
AMA submission to the Medical Board of Australia – Guidelines: Telehealth consultations with patients

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As telehealth becomes a component of usual care in Australia, it is extremely important to ensure the regulatory framework and guidance provides a sound foundation for the delivery of safe and high-quality care. The guidance provided by the Medical Board plays a critical role in developing and overseeing this framework.

In considering the revised Guidelines, the AMA has been mindful of the need to steer a middle path between ensuring the Guidelines are sufficiently tight that the provision of high-quality care is not compromised by, for example, entrepreneurial providers seeking to exploit loopholes on the one hand; and the need to not inadvertently deny patients the ability to access care that might otherwise be difficult or impossible to obtain on the other. This latter group would include patients in rural and remote areas, those who are immune-compromised and those who may need to access particularly specialised or sensitive services.

Safe, high-quality care should support continuity of care, not fragment patient care. The AMA is particularly concerned about the potential risks posed to patients and the community in scenarios where medical practitioners have provided consultations to patients whom they are not familiar with and who have not been referred by their usual general practitioner.

The AMA also notes with concern the growing number of “telehealth” providers, some of whom “consult” from outside Australia. Whilst some of these providers offer important services in specific specialty areas such as sexual health and family planning care, the AMA remains concerned about the ability for entrepreneurial operators to enter the market to provide high-volume, low-quality care. This includes those providers who have become established to exploit particular niches such as providing scripts for specific medicines including nicotine vaping products. As many of the operators are entirely private, compliance mechanisms based on MBS billing are largely redundant in policing these providers.

Where providers are based overseas and providing telehealth services to patients in Australia, we note that the ability of Australian regulators to enforce compliance and to ensure the provision of high-quality care is constrained and should be subject to further examination.

Overall the AMA is supportive of the Guidelines, however there are amendments detailed below that will clarify and strengthen the document to ensure it supports high-quality patient centred care.

Background (page 8)

The AMA proposes the addition of the following sentence at the end of the second paragraph on page 8:

“As consultations for health issues fundamentally rely on the nuances of verbal and non-verbal cues, any text-based or online exchanges, such as “chats” and SMS messages, and online requests by themselves cannot be regarded as comprising appropriate medical care.”

What do I need to do

Follow up and record keeping (Page 10, paragraphs 12-14)

The AMA proposes inserting the following sentence under the heading at the start of this section (i.e. prior to paragraph 12).

“You must keep and maintain medical records as per Australian and relevant State/Territory legislation and standards and explain and obtain consent for the medical records/data arrangements.”

Prescribing

If you have not consulted with the patient (page 11)

The AMA proposes replacing the third paragraph in this section with the following words:

“For unreferral consultations, telehealth is best used to augment rather than replace face-to-face care. As such, for general practice and unreferral care, telehealth consultations should in most cases be conducted by a patient’s usual general practitioner or medical practitioner in the usual general practice. It is preferable they have had a face-to-face consultation at the usual general practice within the previous 12 months, but in certain circumstances within the previous two years. Any practitioner who conducts a telehealth consultation for a non-referred patient where they or the practice they work in have not seen the patient face-to-face in the past two years must be able to explain why the consultation was necessary and how the management was appropriate.”

It is recognised that many general practices have arrangements in place for after-hours cover by locums and other medical practitioners. In such cases, episodic care for urgent conditions by telehealth can be appropriate. In such cases, timely clinical handover is required back to a patient’s usual general practice and the provision of prescriptions for medicine should be limited to short time periods for acute problems only.

For referred services by medical practitioners, telehealth services can be appropriate without a prior face-to-face consultation, as long as this has been undertaken by the patient’s usual general practitioner/general practice who has referred the patient.

In instances where an unreferral telehealth services has been provided to a patient with no existing relationship with the practitioner due to an emergency or urgent situation, the onus should be on the provider to demonstrate the exceptional circumstance.

International telehealth (page 11)

The AMA notes the tighter regulation relating to privacy and data use that is in place in the countries of the European Union (EU) and considers that doctors who may be in the EU or other jurisdictions should be prompted to give specific consideration to those matters when providing telehealth services from those jurisdictions. We propose amending the second paragraph by removing the struck through words and adding the highlighted:

“If you are consulting with patients who are in Australia, regardless of your location, the Board expects that you will be registered with the Board and will meet all the relevant registration standards including for recency of practice, continuing professional development and professional indemnity insurance. ~~You may also need to meet any requirements of the medical regulator in the jurisdiction you are based.~~ that covers the patients that you are consulting with.

You must keep and maintain medical records as per Australian and relevant State/Territory legislation and standards and explain and obtain consent for the medical records/data arrangements. Practitioners should also be aware of and follow other international regulations that may apply to their medical practice, such as privacy and data protection regulations.”

The AMA proposes an additional sentence at the end of the third paragraph, which relates to practitioners located in Australia who are consulting to patients located in other jurisdictions such as the EU:

“Practitioners should also be aware of and follow other international regulations that may apply to their medical practice, such as privacy and data protection regulations.”

Conclusion

In conclusion, the AMA welcomes the revision of these Guidelines by the Medical Board, which we see as being necessary for building a sound foundation for telehealth going forward.

As set out in our comments above, telehealth should be seen as an additional tool to assist doctors to provide good medical care to their patients. It should be used to augment and build on the care provided by a traditional face-to-face consultation but cannot and must not become a substitute for face-to-face consultations.

Additionally, it should not become a vehicle for the provision of sub-standard medical care, particularly from corporate entities who have never seen or physically examined a patient.

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