

## Framework on Telemedicine

### **PURPOSE**

This Framework proposes recommendations and minimum regulatory standards to the members of the Federation of Medical Regulatory Authorities of Canada (FMRAC). It is intended to help inform the development of the medical regulatory authorities' policies and guidance to physicians and promote pan-Canadian consistency. It is incumbent on each medical regulatory authority (MRA) to develop policy and approaches to ensure effective regulation.

### **DEFINITIONS**

Telemedicine: a medical service provided remotely via information and communication technology.<sup>1</sup>

Remotely: without physical contact and does not necessarily involve long distances.

### **PREAMBLE**

#### *Ethical, professional and legal obligations*

The use of telemedicine does not alter the ethical, professional and legal obligations of physicians, including but not limited to:

- a) licensure;
- b) the establishment of a patient-physician relationship;
- c) informed consent (including consent to treatment and as related to telemedicine technologies);
- d) privacy, confidentiality and security of patient information;
- e) the appropriateness of the use of telemedicine;
- f) prescribing issues; and
- g) follow up with patients.

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<sup>1</sup> Reference: Europe Economics. Regulatory Approaches to Telemedicine. Updated 18 May 2018.

Note: For the purpose of this Framework, includes medical services to patients as well as interprofessional and intraprofessional consultations (e.g., assessing, diagnosing, giving advice, teleradiology, etc.).

*Expectations of compliance with relevant provincial/territorial and federal legislation, as well as regulatory policies and guidance*

The MRA expects that physicians who use telemedicine will comply with relevant legislation and current regulatory policies and guidance in the physician's province/territory of licensure, as well as those in the jurisdiction where the patient is located, including but not limited to:

- a) privacy;
- b) conflict of interest;
- c) advertising and communication with the public, as well as the sale of goods and services;
- d) medical records; and
- e) expectations of ongoing competence, including as it applies to current and evolving technologies used in telemedicine.

**MODEL STANDARDS FOR TELEMEDICINE**

For physicians before they engage in telemedicine

1. Licensure

For every jurisdiction in which physicians use telemedicine to provide medical services to patients, they must:

- a) be aware of and comply with the licensing requirements:
  - in the physician's province/territory of licensure; and,
  - in the jurisdiction where the patient is located; and
- b) have and maintain appropriate liability protection that provides indemnity for malpractice.

2. Establishing the Patient-Physician Relationship

Physicians using telemedicine to provide medical services to patients:

- a) are expected to disclose their identity, location and licensure status to the patient;
- b) must take appropriate steps to confirm the identity of the patient;
- c) should explain in plain language the appropriateness and limitations of medical services provided by telemedicine;
- d) must obtain, document and maintain all aspects of informed patient consent in a telemedicine encounter; and
- e) have the same obligations for patient follow up in telemedicine as in a face-to-face consultation.

### For physicians during and after engaging in telemedicine

#### 3. Medical Records and the Privacy, Confidentiality, Security of and Access to Patient Information

Physicians are required to create and maintain a medical record as part of the provision of a telemedicine service. The requirement to create such a record is the same whether the care is provided face-to-face or via telemedicine. As such, physicians are expected to comply with jurisdictional requirements for the privacy, confidentiality and security of patient information, including but not limited to:

- a) medical record-keeping, including documentation, retention, transmission, archival and retrieval;
- b) enduring patient access to their medical records; and
- c) the availability of the medical record to other health care professionals for the necessary provision of patient care and follow up.

#### 4. Assessing the Appropriateness of the Use of Telemedicine for Each Patient

Physicians using telemedicine to provide medical services to patients are expected to:

- a) ensure they have sufficient training and competency to manage patients through telemedicine;
- b) assess patients' presenting condition and the appropriateness of telemedicine to provide care;
- c) take reasonable steps to assess all available resources that are required to provide medical services, including patient information<sup>2</sup>, the technology, the presence of support staff (both where the physician is located and where the patient is located), linkages with other services (e.g. laboratory), etc., and proceed only if those resources are available, safe and secure, and can be used effectively and in a private manner.

#### 5. Prescribing practices

Physicians using telemedicine to provide medical services to patients are expected to:

- a) conduct an assessment in accordance with standards of care before prescribing or authorizing any drug, substance or device and only proceed if appropriate;
- b) be aware of jurisdictional requirements pertaining to controlled substances and the authorization or prescribing of cannabis and all substances that can be abused.

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<sup>2</sup> This includes but is not limited to pharmaceutical, laboratory, diagnostic imaging or hospital discharge information, etc.

**FMRAC'S RECOMMENDATIONS TO ITS MEMBERS**

FMRAC recommends that, where feasible:

- 1) All MRAs develop specific policies or guidance to physicians on issues relating to informed patient consent for the use of telemedicine technologies.
- 2) All MRAs clearly set out in policy those circumstances in which licensure is and is not required when physicians provide medical services into their jurisdiction.
- 3) All MRAs develop clear policy relating to patient follow up.
- 4) All MRAs develop specific policies or guidance to physicians on medical records in a telemedicine encounter, including issues relating to privacy, health care personnel, permissible electronic transactions, documentation, retention, transmission, archival and retrieval.
- 5) All MRAs develop clear minimum standards for physicians who provide telemedicine as an uninsured service, including issues such as:
  - disclosure of fees for services and how payment is to be made;
  - disclosure of financial interests in any information, products or services provided or recommended by a physician;
  - rights of patients with respect to patient health information, to whom it may be disclosed and for what purpose; and,
  - disclosure of information collected and any passive tracking mechanisms utilized.
- 6) All MRAs provide plain language information to patients on factors and questions to consider when thinking about accessing telemedicine services as well as information for patients on:
  - the complaints process including the obligation of the MRA to follow up on complaints arising from care in their jurisdiction; and,
  - guidance on how to verify that the physician meets the licensure requirements of the jurisdiction in which the patient resides.
- 7) All MRAs require physicians to ensure there is a plan in place to manage adverse events and/or emergencies and make patients aware of appropriate steps to take in these instances.
- 8) All MRAs work with other MRAs within Canada to establish a protocol for addressing complaints about physicians.
- 9) All MRAs collaborate with their respective provincial/territorial governments and other stakeholders to advance, on behalf of patients, legislation that safeguards patient information held by third parties.
- 10) All MRAs collaborate with relevant stakeholders to promote better understanding of the ethical and legal aspects of telemedicine by medical students, residents and practising physicians.
- 11) All MRAs ensure their policies and guidance documents relating to telemedicine adopt consistent language that does not inadvertently create confusion for those physicians practising in federal health jurisdictions located within the province/territory's geographical boundaries.