

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.