

The Medical Council of Hong Kong
Ethical Guidelines on Practice of Telemedicine

Definition, Scope and Interpretation of these Ethical Guidelines

1. “Telemedicine” is defined in the World Medical Association (“WMA”) Statement on the Ethics of Telemedicine (last amended in October 2018) to mean:

“...the practice of medicine over a distance, in which interventions, diagnoses, therapeutic decisions, and subsequent treatment recommendations are based on patient data, documents and other information transmitted through telecommunication systems.”

2. However, the term “telemedicine” embraces a wide spectrum of activities, including but not limited to the following 4 domains:
 - (a) Tele-treatment of patients within the definition of WMA;
 - (b) Collaboration between doctors and/or with other healthcare professionals through telecommunication systems;
 - (c) Monitoring of patients through telecommunication systems; and
 - (d) Dissemination of service information and/or health education to the public (including patients) through telecommunication systems.
3. For the purpose of these ethical guidelines, “telecommunication systems” include telephone, email, social media (e.g. SMS, WhatsApp, Facebook, internet forum & etc.); and other means of electronic communication between two or more people in different locations, at least one of which is within the Hong Kong Special Administrative Region (“HKSAR”). And unless the context requires otherwise, words in the masculine gender include the feminine gender and words in the singular include the plural, and vice versa.
4. Dissemination of service information and/or health education to the public is generally not addressed in these ethical guidelines which focus on activities falling within the first 3 domains mentioned in paragraph 2 above. Doctors are however advised to familiarize themselves with the requirements under Part B of the Code of Professional Conduct (revised in January 2016) (“the Code”) before embarking on activities falling within the last domain mentioned in paragraph 2 above.

5. Given the diversity of telemedicine settings, these ethical guidelines aim to be broad and generic in nature since telemedicine is still in the developing stage in Hong Kong. This is not a legal document and should be given a fair interpretation in order to attain the objects of the relevant provisions. To be relevant, these ethical guidelines will be regularly updated.
6. These ethical guidelines should not be construed to authorize a doctor to engage in medical practice outside the HKSAR or in such a manner, not otherwise authorized by law. A doctor must comply with the law governing the practice of medicine in all jurisdictions where patients receive his medical services.
7. These ethical guidelines are not intended for regulation of overseas doctors who practise telemedicine on patients in Hong Kong. However, the Medical Council may report any person, who not being a registered medical practitioner (or exempted from registration) practises telemedicine on patients in Hong Kong, to the relevant professional body and/or law enforcement agency for investigation and prosecution.
8. These ethical guidelines are not meant to be exhaustive. A doctor should familiarize himself with the WMA Statement on the Ethics of Telemedicine. However, in case the principles and recommendations set out in the WMA Statement on the Ethics of Telemedicine are different, the relevant provisions in these ethical guidelines shall prevail.
9. Contravention of these ethical guidelines may render a doctor liable to disciplinary proceedings.

General Principles

10. A doctor who substitutes telemedicine for traditional modes of delivery of medical care and/or advice remains fully responsible for meeting all legal and ethical requirements and must exercise due diligence when practising telemedicine.
11. Standards of care that protect patients during face-to-face medical consultations apply equally to telemedicine.
12. The requirements under Part E of the Code that regulate the relationship between doctors and other healthcare professionals apply equally to telemedicine.

13. A doctor should adhere to well-established principles and standards guiding privacy and security of records, informed consent, safe prescribing and other key areas of medical practice as set out in the Code, as well as any written and unwritten rules of the profession when practising telemedicine.
14. A doctor who treats or prescribes through telecommunication systems must ensure that he possesses appropriate licensure in all jurisdictions where patients receive his medical services.

Doctor-Patient Relationship

15. A “doctor-patient relationship” is the cornerstone to a doctor’s primary responsibility to provide proper medical care to his patient.
16. Establishment of a “doctor-patient relationship” may not be easy to discern especially when the doctor and patient are in separate locations and/or no prior in-person relationship exists between them. It is advisable to practise telemedicine only in cases in which a prior in-person relationship exists between a doctor and a patient. Where an existing “doctor-patient relationship” is not present, a doctor must take appropriate steps to establish a credible “doctor-patient relationship” with a patient before practising telemedicine.
17. Moreover, a “doctor-patient relationship” is based on trust and mutual respect. It is therefore essential that a doctor and a patient must be able to identify each other reliably when telemedicine is employed. In case of doubt, a doctor should advise for in-person consultation with a patient.
18. It is however pertinent to note that a “doctor-patient relationship” may not always be present in telemedicine. Provision of consulting services by a doctor to another doctor, with whom alone the patient maintains a “doctor-patient relationship”, will nonetheless fall within the scope and definition of telemedicine.

Evaluation and Treatment of Patient

19. A doctor should ensure that a patient is properly evaluated and treated. A documented medical evaluation and collection of medical history commensurate with the presentation of a patient.

20. The use of telemedicine depends on the factors of clinical context and clinical goals, and whether the telemedicine technology applied is reasonably appropriate and compatible with these two factors. The doctor must be satisfied that the patient is suitable for a telemedicine interaction and that the standard of care delivered via telemedicine is reasonable considering the specific context. Telemedicine must not be viewed as a cost-effective substitute for in-person consultation with patients.
21. Any telemedicine service must be provided as part of a structured and well organized system and the overall standard of care delivered by the system must not be less compared to a service not involving telemedicine. A doctor should receive proper training on the use and operation of the system. He must also ensure that the device to be used in the system is fit for its purpose and with high stability.
22. A doctor should exercise caution in providing telemedical advice to patients, bearing in mind that he may not be licensed to practise in the jurisdictions where patients are situated. It is acceptable to provide patients with general information on their medical conditions. In case of emergency, a doctor may also provide patients with information on first aid. However, if specific medical advice or treatment is required and in-person consultation cannot be promptly arranged, patients should be advised to consult doctors in the vicinity.

Informed Consent

23. Proper informed consent requires that all necessary information regarding the telemedicine interaction be explained fully to the patient in a clear and understandable manner, including how telemedicine works, its limitations and adequacy to meet the desired standard of care, other suitable alternatives available, privacy concerns, the possibility of technological failure including confidentiality breaches, protocols for contact during virtual visits, prescribing policies, and coordinating care with other healthcare professionals.
24. If a physical examination is likely to add critical information, the doctor should not proceed until a physical examination can be arranged.

Prescription

25. A doctor may prescribe for a patient via electronic means only when he has adequate knowledge of the patient's health, and is satisfied that the medicine serves the patient's needs. A doctor must consider: (a) the limitations of the medium through which he is communicating with the patient; (b) the need for physical examination or other assessments; and (c) whether he has access to the patient's medical records.
26. Before prescribing any medicine for the first time to the patient, it is advisable for the doctor to have an in-person consultation with that patient.
27. A doctor should make sure that any instructions, e.g. for administration or monitoring the patient's condition, are understood by the patient and/or the caregiver. A doctor prescribing for an overseas patient should also have regard to differences in a product's licensed name, indications and recommended dosage regimen.
28. A doctor should keep a detailed record of the advice he had delivered as well as the information he has received and on which the advice is based in the patient's medical record.

Medical Records and Confidentiality

29. When practising telemedicine, a doctor owes the same professional responsibilities in respect of medical record keeping and patient confidentiality as for in-person consultation with patients. A doctor is advised to familiarize himself with the requirements under section 1 of Part A of the Code.

Relationship with Other Healthcare Professionals

30. A doctor should clarify with other healthcare professionals involved in the practice of telemedicine their respective roles and responsibilities in the duty of care to the patient.
31. If a doctor asks for another healthcare professional's advice or second opinion, he remains responsible for treatment and other decisions and recommendations given through him to the patient.

32. If a doctor receives a referral which does not contain the information required to make a fair assessment of the patient, he should request the relevant information or return the referral to the referrer with a request for more specific information.
33. A doctor working with or receiving reports from other healthcare professionals should ensure that the required standards of care to the patient are followed and must notify the other healthcare professionals if he has concerns about the quality of care being provided.

Privacy and Patient Confidentiality

34. The doctor must aim to ensure that patient confidentiality and data integrity are not compromised. Data obtained during a telemedical consultation must be secured through encryption and other security precautions must be taken to prevent access by unauthorized persons.
35. The doctor should be aware of the security issues specific to the use of electronic communications, e.g. difficult to verify a person's identity. A doctor should check with the patient before sending sensitive information by electronic means to the patient.

Limitations

36. The doctor needs to be aware of the limits of any telemedicine applications and electronic communications, and to ensure that he does not attempt to provide a service which puts the patient's safety at risk. In particular, a doctor needs to be aware of the inherent risks in providing treatment when a physical examination of the patient is not possible.
37. A doctor should advise the patient of any limits associated with telemedicine applications and electronic communications. For example, the doctor should advise patients not to use email if urgent advice is required. A doctor may also advise patients that he would not accept a certain type of electronic communication due to its limitations.
38. If technical and environmental limitations affect the quality of a telemedicine consultation such that minimum standards cannot be met, the consultation must be terminated and alternatives must be considered.

The Medical Council of Hong Kong
Questions and Answers to the Ethical Guidelines on Practice of Telemedicine
(to be read in conjunction with “Ethical Guidelines on Practice of Telemedicine”)

1. What should a doctor do before commencing a teleconsultation?

A doctor has to ensure that he is communicating with the actual patient but not someone who impersonated.

2. Is it a must to establish a credible doctor-patient relationship for all teleconsultations?

Teleconsultations may take different forms ranging from general medical advice to tele-treatment of patients. For any medical and treatment-related teleconsultation, a credible doctor-patient relationship must be established.

3. What is a “credible” doctor-patient relationship?

The answer to this question has to be fact-specific. Whether a doctor and a patient are able to identify each other reliably must depend on the actual circumstances of the case.

4. Is it mandatory to conduct an in-person consultation with a patient before teleconsultation begins?

An in-person consultation prior to teleconsultation is advisable but not mandatory. However, if a teleconsultation is to be conducted without a prior in-person consultation, the doctor must take appropriate steps to establish a credible doctor-patient relationship with the patient before practising telemedicine. The doctor must also consider the need for physical examination or other assessments of the patient and/or the need to have access to the patient’s medical records.

5. Can a doctor establish the doctor-patient relationship by identifying the patient’s guardian when practising telemedicine?

It is not advisable to establish a doctor-patient relationship just by identifying the guardian. There should be proper identification of the patient, even if the patient is a minor or someone who is incapable of understanding the nature and

implications of the proposed treatment and/or to give informed consent to treatment because of reasons such as loss of consciousness and lack of mental capacity or intelligence.

6. Can a doctor issue reports and/or certificates to the patient after teleconsultation?

A doctor should only issue certificates and similar documents after proper medical consultation and should not include in them statements which they have not taken appropriate steps to verify. A doctor must consider the limitations of the medium through which he is communicating with the patient. Assessments conducted via teleconsultations may not be regarded as proper in some circumstances. For instance, a patient may use editing technologies, e.g. changing the colour of his throat during teleconsultations, to disguise his conditions.

7. How should a doctor maintain medical records in the practice of telemedicine?

It is the responsibility of a doctor to maintain systematic, true, adequate, clear and contemporaneous medical records when practising telemedicine. It protects the legal interest of the doctor and the patient. Adequate and proper medical record keeping will not only help a doctor to follow up with the patient more easily but it will also facilitate other doctors to understand the original treatment plan when they take over the care of the patient.

8. Can a doctor make an audio and/or video recording of a teleconsultation?

A doctor should make an audio and/or video recording of a teleconsultation only if he has obtained the patient's prior consent. It is a must, instead of a matter of courtesy, for the doctor to obtain consent from the patient prior to the recording. Whilst consent may be obtained verbally, a doctor should always record the consent in the patient's medical record.

9. Will audio and/or video recording of a teleconsultation secretly made by a patient be admitted as evidence when the Council handles complaint against a doctor?

The ultimate test of evidence is relevance. If the evidence is relevant to the complaint, regardless of how it is obtained in the first place, it will still be admissible as evidence in disciplinary proceedings. The Preliminary

Investigation Committee and Inquiry Panels will decide whether to accept the evidence presented to them on a case-by-case basis.

10. Will the Council provide guidance on technical issues and/or a list of recommended service provider for the practice of telemedicine?

It is not appropriate for the Council, as a regulatory body, to make recommendation on service providers. In order to maintain impartiality in its quasi-judicial function, the Council will not advise individuals on specific circumstances. Moreover, the Council will not take over the autonomy of individual medical practitioners in their choices of service providers for providing platforms to practise telemedicine. Individual medical practitioners should approach relevant professional bodies if they encounter problems in selecting service providers or seeking technical support.

11. How medicine may be dispensed to a patient after teleconsultation?

When practising telemedicine, a doctor is advised to observe the provisions of the Good Dispensing Practice Manual issued by the Hong Kong Medical Association and the Guidelines on Proper Prescription and Dispensing of Dangerous Drugs. Dispensation of dangerous drugs to a patient through a third party, such as a courier, may be in breach of the Pharmacy and Poisons Ordinance, Cap. 138, Laws of Hong Kong. A doctor should also exercise due diligence in handling exportation of pharmaceutical products to different countries and/or regions which have laws and registration systems different from those of Hong Kong for governing the matter.