

# **ANALYSIS OF TELEMEDICINE GUIDELINES**



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## ANALYSIS OF TELEMEDICINE GUIDELINES

Amidst the lockdown due to the COVID-19 pandemic, the Government of India has accorded legal status to Telemedicine in India. The Board of Governors, appointed by the government in supersession of Medical Council of India (“**Board of Governors**”) under the sanction of Ministry of Health and Family Welfare, published a notification dated March 25, 2020 (“**Amendment**”) to amend the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002 (“**Code of Conduct**”) in order to regulate Telemedicine in India. The amendment added ‘Consultation by Telemedicine’ to the Regulations, the relevant part of which is:

*“3.8.1 Consultation through Telemedicine by the Registered Medical Practitioner under the Indian Medical Council Act, 1956 shall be permissible in accordance with the Telemedicine Practice Guidelines contained in Appendix 5”*

The amendment further states that the Telemedicine Practice Guidelines (‘**Guidelines**’) will not be applicable to use of digital technology to conduct surgical or invasive procedure remotely.

### Definitions relating to Telemedicine

The concept of Telemedicine has been discussed for last few years in India but before the notification of Guidelines it had no legal status. The Guidelines define Telemedicine as:

*“ delivery of health care services, where distance is a critical factor, by all health care professionals using information and communications 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. ”*

Another important concept to understand is that of ‘Telehealth’ which the Guidelines define as

*“ the delivery and facilitation of health and health-related services including medical care, provider and patient education, health information services and self-care via telecommunications and digital communication technologies. ”*

Such Telemedicine consultation can be provided to any Patient via services such as telephone, video, devices connected over LAN, WAN, Internet, mobile or landline phones, chat platforms like WhatsApp, Facebook Messenger etc.

### **Persons Qualified to Offer Telemedicine**

Any person who is enrolled in the State Medical Register or Indian Medical Register (“**RMP**”) under the Indian Medical Council Act, 1956 (“**Act**”) is qualified to practice Telemedicine under the Guidelines.

RMPs who wish to practice Telemedicine will have to complete a mandatory online course made available by the BOG within 3 years of it being notified. Till such time, the principles mentioned in the Guidelines are required to be followed. Ethical norms and standards applicable on in-person medical consultations also apply over Telemedicine.

### **Process of Telemedicine Consultations**

The Guidelines propose the following process which needs to be followed by RMP providing Telemedicine consultation:

1. Start of consultation & Consent – The Telemedicine consultation is initiated by the Patient through voice call, video or text. Thereafter, the RMP may accept to undertake the consultation. Since the Patient initiates the Telemedicine consultation, the consent is implied.
2. Identification – RMP should confirm the identity of the Patient to his satisfaction by asking for Patient’s name, age, address, email ID, phone number or any other identification that may be reasonable.
3. Quick assessment – Before the Telemedicine consultation is provided, a quick assessment of the Patient should be done to determine the condition of the Patients health. If the condition of the Patient requires emergency care, the RMP should advice for first aid or any other immediate relief along with guidance.
4. Exchange of Information – RMP is required to use his professional judgement and ask the Patient to provide the relevant information (complaints, other consults, medication details, documentation, etc). Once the RMP is satisfied with the information, he may proceed with the consultation. If the RMP believes in his professional judgement that the information available is not sufficient, he should discontinue further Telemedicine consultation and

advice for in-person consultation. The RMP should maintain appropriate record of the entire exchange of information with the Patient.

5. Patient Management – Upon satisfaction of the above information, the RMP may decide to provide specific prescriptions, counselling or advice/information to the Patient. The RMP is also required to maintain full record of the Patient.

### **Important Rules and Principles for Telemedicine Consultation**

#### 1. Consultation –

- a. The requirement for identification of the Patient is not mandatory for follow up consultations (those consultations which are given within 6 months of in-person consultation). If any new symptom is there, it should be considered the first consultation.
- b. The RMP has to decide which mode of communication to use, viz - text, voice or video.
- c. The RMP should use professional judgement in providing Telemedicine consultation and should advise in-person consultation if the same seems necessary. For emergency treatment or consultation, it should usually be done in-person but the RMP may proceed with Telemedicine consultation if it urgent and in his professional judgement appropriate.
- d. RMP can choose not to proceed with the consultation at any time and refer for in-person consultation and the Patient has the right to discontinue as well.

#### 2. Prescriptions –

- a. The central government, from time to time, may notify medicines (apart from those already listed in the Annexure 1 to the Guidelines) that may be prescribed over tele-consultation along with the restrictions that may be, in the following categories:
  - i. **List O:** Medicines which are safe to be prescribed through any mode of tele-consultation such as those used for common conditions (paracetamol, ORS solutions, etc) or those which may be deemed necessary during public health emergencies
  - ii. **List A:** Medicines which can be prescribed during the first consult which is a video consult and are being re-prescribed for re-fill in case of follow-up.

This would be an inclusion list containing relatively safe medicines with low potential for abuse.

**iii. *List B:*** Medicines which can be prescribed to a Patient who is undergoing a follow-up consultation in addition to those which have been prescribed during the in-person consult for the same medical condition.

**iv. *Prohibited List:*** Medicines which cannot be prescribed.

- b.** RMP has to provide a photo, scan, digital copy of signed prescription to the Patient via e-mail or any messaging platform.
- c.** The prescription should be as per the Code of Conduct and should not contravene the Drugs and Cosmetics Acts and the rules made under it.
- d.** In case of prescription going directly to a pharmacy, the explicit consent of the Patient is necessary. Such prescription should only be sent to the pharmacy of Patient's choice.

3. Confidentiality –

- a. The Code of Conduct along with IT Act and other regulations on data privacy shall be applicable on the RMP providing tele-consultation.
- b. All information shared by the Patient shall be confidential and the RMP is required to undertake reasonable degree of care in usage of platforms for maintaining such confidentiality.
- c. RMP is required to log all details and maintain full record of the Patient with respect to any documentation or information used for the consult and the prescriptions.

4. Fee –

- a. RMP may charge appropriate fee and the Telemedicine consults are to be treated the same as in-person consults.
- b. RMP has to give a receipt/invoice of the fee so charged for Telemedicine consultation.

**Impact of the Guidelines**

Going by the procedures and rules provided in the Guidelines along with the Code of Conduct, the Telemedicine practice in India has been finally accorded a legal status. These Guidelines are thorough and cover every aspect and the Board of Governors has been given the responsibility to:

- Amend the Guidelines if required
- Issue the drugs list under the Guidelines

- Issue directions or advisories or clarifications in regard to these Guidelines as required.

Any violation made under the Telemedicine will be considered as a misconduct at the hands of the concerned RMP under the Code of Conduct. As such if the misconduct is proved, the RMP may be reprimanded or have their registration suspended or cancelled.

These Guidelines mark the start of a new era for the medicine industry in India. Patients no longer have to travel to the hospitals and wait in long queues to consult a doctor for smallest of problems. The Guidelines have paved way for the consultations to be done through any sort of communication medium whilst also protecting the interests of Patient. The remote access to medicine that was necessary considering the Indian health scenario, has now been made a reality. This is especially beneficial considering the situation throughout India due to COVID-19 which has rendered many people unable to access healthcare properly.

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