

TELEMEDICINE: A GLOBAL APPROACH TO TRENDS AND PRACTICES

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Date of completion: 30 November 2022

LAWS AND REGULATIONS ON TELEMEDICINE

1. Is telemedicine allowed in your country? If so, how is it defined?

Telemedicine is allowed in the Philippines. DOH-DILG-PHIC Joint Administrative Order No 2021-0001 titled 'Guidelines on the Implementation of Telemedicine in the Delivery of Individual-Based Health Services' (the 'Guidelines') adopts the definition of telemedicine provided by the World Health Organization (WHO). Under the WHO definition, telemedicine 'refers to the delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment and prevention of disease and injuries, research and evaluation, and for the continuing education of health care providers, all in the interests of advancing the health of individuals and their communities'.

2. Please provide a high-level overview of the legal framework regarding telemedicine in your country.

Telemedicine is specifically regulated by the Guidelines. However, the governing law that regulates physicians engaged in telemedicine is the Republic Act No 2382, or the Medical Act of 1959 and its Implementing Rules and Regulations. The Philippine Medical Association Code of Ethics is likewise applicable.

Other laws that apply include:

- Republic Act No 8792, or the Electronic Commerce Act of 2000;
- Republic Act No 9711, or the Food and Drug Administration (FDA) Act of 2009;
- Republic Act No 10918, or the Philippine Pharmacy Act;
- Republic Act No 10173, or the Data Privacy Act of 2012 (the 'DPA').

The Guidelines likewise mandate the Department of Health (DOH), the Professional Regulation Commission (PRC) and the University of the Philippines Manila – National TeleHealth Center (UPM-NThC) to develop of a code of ethics and clinical practice guidelines (CPG) for telemedicine that will standardise and guide all licensed physicians in the practise and use of telemedicine, but this has not yet been issued.

3. Briefly identify the key licensing bodies for telemedicine and outline their responsibilities.

The Guidelines provide that only licensed physicians shall be allowed to practise telemedicine.

The licensing body for physicians is the PRC, in particular, the Board of Medical Examiners. The board implements the provisions of the Medical Act of 1959, as amended, and ensures that only qualified individuals are granted licences to practise medicine.

The Implementing Rules and Regulations of Republic Act No 10912, or the Continuing Professional Development Act, provides that Continuing Professional Development, or the inculcation of advanced knowledge, skills and values in a post-licensure specialisation or in an inter or multidisciplinary field of study for assimilation into professional practice, self-directed research and/or lifelong learning, is a mandatory requirement in the renewal of the licence of physicians, among other licensed professionals. The renewal of such a licence is

<p>required to continue practising their profession.</p>
<p>4. Was telemedicine authorised during the Covid-19 pandemic?</p>
<p>Yes, telemedicine was expressly authorised by the Guidelines during the Covid-19 pandemic.</p>
<p>5. Is there any possibility of the regulatory landscape being changed in the post-pandemic scenario or has there already been a change in regulation in the post-pandemic scenario?</p>
<p>Currently, the regulatory landscape is dependent, in the interim, on pre-existing rules prior to telemedicine. With the issuance of the Guidelines, implementing agencies have been tasked to produce updated and specific rules relating to telemedicine. Moreover, there is currently pending legislation regarding e-health systems and service. As such, it is likely that we will see a change in the regulatory landscape for telemedicine.</p>
<p>6. What types of teleservices are allowed (eg, second opinion, teleconsultation, telediagnosis and telesurgery)?</p>
<p>Based on the Guidelines, the following teleservices are contemplated: (1) telemedicine consultation; (2) virtual history taking and physical examination; (3) telediagnosis; (4) creation of an electronic medical record; (5) provision of e-prescription instructions; (6) issuance of electronic consultation documents; and (7) telemedicine referral. Nonetheless, other teleservices are not expressly prohibited.</p> <p>However, the Guidelines do state that first-time consultations, emergency and serious conditions where emergency care is needed or any time that face-to-face assessment and physical contact are warranted should not be managed using telemedicine.</p>
<p>7. Who can use telemedicine services? Please indicate whether only doctor-doctor or also patient-doctor remote medical services are allowed.</p>
<p>Patient-doctor remote medical services are allowed. In such cases, the Guidelines provide that telemedicine consultation cannot be anonymous. This means that 'both patient and the licensed physician should be able to know, verify, and confirm each other's identity at the start of the telemedicine consultation'.</p>
<p>8. Please outline the funding model for telemedicine. Is it available in your jurisdiction's public health system? Is telemedicine under mandatory insurance coverage? Please indicate what legislation applies.</p>
<p>The Philippine Health Insurance Corporation (PhilHealth), in coordination with the DOH, will implement a telemedicine benefit package and reimbursement mechanism for healthcare providers, which shall be issued as a separate policy. In the interim, healthcare providers shall charge a consultation fee that is appropriate, reasonable and commensurate with the telemedicine services provided.</p> <p>The consultation rates for telemedicine services shall be based on the standardised claims rate of PhilHealth, and the recommended rates from medical associations and specialty societies, among others. Claims for reimbursement may be filed for transactions and services falling under PhilHealth coverage. The Guidelines mandate all healthcare providers to include, among others, a PhilHealth electronic claims processing and provider payment for the processing and submission of telemedicine claims to PhilHealth.</p> <p>Currently, the Guidelines provide that telemedicine should be made available through the public health system in some provinces, highly urbanised cities (HUCs) and independent</p>

component cities.
9. Please indicate whether any insurance requirements are applicable to telemedicine service providers.
Currently, there are no insurance requirements applicable to telemedicine service providers under the Guidelines.
REQUIREMENTS APPLICABLE TO HEALTHCARE PROFESSIONALS AND INSTITUTIONS
10. Who can practise telemedicine in your country? Please indicate whether other healthcare professionals are authorised to provide remote health services under the applicable rules (eg, nurses, psychologists, nutritionists and alternative health therapy providers).
<p>Part VII, section B (1) of the Guidelines expressly provides: ‘Only licensed physicians shall be allowed to practise telemedicine, pursuant to this Order’.</p> <p>Section 8 of the Medical Act of 1959 provides the qualifications of those who may practise medicine: ‘No person shall engage in the practice of medicine in the Philippines unless he is at least twenty-one years of age, has satisfactorily passed the corresponding Board Examination, and is a holder of a valid Certificate of Registration duly issued to him by the Board of Examiners’.</p> <p>Under the same Medical Act, the practise of medicine is defined as persons:</p> <p>‘(a) who shall, for compensation, fee, salary or reward in any form, paid to him directly or through another, or even without the same, physical examine any person, and diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition or any ailment, real or imaginary, regardless of the nature of the remedy or treatment administered, prescribed or recommended; or (b) who shall, by means of signs, cards, advertisements, written or printed matter, or through the radio, television or any other means of communication, either offer or undertake by any means or method to diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition; or (c) who shall use the title M.D. after his name’.</p> <p>Under the Guidelines, any patient or individual may perform online licence verification of physicians either by name or licence number through the PRC website.</p> <p>Notably, other healthcare professionals are <i>not</i> expressly covered by the telemedicine Guidelines and the government has not issued any guidelines regarding other healthcare service providers, such as nurses, psychologists, nutritionists and alternative health therapies providers.</p>
11. Are there any specific education requirements or training that healthcare professionals need to meet or attend to provide telemedicine services?
Currently, there are no specific education requirements or training imposed on healthcare professionals in order to provide remote health services. The minimum requirement is that one must be a licensed physician. However, the Guidelines recommend that capacity building and mentoring activities of HCPNs be initiated while the guidelines for the certification programme on good clinical practice for telemedicine are being drafted.
12. Is there any registration requirement applicable to physicians that provide telemedicine services?

There is currently no additional registration requirement applicable to physicians who provide telemedicine services. Generally, all licensed physicians are qualified to provide telemedicine services.

13. Please indicate whether special licenses or authorisations are mandatory for institutional healthcare providers engaged in telemedicine services.

There is no additional registration requirement to allow physicians to provide telemedicine services under the current Guidelines. However, the same Guidelines provides for the implementation of a certification programme for telemedicine where the DOH, PRC, UPM-NThC and concerned medical associations shall implement a certification programme on good clinical practice in telemedicine for licensed physicians. The Guidelines provide that such a certificate shall 'form part of the credentials for the certification of primary care providers, and the renewal of license of physicians assigned to practice telemedicine within their HCPN, or intend to practice telemedicine as part of their continuing professional development requirements'.

REQUIREMENTS APPLICABLE TO TELEMEDICINE SERVICES

14. Are there specific requirements applicable to the telemedicine platform?

The Guidelines do not provide for specific requirements; however, it provides the following:

'All health care providers shall exercise their professional autonomy and discretion on the best platform to use for telemedicine taking into account what is appropriate and adequate to deliver proper care, and as provided by existing laws and regulations on privacy and data protections, among others.

In choosing the right telemedicine platform, consider the following:

1. The platform is supportable across all devices (e.g. laptop/desktop computer or tablet, etc.) and can be integrated to a new Integrated Health Information System (iHIS) telemedicine module, or interoperable with an existing iHIS telemedicine module.
2. The quality of service with the use of the platform is equal or better than face-to-face consultation.
3. The platform allows for remote patient monitoring, and clinical validations.
4. The website manners are properly observed and addressed when using the platform.
5. The platform is as easy as possible for patients to access and use, and for the physician to manipulate its features and present oneself appropriately to the patient.
6. The platform is secure, privacy-enhancing and non-public facing.'

15. Are there any requirements regarding electronic equipment and internet speed for telemedicine services?

A stable internet connection with appropriate bandwidth is the minimum requirement imposed by the Guidelines on telemedicine service providers. For electronic equipment, it is recommended that the platform used by the telemedicine service provider is supported across all devices (eg, laptop/desktop and tablet) and can be integrated into a new Integrated Health Information System (iHIS) telemedicine module or interoperable with an existing iHIS telemedicine module.

The Guidelines also provide that, for local government units (LGUs), the minimum information and communication technology (ICT) equipment, service and infrastructure must be operationally adequate and available. A contingency plan in the case of equipment

breakdown/malfunction and service interruption must be in place.
16. Does legislation provide for specific rules concerning patients’ medical records?
Yes, under the DPA, the medical information of a person constitutes sensitive personal information that is entitled to a higher degree of security and protection from unlawful processing.
17. Are there geographic location requirements applicable to the provision of telemedicine services?
During the early stages of the National Telehealth Program, a partnership between the University of the Philippine Manila and the DOH, telemedicine was prioritised in geographically isolated and disadvantaged areas (GIDA). Under the current Guidelines, however, there are no geographic location requirements.
18. Does the healthcare professional need to obtain the patient’s consent to engage in telehealth?
Yes. The Guidelines expressly provide that a healthcare professional needs to obtain the patient’s proper informed consent before collecting any personal information and offering any telemedicine service. Consent shall be evidenced by written, electronic or recorded means, and shall contain all the necessary information regarding the features of the telemedicine consultation that shall be fully discussed with the patient. These include how telemedicine works, its limitations, the manner of processing of personal health information, and privacy and data protection.
19. Is there any other important requirement that should be highlighted?
According to the Guidelines, all telemedicine consultations by licensed physicians shall have proper documentation. Moreover, all telemedicine consultations by licensed physicians must include a patient feedback mechanism. Specific rules on issuance of electronic consultation documents and dispensing of medicines pursuant to an electronic prescription are also outlined in the Guidelines.
DATA PRIVACY ASPECTS
20. Are there data privacy issues that should be considered for the exploitation of such a market? If your answer is yes, please provide a short description.
Yes, because telemedicine necessarily involves the collection and processing of sensitive personal information, this is prone to non-compliance with the DPA by the physician or the healthcare institution, which may, in turn, result in data breaches and the exploitation of such information.
21. Does the applicable regulation provide for criteria and requirements for the security systems to protect the patient’s information?
Yes. According to the Guidelines, the processing of the health information of patients who consult through the platform must be in accordance with the privacy and data protection requirements provided under the DPA and its Implementing Rules and Regulations. In addition to this, the Guidelines provide that the processing of patient’s information shall adhere to the principles of transparency, legitimate purpose, proportionality and accountability. The principle of privileged communication between a physician and patient

was also reiterated in the guidelines.

In the minimum implementation requirements on LGU Telemedicine Services provided in the Guidelines, it is stated that processing of personal data must remain confidential, secure and protected. To comply with this, the telemedicine service provider must submit the following:

- National Privacy Commission (NPC) certificates of registration of the data processing officer and data processing systems;
- privacy impact assessment report;
- privacy manual;
- privacy notice;
- signed non-disclosure agreement of human resources involved in the implantation of LGU telemedicine services; and
- monthly data privacy monitoring and compliance report.

In addition to the above, a designated cybersecurity officer and compliance with the vulnerability assessment and penetration testing of the Cybersecurity Bureau of the Department of Information and Communications Technology (DICT) are also required.

22. Does the applicable regulation provide for requirements for the transfer of information abroad?

Yes, the DPA expressly provides for extraterritorial application in the following instances:

- the act, practice or processing relates to personal information about a Philippine citizen or a resident;
- the entity has a link with the Philippines, and the entity is processing personal information in the Philippines or even if the processing is outside the Philippines, as long as it is about Philippine citizens or residents such as, but not limited to, the following:
 - a contract is entered into in the Philippines;
 - a juridical entity is unincorporated in the Philippines but has central management and control in the country; and
 - an entity has a branch, agency, office or subsidiary in the Philippines and the parent or affiliate of the Philippine entity has access to personal information; and
- the entity has other links to the Philippines, such as, but not limited to:
 - the entity carries on business in the Philippines; and
 - personal information was collected or held by an entity in the Philippines.

23. Is there any registration of databases requirement that companies must observe? Are there requirements regarding the recording of data in the patient's medical records?

Companies must comply with the provisions of the DPA. On the part of physicians, the Guidelines provide that those who made use of electronic consultation documents shall keep records thereof. In addition, all licensed physicians whose services were sought through telemedicine shall maintain all patient's health records as appropriate using¹ their electronic integrated health information system as provided by DOH or third-party providers

LIABILITIES

24. Please provide a high-level overview of the liability of healthcare professionals and institutions involved in telemedicine practices.

According to the Guidelines, a healthcare professional or institution involved in telemedicine

¹ The specific guidelines for this requirement are yet to be implemented.

may be liable for:

- violation of sections 22–29 of the Medical Act of 1959;
- violation of sections 10–15 of the FDA Act of 2009;
- violation of Article VI, section 44 and Article VII, sections 45–46 of the Philippine Pharmacy Act;
- violation of the DPA;
- quasi-delicts or torts under the Civil Code;
- reckless imprudence under the Revised Penal Code; and
- other applicable laws.

TELEMEDICINE NUMBERS AND TRENDS

25. Is there any public disclosed information concerning the use and acceptance of telemedicine in your country?

Ad Spark PH, in its June 2020 Special Report, stated that online conversations on telehealth and online medical consultations in the Philippines reached its peak in March 2020, during the height of the pandemic. Since then, the topic has been steadily talked about online.

One of the telemedicine service providers in the Philippines reported a more than 100 per cent revenue growth for 2021 and reached over one million members as of February 2022.

26. What are the perspectives and trends in relation to the matter for the next few years? Please outline any unresolved issues, proposed changes or trends for the telemedicine sector and briefly indicate how these may foreseeably affect medical practice in the near future.

Telemedicine only recently entered the mainstream during the Covid-19 pandemic. The issuance of the Guidelines was a response by the Philippine Government to regulate and institutionalise the use of telemedicine in order to ensure the safety of patients. The telemedicine sector can be expected to expand into a widely used healthcare service by Filipinos.

The Guidelines state that a code of ethics and CPG for telemedicine, and certification programme for telemedicine shall be issued by the DOH, PRC and University of the Philippines Manila – National TeleHealth Center, in collaboration with medical associations, specialty societies, patient groups and other stakeholders. The demand, accessibility and efficiency of the telemedicine sector will be affected by the issuance of these regulations.

There is currently legislation pending regarding the Philippine eHealth Systems and Services Act, which aims to attain the following objectives:

- recognise e-health as equal with other healthcare delivery methods to the extent allowable by existing laws; and provide and support healthcare delivery, including diagnosis, consultation, treatment, transfer of care of patient, exchange of health data and education, especially in medically unserved and underserved GIDAs;
- utilise ICT to deliver health services that has the potential to lessen costs, improve quality, change the conditions of practice and improve access to healthcare, particularly in rural and other medically underserved areas;
- develop infrastructure for ICT for health to promote equitable, affordable and universal access to health services;
- set policies and standards, and establish regulations regarding the field of e-health;
- designate national and regional centres, and networks of excellence for e-health best practices, policy coordination and technical support for healthcare delivery; and
- facilitate the exchange of and access to secured personal health information, including health provider sharing, and use health and medical information to improve

care, as well as public access to relevant information for the promotion of their own personal health.

The bill was approved on the third and final reading, but has not yet become law.