software in the MIPS Indemnity Insurance Policy.

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MIPS resources

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