

The Ins and outs of Telemedicine (now known as “Telehealth”)

As the Health Professions Council of South Africa (HPCSA) has a mandate to regulate healthcare provision by health care practitioners, this includes the ability to regulate on the provision of telemedicine (“telehealth services”).

Telehealth services involves medical advice provided by way videoconferencing or similar forms of technology which replicates the interaction of traditional face-to-face consultations between healthcare practitioners and their patients.

Must there be an existing healthcare relationship or not?

Booklet 10

Booklet 10 of the Guidelines for Good Practice in the Healthcare Professions, stated that telemedicine services should be restricted to situations where there is an existing relationship between the patient and the healthcare practitioner.

Guidelines During the COVID-19 Pandemic

On 26 March 2020 following the announcement of a nationwide lockdown in South Africa, HPCSA issued a new guidance note on the application of telemedicine during the COVID-19 pandemic (“the new guidance note”).

The new guidance note supplemented and amended the HPCSA's existing telemedicine guidelines as contained in Booklet 10, in the following respects:

- a) Telemedicine is hereby replaced with “Telehealth” which includes amongst others, Telemedicine, Telepsychology, Telepsychiatry, Telerehabilitation, etc., and involves remote consultation with patients using telephonic or virtual platforms of consultation.
- b) **Telehealth is only permissible in circumstances where there is an already established practitioner-patient relationship, except where Telepsychology and/or Telepsychiatry is involved, in which case telehealth is permissible even without an established practitioner-patient relationship.**
- c) Practitioners may charge a fee for services rendered through a telehealth platform.
- d) Where practitioners are in doubt whether a telehealth consultation will be in the best interest of the patient, they are encouraged to advise patients to present themselves for a face-to-face consultation to seek assistance at a health care facility closest to them.

On 3 April 2020, the HPCSA revised its new guidance note making the following amendments and providing further clarity:

Clause (b)

Telehealth should preferably be practised in circumstances where there is an already established practitioner-patient relationship. Where such a relationship does not exist, practitioners may still consult using Telehealth provided that such consultations are done in the best clinical interest of patients.

Clause (c)

Although practitioners may charge fees for consultations undertaken through Telehealth platforms, the Council strongly cautions against practices that may amount to over-servicing, perverse incentives and supersession.

Practitioners were cautioned that the new guidance note (as amended) would only be applicable during the COVID-19 pandemic and that the HPCSA would inform practitioners of when the guidance will cease to apply.

Regulation by HPCSA and legislation

Although telehealth has become an essential tool in providing healthcare services particularly in a pandemic situation, it still raises important ethical and legal issues and practitioners must still consult the Ethical Guidelines for Good Practice and the Health Professions Act, 1974 ("the Act").

According to the Act, only practitioners who have been deemed competent and are registered in their respective professions are authorised to participate in telehealth services in South Africa either as consulting or servicing healthcare practitioners.

Cross border telehealth services

In the case of telehealth across country borders, practitioners serving South African patients should be:

- a) registered with the regulating bodies in their original countries as well as with the HPCSA; and
- b) competent according to South African healthcare standards.

No compromise on standards

Healthcare practitioners performing telehealth services are still held to the same standards of medical practice as healthcare practitioners who conduct face-to-face consultations. The HPCSA guidelines on record storage still apply.

Telehealth consent form

Practitioners should not give medical advice or provide treatment using telehealth without obtaining proper informed consent from the patient for both the treatment to be given and the use of telehealth technology. If consent forms need revision, this should be done. Health practitioners should include reference to the types of transmissions to be consented to while using telehealth technologies (for example x-rays, test results, clinical reports, advice, prescriptions, or appointments). The practitioner should also document the security measures taken by him/ her while using telehealth technologies and any possible risks to breaches of confidentiality from the use of such technologies, which could influence the patient's decision to provide consent.

A copy of the consent form should be kept with patient's records and a duplicate shared with the patient. If there are more than one practitioner advising the patient in the videoconference, the patient must be aware of the presence of other people and this his/ her identity may be revealed and must consent to this.

There needs to be compliance with Protection of Personal Information Act (POPI Act) in that the quality and quantity of patient information received should be sufficient and relevant for the patient's clinical condition.

Diagnosis and standard of care

For each and every consult a routine medical assessment should be conducted with regard to relevant patient clinical histories in order to diagnose and recommend treatment before providing treatment or issuing prescriptions. Prescription based solely on online questionnaires will not be regarded as sufficient for meeting the standard of care.

Treatment outcomes and responsibility

The Healthcare practitioner remains responsible for the treatment, decisions and other recommendations given to the patient, as well as for keeping detailed records of the patient's condition and information transmitted and received.

Patient confidentiality

The provision of telehealth services shall not exempt the practitioner from complying with confidentiality. Patient information howsoever stored must be protected against improper disclosure at all time and in this regard the practitioner must secure his/her devices with passwords, encryption and other reliable authentication techniques.

Professional duties

Practitioners are reminded that the Ethical Rules of Conduct for Health Practitioners registered under the Health Professions Act are still applicable during the practice of Telehealth.