MSIA
MEDICAL SOFTWARE INDUSTRY ASSOCIATION

Medical Board of Australia

Submission in responses to the proposed changes to Telehealth rules

"Better information will allow people to better participate in their own and their loved ones' healthcare. Through the COVID-19 pandemic, the primary care sector accelerated advances in adoption of technology, including e-prescribing and telehealth."
Strengthening Medicare Taskforce Report - December 2022

Date: 17 February 2023

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MSIA Executive Summary

The MSIA is grateful for the opportunity to contribute to of the draft Revised Telehealth Guidelines. The Medical Software Industry Association ("MSIA") represents the companies which provide the software that powers Australia's world leading healthcare system. Safety, efficiency and innovation are at our core. Our members know what is possible, have first-hand experience of the challenges for doctors and consumers. Many have accurate statistics, clinical trials case studies relating to the use of technology to improve safety and efficiency for doctors and patients.

The stated aim of the Medical Board of Australia's proposed changes to the Telehealth Rules is to provide guidance to registered health practitioners for technology-based care and public protection.[1] A reading of the *Draft Guidelines: Telehealth consultations with patients, Summary & Patient and Consumer Health and Safety Impact (collectively "the Draft Guidelines*") indicates significant oversights and unintended consequences in this regard. *The Draft Guidelines* should be suspended pending further consultation and review to avoid serious unintended consequences affecting consumers, doctors and the Australian digital economy.

Access & Equity - Empowering Australians to effectively manage their health depends on a clear framework for safety, privacy and efficiency for health providers and consumers. Every Australian has unique health concerns and digital health literacy. Where face to face consultation is not possible or desirable for an individual[2], it is vital that appropriate virtual care – commonly referred to broadly as "telehealth"[3] – is provided. A nuanced approach is essential to ensure equity of access and appropriate remuneration through Medicare.

Many Australians are unable to see a regular doctor, and often these are the most vulnerable Australians. Reducing avenues for medical attention by effectively disallowing asynchronous care could reduce safety for these individuals[4]. In all cases, irrespective of the mode of interaction, be it by telephone, video, chat or review of a written dialogue of questions and answers, it up to the registered doctor to "balance the benefit or harm in all clinical management decisions."[5] This requirement is immutable, irrespective of the actual process used in the doctor to patient dialogue. It is the safety cord for all medical interactions.[6]

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[1] Revised Telehealth Guidelines P14

[2] Following the pandemic many parties no longer drive regularly, have down-sized cars and rely on online services. Busy working mothers enjoy the flexibility of asynchronous consultation for straight forward issues.

[3] Telehealth, telemedicine & virtual care are used interchangeably. For our purposes we are adopting this broad interpretation which should be technology agnostic.

[4] The MSIA is not aware of statistics which demonstrate harm, but member companies have statistics in the 6 figures showing infinitesimal proportion of issues which could usefully be compared with the same number of face to face visits. The MSIA could facilitate this research if desired.

[5] https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx

[6] It should be acknowledged that whilst the Draft Guidelines refer to "carve outs" in respect of emergencies, sometimes the classification of an emergency in itself could dissuade consumers or doctors of availing themselves of an asynchronous telehealth consultation where the patient is new. Having clinical oversight in any form is better than none.

Clinical oversight - The principle of clinical oversight is key[7]. Doctors constantly exercise professional judgement in patient care. Their ability to do so should not be fettered by prescriptive rules for the use of technology. The Medical Board of Australia's existing generic code and technology specific code reiterate the importance of constant review to ensure appropriate care in changing circumstances and environments. Regulating against specific technologies, in lieu of clear outcome based principles is hazardous in a fast moving technological world[8].

Workforce – There are currently shortages of GPs (and other health workforce sectors) in remote and rural locations as well as for the aged care sector. Whilst this is not in the remit of the Medical Board of Australia in this instance, it should be noted that technologies which enable greater access to doctors and flexibility for Doctors[9], should be encouraged and not prohibited if they are indeed safe and appropriate in the circumstances. such as asynchronous consultations with patients they had not met.

Digital by default - Consumers in 2023 expect to access services digitally in all areas of their life. This was essential during long periods of COVID-19 lockdowns and quarantines. It cannot be wound back. Australians require remote access to services in urban and rural and remote areas. Not only because of physical barriers, but also because of a preference to deal with an unknown party in some cases.[10] Policy and decision makers are advised by international experts, like Stanford Professor Christopher Manning to "tread carefully … be slow to regulate – you want to see what the real problems are"[11]

Technology is a key driver for Australia's healthcare productivity and efficiency. Regulating for safety should be based on empirical evidence. Regulation of technology should be based on an overarching data governance framework developed by relevant stakeholders including doctors. This approach was recently endorsed by the *Australian Commission for Safety and Quality in HealthCare* ("*ACSQHC*"), and the *Australian Digital Health Agency* ("*ADHA*")in the recent ACSQH/ADHA Summit supported by our Minister for health and Aged Care, the Hon Mark Butler MP. 2022/23 Budget described the introduction of permanent telehealth as "the most significant structural reform to Medicare since it began."

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[7] This has been recognised by the *Therapeutic Goods Administration* in their regulation of software as a medical device which also assists in the safety and assurance of software. It should be relied on in telehealth and the existing Codes enable that.

[8] Disabling Australians from accessing qualified Australian doctors could result in their use of unidentified sources on the internet with a potentially a great deal more harm. The swift emergence of *ChatGTP* is demonstrative of the fact that underlying principles and policies are more effective than specific "call-outs" which may not anticipate the next iteration and by specifying some technologies but not all, this inadvertently condones new and untried technologies which would otherwise be prohibited by an outcomes based approach in favour of prescriptive regulation.

[9] For instance, female GPs with families which do not have a clinic but are registered to practice during school hours with limited scope for "visual" or audio consultations.

[10] For example, in Aboriginal Medical Services there is a close knit community and parties may not wish to visit out of embarrassment over a condition. Additionally, many homeless people do not have a regular GP and can access remote care more comfortably via digital means. Finally, some people are simply too busy to deal with the booking and wait times and are willing to pay for a consultation which is not MBS but which accommodates their schedule. This also saves the Government money.

[11] Professor Manning, global AI expert *The Australian Financial Review* 07022023 p.20.

Telehealth affects Medicare payments. Patient access and efficiency for our economy and for a challenged workforces is not something that should be quietly dismissed through *Draft Guidelines* over Australia's Summer holidays. Our conclusion provides several alternative options including support for a hybrid of Option 1 and 2 and rejection of Option 3. In addition we suggest a lengthy transition in the event that our suggestions are rejected.

The Contention that Telehealth is not good practice for new patients[12]

The MSIA acknowledges the clarity of the English in the *Draft Guidelines* and the re-statement of the principles for telehealth consultations. Some minor suggestions and corrections are suggested in the marked up Draft Guidelines in *Annexure 3*. This response focuses on the limitations to using telehealth for "Prescribing or providing healthcare for a patient with whom you have never consulted, whether face-to-face, via video or telephone" which is considered "not good practice and is not supported by the Board" ("*the forbidden consultations*"). If approved, the *Draft Guidelines* would stop doctors from asynchronous consultation because medical indemnity insurers would be compelled to refuse insurance cover.

More consultation and detail are required before a decision should be made. There needs to be a review of comparable international regimes, (such countries appear to enable *the forbidden consultations*[13]), a comprehensive literature review of clinical safety research, and case studies from the Australian experience. In addition, there needs to be consultation with the *Australian Digital Health Agency* (*'ADHA'*), *Therapeutic Goods Administration* ("TGA")and the *Australian Commission for Safety and Quality in Health Care* ("*ACSQHC*"). This is because the proposed change in respect of new patients has the effect of stopping the development and use of a growing sector of digital software in Australia. This may not have been considered could set a precedent which would militate against the modernisation of healthcare in other areas and disincentivise innovation and investment in technology in Australia.

Telehealth has evolved over the years to the point where it can almost replicate a face-to-face engagement – remote digital stethoscopes, otoscopes and throat scopes provide the tools so the doctor can now carry out the visual examinations through telehealth. Telehealth systems are increasingly being integrated to clinical systems resulting in a patient's clinical data being made available to a telehealth doctor even if the doctor has never seen the resident in the past.

There is an increasing number of devices and software diagnostic tools that greatly assist the remote care environment and a funded telehealth system would leverage these devices and tools.
In the Residential Aged Care Facilities (RACFS), particularly now that they are increasingly high care environments, there is a significant cohort of residents who are far less mobile than the general population, more susceptible to Covid and a trip to the doctor can be a difficult experience which sometimes requires a nurse. Telehealth, in many cases, avoids these difficult and expensive visits to the doctor[14].

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[12] P.11 *Draft Guidelines*
[13] The MSIA has been advised by the NHS that asynchronous telehealth is permissible for new patients. We understand that there is no prohibition in Canada, US or NZ. With an extension of time, we can undertake more specific research.
[14] Out of hours in particular the residents cannot see a familiar GP and the *Draft Guidelines* would therefore inhibit the sensible use of telehealth. It should not need to be an emergency. It should be as of right.

Similarly, instances where frail residents have been sent by ambulance to the emergency to see a doctor and get a script a UTI can currently be avoided through asynchronous consultations being made available to residents, their carers and nurses.

In more urgent situations it is very difficult for a doctor to carry out a face-to-face visit during their working day. All forms of telehealth allow them to see, speak or have a dialogue with doctors, or respond to residents avoiding the need to travel. During unsociable hours, weekends and after hours it is very difficult to get doctors to see aged care residents, let alone the resident's regular GP. This issue is ameliorated by the current flexibility with telehealth.

The MSIA members include social enterprises like InfoXchange which help millions of vulnerable Australians annually by deployment of technology for justice. It is the case studies and detailed knowledge of how asynchronous telehealth for new patients work in these scenarios which requires thorough investigation prior to reducing access. The MSIA is willing to facilitate this if the Medical Board of Australia would find it useful.

Ability to obtain health advice should not depend on whether you need it immediately, via video, via specified technologies[15] or in pre-determined ways which may not reflect your context, needs or circumstances. Telehealth should not discriminate against people who cannot speak - but can text or otherwise interact. The attached case study[16] from *Spinal Life Australia* demonstrates the need for flexibility. Telehealth should be possible asynchronously or synchronously depending on what suits parties best. It should not be constrained to using your "home" GP which militates against vulnerable groups.[17]

Traditional bricks and mortar GPs have struggled to adopt the hardware and software solutions which provide a superior patient experience comparable to a face- to- face consultation. The purpose of telehealth is to facilitate virtual care fit for purpose in our new environment. It should not be constrained by traditional models of care. Telehealth should enable clinicians and patients to interact in new settings to reflect the COVID-19 World.

Medicare support and medical indemnity insurance for telehealth consultations should be available to clinical providers that accommodate quality telehealth experiences **provided** they have Ahpra registered practitioners and commit to supporting the agreed standards. The proposed *Draft Guidelines* prevent this.

Clinical Evidence for Asynchronous Healthcare

The timing of the review has not made an extensive literature review possible, however one of our member companies, Medmate has done some preliminary research which is attached as *Appendix 2*.

It should be noted that the research papers, including international experts and health facilities as well as Australian based papers, positively support asynchronous telehealth in the support of all patients, known or not previously seen by the treating doctor. Relying on evidence for change is critical so that Australian healthcare is not impacted negatively through lack of full visibility of the pros and cons of all the advances which the digital age brings to safely modernising healthcare.

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[15] Bluetooth and other technologies will need to be included – the rules must not be prescriptive, or innovation, productivity and Australians will suffer

[16] *Appendix 1*

[17] EG Indigenous, homeless, domestic violence situations, workplace issues, suicidal situations, or those with a preference or otherwise determined need to collect information at a later time where not urgent

Mitigating the risks to safety considered by the Medical Board of Australia

The Strengthening Medicare Taskforce Report December 2022 recommended:

> "Make it easier for all Australians to access, manage, understand and share their own health information and find the right care to keep them healthy for longer through strengthened digital health literacy and navigation"[18].

The ability for consumers to be in a position to take more control of their health is strengthened through technology. Transparency and flexibility are expected and the Department of Health has assisted GPs with defraying the cost of technology through the ePiP payments. To ensure that there is greater transparency in the telehealth area, there are tools which can be deployed to make the entire process of asynchronous care more subject to oversight by the appropriate body. The outcomes can be routinely measured, and any concerns made immediately apparent. It could become a part of the ePIP prerequisites to have telehealth performed only via systems with approved privacy, security, and reporting settings. The technical capability here could allay the concerns of the Medical Board of Australia and also capture any outlier claiming behaviour.

Technology moves fast and it is at least arguable that the proverbial horse has bolted here. And if it is reigned in, another system or technological innovation will arise. It is essential ensure that the confidence of users is not diminished by random and little-known or misunderstood changes. [19] It is feasible that some parties may find the distinctions between a valid and invalid telehealth consultation too confusing to risk/. Especially if there are carve-outs for instances which could be deemed an emergency.

Instead of dismissing the *forbidden consultations*, promote the education around the need to calibrate telehealth like any other patient care to suit the ever-changing context. The *Draft Guidelines* call out prescribing, but Referrals, care planning and co-ordination could all be impeded by the proposed change to telehealth. Australian companies and Doctors should be able to work in a level playing field with international healthcare. Consumers will avail themselves of online services and safety is stronger if the companies and the clinical practice are sensibly regulated consistent with international practice and community expectations and lifestyles. Peak health bodies, consumer peak bodies, and the industry peak body, the *MSIA,* can codesign over-arching principles for consideration of the Medical Board of Australia to assist it to future-proof it's *Draft Guidelines* to avoid missed opportunities and unintended consequences.

Conclusion

1. The existing *Codes*[20] provide clear and strong guidance for doctors. These *Codes* emphasise the importance of ongoing review as to the appropriateness of telehealth for patient access.

2. If clarification of the English is required for the existing *Codes*, the work has been well done in the Draft Guidelines which could be adopted minus the prohibition on telehealth services for new patients. This is a low-cost effective option with only positive impact for the doctor's and community. A review after more consultation and research could be undertaken in the future if seen necessary on the facts and statistics.

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[18] P11 Strengthening Medicare taskforce Report 2022, https://www.health.gov.au/resources/publications/strengthening-medicare-taskforce-report?language=en

[19] Changes to eligibility and complex criteria lead to confusion, frustration by patients, clinics, and providers.

[20] https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx
https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Technology-based-consultation-guidelines.aspx

3. In the event that items one and two above are not accepted, the review should be suspended or extended whilst a Parliamentary Inquiry is held in respect of consumers rights to equitable healthcare through technology.

   This would allow for a longer period of consultation outside the peak Christmas and Summer holiday period[21] If there are safety issues in the meantime[22] or issues requiring clarification it is probable that the *Medical Board of Australia* together with the *ACSQHC* could address these pending an independent review of the regulatory impact including:

a. A. the effect upon Australian consumers including safety, access, equity, and cost[23],

b. The impact on the technology sector including innovation and productivity;

c. Consideration of whether regulation by the Medical Board of Australia which has the impact of preventing certain technologies may inadvertently prevent other modernisation of the healthcare system, for example, electronic prescribing by pharmacists or commonly used clinical decision making tools;

d. An international literature review of comparable countries and their regulatory systems for telehealth and asynchronous care;

e. The consistency or otherwise of the approach taken by the *Medical Board of Australia* with the *Therapeutic Goods Administration* towards Software as a Medical Device which is relevant to clinical safety;

f. The completion of the Clinical Data Governance Framework by *ACSQHC*, *ADHA* and many other relevant Stakeholders;

g. The impact on team care and co-ordinated care which is strongly supported by the *Strengthening Medicare Taskforce Report*. The proposed Draft Guidelines would prevent consultations with patients unknown previously to some or all of the care team;

h. Reference generally to *The Strengthening Medicare Taskforce Report* released in December 2022 after the *Draft Guidelines.*

i. Reference to the *ANAO Report* *Expansion of Telehealth Services* published 19 January 2023. The alignment of MBS telehealth items with contemporary clinical practice is subject to ongoing refinement and evaluation through a post-implementation review. *"The Minister for Health and Aged Care The Hon Mark Butler MP, has formally requested the MBS Review Advisory Committee to undertake this work, with a report back to the Government in late 2023."*[24]. Any changes to the *Draft Guidelines* should respectfully be suspended pending that report.

[21] The consultation period between 16 December 2022- 17 February 2023 is largely within peak holiday period for many Australians and stakeholders.
[22] There have not been reports to our knowledge of patient harm through telehealth
[23] We note that the Australian patients Association does not appear to have been consulted.
[24] nao.gov.au/work/performance-audit/expansion-telehealth-services

In the event that all of these options are dismissed, a bare minimum of a twelve (12) month long transition period is necessary to facilitate the education of consumers, doctors and health services currently using asynchronous telehealth services with new patients.

We look forward to further engagement and would be happy to answer any queries.

Yours Sincerely

Emma Hossack

CEO

Medical Software Industry Association

Appendix 1 Case Study : Spinal Life Australia

Spinal Life Australia

Spinal Life Australia is a leading disability service provider supporting people with spinal cord injury and other spinal damage across Queensland and Western Australia. We have a clear view about the benefits of telehealth in supporting its 2000 plus members/clients.

Formed in 1960, Spinal Life has built up a Spinal Allied Health Service comprising Physiotherapists, Occupational Therapists and Registered Nurses (RNs) specialising in spinal damage. Our greatest challenge inhibiting service provision is travel distance to regional and remote areas in vast States. Telehealth could remedy that effectively.

Here is how Spinal Life sees the benefits of telehealth:

- Expands access of care and reaches more clients
- Improves engagement with remote monitoring
- Less likely to have client failing to attend appointments
- Improves clinical workflow and increases practice capacity
- Provides consistent services to regional, rural and remote communities
- Negates the need to charge for travel for therapist's time
- We can create a library of educational resources which clients can access at their convenience
- Provide peer group discussions and shared lived experience
- Be able to link in with clients throughout the State for services which are only in certain areas (nursing only in Brisbane but can reach far wider with telehealth)
- Record and capture information in video or voice format for later reference
- Client can easily upload video of them performing an activity or task for clinician to review
- Group based online learning or classes, including exercise. Clients from multiple locations can join in on the same session. And an Option for break-away groups or subgroups within a session
- Video watching of person's mobility device transfers or exercises in live stream for analysis and recommendations.

The services we could offer:

The physiotherapist and exercise physiologist would offer:

- Initial assessments
- Reviews and follow ups
- Functional assessments, e.g. reviewing mobility device transfers
- Pain management
- Exercise programs and technique reviews
- Training of Personal Support Worker's in manual handling

The Occupational Therapist would offer:

- Initial assessments

The potential services and education the Nursing service could offer:

Ageing and spinal cord injury- adapting to ageing with a spinal cord injury
Autonomic Dysreflexia – causes and management
Bladder management - tailored to each individual, catheter trials
Bowel Management – tailored to each individual
Preparing Consumables list – not limited to the following:
• Tracheostomy
• Bladder
• Bowel
Continence assessment
Diabetes education and management
Education – Personal Support Workers to ensure that the goals of the client are met through the implementation of the RN suggestions
Client education in good practices, healthy living, and wellbeing
Medication reviews
NDIS – planning & review
Nutrition / Diet
Obtaining services:
• allied health services
• peer support services
• Back2Work
Pain management
Spasticity management
Services available in the client's area
Sex and fertility
Skin Care – eczema, dermatitis
Weight Management
Wound Care and assessment

In short, Spinal Life can see how telehealth would make of world of difference to the care and support of people with traumatic spinal cord injury and other spinal damage – and the benefits of the immediacy of that service delivery to the client, and not least, the cost savings to government. We believe in the social and economic performance of telehealth.

Case study

A 56-year-old male living on a Cloncurry farm station in north west Queensland was suffering recurrent Urinary Tract Infections (UTI's) secondary to his bladder management plan. Our nursing service using telehealth was able to complete a client consultation in which they were able to recognise that this client was reusing catheters regularly and not using sterile techniques for changes. The nurse was able to assist the client in ordering consumables to enable him to use new catheters each time he required a catheter change and sterile products to improve bladder management. This decreased the regularity of his UTI's and improved his overall health. Apparently simple, but an enormous improvement in quality of life and efficiency.

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Appendix 2

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23 January 2023

EVIDENCE FOR ASYNCHRONOUS HEALTHCARE

The evidence for the benefits of asynchronous healthcare is strong and growing. A systematic review evaluating the efficacy of asynchronous telehealth as compared to conventional clinical visits undertaken by Nguyen et al concluded that asynchronous care 'may provide clinical outcomes that are comparable to those provided by in-person care and reduce health care costs'[1]. Meta-analysis of randomized controlled trials shows that mobile phone text messaging 'increased adherence to taking medications... the ease of use, instantaneous relay of information and boundless reach'[3] making the modality a vital tool for public health. 'The rapid expansion of mobile health programs through text messaging provides an opportunity to improve health knowledge, behaviours, and clinical outcomes, particularly among hard-to-reach populations…text messaging and messaging apps play a key role in strengthening healthcare systems. Besides enhancing the accessibility of health care services, text messaging and messaging apps can open up access to health care services for patients[4,5]'. Zhou et al (University of Queensland) reported that text-based telehealth interventions including email, text messaging, webpage and online chat room, are viable ways to enhance or deliver multiple levels of treatment for eating disorders. They help reduce eating disorder related symptoms, comorbid depression and anxiety , improve body satisfaction and contact between clients and therapists[2]".

A scaled example is Stoke on Trent Clinical Commissioning Group's telehealth system[6], Florence, used by NHS Hospitals, general practice, mental health and community teams. Florence interacts with friendly and familiar SMS text messaging directly to patients, with patient reported readings or symptoms available to clinicians. Florence's technology is linked to a wide range of illnesses and living services, including asthma, diabetes, hypertension, smoking cessation and weight management. Patient responses are linked to the clinician's system so they can review, monitor, intervene or escalate as required.

The key to shift from the current reality to a 'modern, digitally enabled and data driven primary care system[7]' is enabling clinical teams to use technology in a streamlined and integrated way to deliver a comprehensive, personalized and continuous care experience. Regulatory barriers to multidisciplinary team care approaches must be removed from practitioners to unshackle workforce utilisation at local and regional levels – more key recommendation of the Strengthening Medicare Taskforce. Empowering technology-enabled care teams will relieve clinical and operational burden on traditional medical services – GPs and Emergency Departments can assist more people and transform the care experience for millions of Australians.

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Medical Director

1. **Impact of Asynchronous Electronic Communication–Based Visits on Clinical Outcomes and Health Care Delivery: Systematic Review**. Oliver T Nguyen, BS,[1,2] Amir Alishahi Tabriz, MD, MPH, PhD,[3,4] Jinhai Huo, MD, MSPH, PhD,[1] Karim Hanna, MD,[5] Christopher M Shea, MA, MPA, PhD,[6] and Kea Turner, MPH, MA, PhD J Med Internet Res. 2021 May; 23(5): e27531., https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8135030/

2. **A mixed-method systematic review of text-based telehealth interventions in eating disorder management.** Zhou, Xiaoyun, Bambling, Matthew, and Edirippulige, Sisira (2021). A mixed-method systematic review of text-based telehealth interventions in eating disorder management. Journal of Health Research 36 (6) 1149-1165. https://doi.org/10.1108/jhr-03-2021-0179

3. **Mobile Telephone Text Messaging for Medication Adherence in Chronic Disease: A Meta-analysis**
Jay Thakkar[1], Rahul Kurup[2], Tracey-Lea Laba[3], Karla Santo[3], Aravinda Thiagalingam[4], Anthony Rodgers[3], Mark Woodward[5], Julie Redfern[3], Clara K Chow[1] JAMA Intern Med2016 Mar;176(3):340-9. doi: 10.1001/jamainternmed.2015.7667. https://pubmed.ncbi.nlm.nih.gov/26831740/

4. **The Role of Text Messaging and Telehealth Messaging Apps**
Sashikumar Ganapathy[1], Dirk F de Korne[2], Ng Kee Chong[1], Josip Car[3] Pediatr Clin North Am. 2020 Aug;67(4):613-621. doi: 10.1016/j.pcl.2020.04.002. https://pubmed.ncbi.nlm.nih.gov/32650857/

5. **Using Health Text Messages to Improve Consumer Health Knowledge, Behaviours, and Outcomes: An Environmental Scan**, U.S. Department of Health and Human Services, Health Resources and Services Administration, 2014. https://www.mathematica.org/publications/using-health-text-messges-to-improve-consumer-health-knowledge-behaviors-and-outcomes

6. **A telehealth system using text messages**
NHS England - Transformation Directorate, **https://transform.england.nhs.uk/key-tools-and-info/digital-playbooks/respiratory-digital-playbook/a-telehealth-system-using-text-messages/**

7. **Strengthening Medical Taskforce**, Australian Government, https://www.health.gov.au/committees-and-groups/strengthening-medicare-taskforce

Appendix 3

Marked Up *Draft Guidelines* P.4- 18 Tracked Changes & Comments

Part A: Options considered by the Board

Introduction

For many years, telehealth has been used to improve access to medical services where patients are unable to attend face-to-face consultations. More recently, telehealth has become frequently used for consultations in a broad range of settings, particularly given the wider availability of technology in the community and the response to the COVID19 pandemic.

Telehealth consultations use technology that can include video, internet or telephone consultations, digital photography, remote patient monitoring and online prescribing. It does not refer to the use of technology during a face-to-face consultation.

Commented [MC1]: This ignores co-ordinated care settings where doctors seeing a patient for the first time may be part of the consultation

The Medical Board of Australia (the Board) published *Guidelines for technology-based consultations*[25] and an *Information sheet: Inter-jurisdictional technology based patient consultations*[26] in 2012 and 2013 respectively.

Given the increased use of telehealth in recent years, the Board has reviewed the existing guidance and developed draft revised *Guidelines: Telehealth consultations with patients* for consultation.

In developing the draft revised guidelines, the Board has merged and updated the previously published guidance documents and considered other existing guidance including from international regulatory bodies, Australian governments, and Australian medical bodies.

Commented [MC2]: A list of international regulatory bodies consulted and the rules they use would be helpful to ensure Australia is consistent with international best practice

The revised guidelines recognise that telehealth provides great opportunities for access to, and delivery of healthcare, but that it is not appropriate for all medical consultations and should not be considered as a substitute for face-to-face consultations. The guidelines provide guidance to support good practice when using telehealth including that:

- the standard of care provided in a telehealth consultation must be safe and as far as possible meet the same standards of care as provided in a face-to-face consultation
- practitioners should be continuously assessing the appropriateness of the telehealth consultation and whether a direct physical examination of the patient is necessary.

The revised guidelines also provide new guidance on prescribing for a patient with whom a doctor has never consulted.

Options considered by the Board

The Board has considered three options.

Option one: Rely on existing guidelines

Under Option one, the Board would rely on the existing *Guidelines for technology-based consultations* and an *Information sheet - Inter-jurisdictional technology-based patient consultations* that were published in 2012-13. The Board considers the existing guidance would benefit from being merged, updated, and reviewed for relevance though notes that much of the content remains relevant.

Option two: Withdraw the existing technology-based guidelines and rely on other existing guidance

Under option two, the Board would withdraw the existing guidance and rely on *Good medical practice: a code of conduct for doctors in Australia* (*Good medical practice*). While *Good medical practice* describes what is expected of all doctors registered to practise medicine in Australia and sets out the principles

[25] https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Technology-based-consultation-guidelines.aspx
[26] https://www.medicalboard.gov.au/Codes-Guidelines-Policies/FAQ/Information-interjurisdictional-technology-consultations.aspx

that characterise good medical practice, it does not provide specific guidance about providing technology-based medical care. The Board considers relying on *Good medical practice* would place an additional burden on doctors providing telehealth as they would need to interpret it in the context of the telehealth consultation.

Commented [MC3]: This is positive attribute to the Codes because being technology agnostic is an established way of regulating in this area. Similar to the *Privacy Act 1988 (Cth)* which uses principles to ensure it is future proof rather than specifying technologies

Option three: Revise the guidance

In option three, the Board would merge and revise the existing *Guidelines for technology-based consultations* and an *Information sheet - Inter-jurisdictional technology-based patient consultations* that were published in 2012 and 2013 respectively.

The Board considers this will be a low-cost high-impact option that will clarify the existing guidance and contribute to the safety of the community.

Preferred option

The Board prefers option three and has drafted revised guidelines for consultation.

The Board considers that option three does not represent a significant departure from current guidance for telehealth consultations and would provide the greatest benefit to doctors and the community.

While the Board has drafted revised guidelines for consultation, it will take all stakeholder feedback into consideration. Any revised guidelines approved by the Board would be informed by feedback.

Benefits of the preferred option

The benefits of the preferred option are that revised guidelines for telehealth consultations:

- sets out the requirements for doctors to undertake a telehealth consultation
- are worded simply and clearly
- maintains the balance between supporting safe, high quality health care for patients while minimising the impact on medical practitioners
- contributes to supporting doctors to achieve optimum outcomes for their patients
- are based on current expectations of good medical practice as described in the Board's *Good medical practice: A code of conduct for doctors in Australia*.

Commented [MC4]: The existing Guidelines and codes also clarify this. Naturally additions to the general principles reinforces and re-worded could be added to existing Codes without need for changes based on specific technology use e.g. questionairres.

Part B: Draft revised guidelines: Telehealth consultations with patients

The Board has drafted revised G*uidelines: Telehealth consultations with patients*. The guidelines have been renamed, updated and additional guidance provided. The draft revised guidelines are on the following page.

Please read them and provide us with feedback.

Questions
1. Is the content and structure of the ***draft revised Guidelines: Telehealth consultations with patients*** helpful, clear, relevant and workable? 2. Is there anything missing that needs to be added to the draft revised guidelines? 3. Do you have any other comments on the draft revised guidelines?

Medical Board Ahpra

DRAFT

Guidelines:

Telehealth consultations with patients

Effective date: TBC

Introduction

These guidelines inform registered medical practitioners and the community about the Medical Board of Australia's (the Board) expectations of medical practitioners who participate in telehealth consultations with patients.

Definition of telehealth

Telehealth is a method of delivering healthcare that involves the use of information and communications technologies (ICT) to transmit audio, video, images and/or data between a patient and a healthcare provider. Telehealth can be used to provide, diagnosis, treatment, preventive and curative aspects of healthcare services[27].

Commented [MC5]: See above comment in respect of care teams.

Telehealth consultations use technology as an alternative to face-to-face consultations[28] and can include video, internet or telephone consultations, digital photography, remote patient monitoring and online prescribing. Telehealth does not refer to the use of technology during a face-to-face consultation.

Background

Telehealth provides great opportunities for access to, and delivery of healthcare. However, it is not appropriate for all medical consultations and should not be considered as a substitute for face-to-face consultations. The standard of care provided in telehealth consultations may be limited by the lack of face-to-face, person to person interaction and capacity to undertake physical examinations.

The Board considers telehealth is generally most appropriate in the context of a continuing clinical relationship with a patient that also involves face-to-face consultations. A mix of face-to-face and telehealth consultations can provide good medical care.

These guidelines complement Good medical practice: A code of conduct for doctors in Australia (*Good medical practice*) and provide specific guidance on telehealth consultations with patients.

Good medical practice descr bes what is expected of all doctors registered to practise medicine in Australia. It sets out the principles that characterise good medical practice and makes explicit the standards of ethical, culturally safe and professional conduct expected of doctors by their professional peers and the community. The application of *Good medical practice* will vary according to individual circumstances, but the principles should not be compromised.

The Board expects all medical practitioners to follow *Good medical practice* regardless of the circumstances in which they consult a patient. The standard of care provided in a telehealth consultation must be safe and as far as possible meet the same standards of care provided in a face-to-face consultation.

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[27] Adapted from Department of Health. Telehealth. 2015 at https://www1.health.gov.au/internet/main/publishing.nsf/Content/e-health-telehealth

[28] Face-to-face consultations refers to consultations where the medical practitioner and the patient are in the same room during the consultation

What do I need to do?

When I provide telehealth consultations with patients

Before a telehealth consultation

You should:

1. Have a consultation space that is quiet and free from distractions and does not allow others to hear any audio or view the consultation on screen.
2. Have access to secure, reliable technology and connectivity that:
    a. is fit for clinical purpose
    b. is not a personal account
    c. allows for secure access to patients' clinical records; and transmission and storage of prescriptions, referrals, investigation requests and photographs/ images
    d. can include interpreters where required[29].
3. Ensure steps have been taken to confirm your patient:
    a. has access to the necessary technology and connectivity and can use the equipment to participate in the consultation
    b. is aware what to do if the technology fails
    c. is informed they can have support persons at the consultation and consents to them being present. This includes family members, friends, other health practitioners and interpreter services
    d. has had the billing arrangements explained to them and that they have provided their financial consent. This includes whether they will be able to access Medicare rebates, whether they will be accessing a bulk billed Medicare rebate for the consultation and any gap payments.
    e. is aware that your clinical judgement, rather than their preference, will determine if the consultation occurs using telehealth or face-to-face and that this may change during the consultation. A patient cannot insist you provide a telehealth consultation to them if you consider it inappropriate to do so.
4. Be aware that there is an important role for telehealth in the context of rural and regional healthcare, particularly to ensure access to specialist care and that it may be impractical for a face-to-face consultation to occur in the context of a continuing clinical relationship.

Commented [MC6]: Having exceptions like rural remote, emergency, vulnerable people com[plicates things. If the principle of professional judgement to ensure appropriate care is maintained, the exceptions become irrelevant which is clearer for all consumers and doctors.

[29] It is possible to include interpreters in telephone and video consultations. The Commonwealth Government provides interpreting services free of charge through TIS National, to non-English speaking Australian citizens and permanent residents when communicating with service providers. For example, when private medical practitioners provide Medicare-rebateable services, and their staff arrange appointments and provide test results. Interpreting services for practitioners working in state-funded healthcare services are funded by the relevant state government.

Further information about the services available, technical requirements and costs are available from www.tisnational.gov.au.

During the consultation

You should:

5. Tell your patient who you are and explain your specialty (if relevant) and role in relation to their health care. This is particularly important for new patients.
6. Confirm to the best of your ability the identity of the patient and any other persons present at each consultation.
7. Ensure the patient understands the process involved in the telehealth consultation, particularly if it is their first experience of a telehealth consultation.
8. Apply the usual principles for obtaining your patient's informed consent and protect their rights to privacy, confidentiality, and culturally safe care.
9. Ensure the telehealth consultation is culturally safe, maintains professional boundaries, is clinically appropriate and as far as possible meets the same standards of care provided in a face-to-face consultation.
10. Continuously assess the appropriateness of using telehealth for the consultation and have appropriate arrangements for the patient to be seen face-to-face if necessary.
11. Accept responsibility for evaluating information used in assessment and treatment, irrespective of its source. This applies to information gathered by a third party who may have taken a history from or examined the patient or provided an opinion about the medical condition or treatment of the patient.

Follow-up and record keeping

You should:

12. Make appropriate follow up arrangements with the patient when clinically indicated.
13. With the patient's consent, inform the patient's general practitioner or other relevant practitioners of the treatment provided, including any medications prescr bed if you are not the patient's usual general practitioner.
14. In addition to the information that would be documented in a face-to-face consultation, keep a record of:
    a. the type of technology used during the consultation
    b. the patient's consent to the telehealth consultation and details of any support persons present
    c. any technical issues experienced during the consultation
    d. consent from all participants if the consultation is recorded and/or when information is uploaded to digital health infrastructure.

Prescribing

During a telehealth consultation

You should:

15. Be aware of, and comply with relevant state, territory and jurisdictional legislative requirements when prescribing medicines.
16. Be aware of, and where applicable use, government real-time prescription monitoring service (RTMS) or equivalent.

Commented [MC7]: This point is excellent. It is repeated several times and very clear. Emphasis and education of this point obviates the need to make any additional changes.

Commented [MC8]: Real Time prescription Monitoring is known as "RTPM"

If you have not consulted with the patient

Prescribing or providing healthcare for a patient with whom you have never consulted, whether face-to-face, via video or telephone is not good practice and is not supported by the Board.

This includes requests for medication communicated by text, email or online that do not take place in real-time and are based on the patient completing a health questionnaire but where the practitioner has never spoken with the patient.

Any practitioner who prescr bes for patients in these circumstances must be able to explain how the prescribing and management of the patient was appropriate and necessary in the circumstances.

In emergency situations

In an emergency, it may not be possible or appropriate to practise according to these guidelines. If an alternative is not available, a telehealth consultation should be as thorough as poss ble and be followed up with more suitable arrangements for the continuing care and follow up of the patient.

International telehealth

Technology has broken down traditional geographical barriers and it is now possible for you to consult with patients when you are outside of Australia or for patients to be located outside of Australia. The following guidance is in addition to the general guidance about telehealth above.

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.

If you are in Australia and consulting with patients who are located outside of Australia, you should be registered in Australia and establish whether you are required to be registered by the medical regulator in the country where your patient is located and comply with legislative requirements in that jurisdiction, including for prescr bing and professional indemnity insurance,

You should also be aware, and inform your patients, of Medicare billing rules for telehealth where you or your patient are located outside of Australia.

What these guidelines do not cover

These guidelines focus on good professional practice in relation to telehealth. There are additional regulations and legislations that impact on the practice of telehealth, including in relation to Medicare billing, that are not detailed in these guidelines. Practitioners who participate in telehealth need to be aware of and comply with relevant regulations and legislation.

Authority

These guidelines have been developed by the Medical Board of Australia under section 39 of the Health Practitioner Regulation National Law Act (the National Law) as in force in each state and territory.

Review

These guidelines replace 'Guidelines for technology-based patient consultations' issued on 16 January 2012 and information contained in the 'Information sheet: Inter-jurisdictional technology based patient consultations' issued on 15 August 2013.

This guideline will be reviewed from time to time as required. This will generally be at least every five years.

Commented [MC9]: Where are the statistics around safety, near misses and cost benefit to back up this assertion?

Commented [MC10]: This is unduly onerous given that practitioners subject to these Guidelines are Ahpra approved and as a part of that would be well versed in the need to calibrate their care to suit the circumstance. This should not be an exception and derogates from the autonomy of the Doctor to choose the right treatment mode in the right context.

Part C: Summary of proposed changes to the guidelines

The current guidelines can be found at https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Technology-based-consultation-guidelines.aspx

Proposed revised guidance

Changing terminology

Over recent years, telehealth has become an increasingly important method of consulting with patients. As telehealth is now the accepted terminology, the Board has replaced the term technology-based consultations with telehealth.

Changes to the existing guidance

In developing the draft revised *Guidelines: Telehealth consultations with patients*, the Board has merged and updated the previously published guidance documents *Guidelines for technology-based consultations* and an *Information sheet: Inter-jurisdictional technology-based patient consultations*. Existing guidance including from international regulatory bodies, Australian governments and Australian medical bodies has also been considered while drafting the revised guidelines. The Board is consulting on these proposed revised guidelines.

The revised guidelines are easier to read and provide specific guidance on what practitioners need to do when providing telehealth consultations, including that:

- the standard of care provided in a telehealth consultation must be safe and as far as possible meet the same standards of care as provided in a face-to-face consultation
- practitioners should be continuously assessing the appropriateness of the telehealth consultation and whether a direct physical examination of the patient is necessary.

Commented [MC11]: Excellent and clear perameters which would cover off any residual concerns about the appropriateness or otherwise of asynchronous care for new patients

Prescribing or providing healthcare for a patient with whom a doctor has never consulted

A new section on prescr bing for a patient with whom a doctor has never consulted has been included in the revised guidelines. This includes requests for medication communicated by text, email or online that do not take place in real-time and are based on the patient completing a health questionnaire but where the practitioner has never spoken with the patient.

A statement has been added that the Board does not support prescribing for a patient with whom a doctor has never consulted, whether face-to-face, via video or telephone, as this is not good practice. The guidelines identify that any practitioner who prescribes for patients in these circumstances must be able to explain how the prescr bing and management of the patient was appropriate in the circumstances.

What the guidelines do not cover

The proposed revised guidelines address good professional practice in relation to telehealth. There are additional regulations and legislation that impact on the practice of telehealth, including in relation to Medicare billing, that are not referenced in these guidelines. However, practitioners who participate in telehealth need to be aware of and comply with relevant regulations and legislation.

Summary of proposed changes to the guidelines

Section in existing guidelines	Proposed changes to existing guidelines
Introduction	Minor re-wording 'Technology-based consultations' replaced with 'telehealth'
Background	Minor re-wording and further clarification
Who needs these guidelines?	Section deleted and incorporated into introduction
Definition	Moved and re-worded
Standards of patient care	Section deleted and reference to *Good Medical Practice: A Code of Conduct for Doctors in Australia* incorporated into background
Providing technology-based patient consultations	Re-worded, re-ordered and updated in 'What do I need to do' section
Emergency situations	Retained
Inter-jurisdictional technology-based patient consultations information sheet	Re-worded and incorporated into revised guidelines as a new section 'International telehealth'
	New sections added: • Prescribing without having consulted with the patient • What these guidelines do not cover

Appendix A: Statement of assessment

The Board's statement of assessment against *Ahpra's Procedures for the development of registration standards, codes and guidelines*

Proposed revised *Guidelines: Telehealth consultations with patients*

The Australian Health Practitioner Regulation Agency (Ahpra) has *Procedures for the development of registration standards, codes and guidelines* which are available at: www.ahpra.gov.au

These procedures have been developed by Ahpra in accordance with section 25 of the Health Practitioner Regulation National Law as in force in each state and territory (the National Law) which requires Ahpra to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice.

Below is the Medical Board of Australia's (the Board) assessment of their proposal for draft revised *Guidelines: Telehealth consultations with patients* against the three elements outlined in the Ahpra procedures.

1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law

Board assessment

The proposed revised *Guidelines: Telehealth consultations with patients* provide specific guidance on what practitioners need to do when providing telehealth consultations.

The Board considers that the proposed revised guidelines meet the objectives and guiding principles of the National Law. The proposal takes into account the National Scheme's objectives to provide for the protection of the public and to facilitate access to services provided by health practitioners in accordance with the public interest.

The updates to the guidelines aim to support safe practice and therefore public protection, particularly as the prevalence of telehealth consultations is continuing to increase.

The proposed draft revised guidelines also support the National Scheme guiding principle to operate in a transparent, accountable, efficient, effective and fair way. The proposal gives clear guidance on the Board's expectations of medical practitioners using telehealth for patient consultations and there are protective actions that can be taken under the National Law if a practitioner does not fulfill these expectations.

The Board's proposed guidelines are clear that telehealth consultations are appropriate in many instances. This will help to facilitate access to health care.

2. The consultation requirements of the National Law are met

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards and guidelines. The National Law also requires the Board to consult the other National Boards on matters of shared interest.

The Board is ensuring stakeholders are consulted during the development of the proposed revised *Guidelines: Telehealth consultations with patients.* The Board has undertaken preliminary consultation to gauge key stakeholder views on the proposed revised guidelines. Feedback from these stakeholders has been incorporated and the Board is now undertaking public consultation.

The consultation paper is published on the Board's website and medical practitioners have been informed via the Board's electronic newsletter sent to more than 95% of registered medical practitioners.

The Board is also drawing the public consultation paper to the attention of medical stakeholders as well as organisations that represent the public, particularly Aboriginal and Torres Strait Islander groups and vulnerable groups.

The Board will consider the feedback it receives when it decides if it will proceed to update the existing guidelines on technology-based consultations with patients.

3. The proposal takes into account the principles set out in the Ahpra procedures

Board assessment

As an overall statement, the Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community.

The Board makes the following assessment specific to each of the principles expressed in the Ahpra procedures.

A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

Board assessment

The Board prefers option three and has drafted revised guidelines for consultation.

The Board considers that option three does not represent a significant departure from current guidance for telehealth consultations and would provide the greatest benefit to doctors and the community.

The Board considers that its proposal to revise the existing guidelines on technology-based consultations and incorporate the statement on Inter-jurisdictional technology-based patient consultations is the best option for achieving the stated purposes. The proposed revised guidelines would provide specific updated guidance for doctors using telehealth when they consult patients. The proposal would protect the public by making the Board's expectations clear to patients.

Commented [MC12]: This statemnt could be interpreted as paternalistic given the technological prowess of most patients and their ability to manage many aspects of their lives on line with all the attendant risks. This includes buying houses, getting prescription drugs etc

The Board considers this will be a low-cost option that will update and clarify the existing guidance and contribute to safety of the community. There will be little change to the impost on doctors as a result of revising the guidelines.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

Board assessment

The proposal is not expected to unnecessarily restrict competition among doctors as the requirements on doctors will not change significantly as a result of revising the guidelines. The principles in the guidelines are based on the existing guidelines and the standards of practice in Good Medical Practice: A code of conduct for doctors in Australia.

C. Whether the proposal results in an unnecessary restriction of consumer choice

Board assessment

If the proposal is approved, consumers will have additional confidence that they can access safe telehealth consultations. The Board has been explicit that it does not support prescribing based on a health questionnaire where the practitioner has never spoken with the patient. This type of practice has never been supported by the Board as it does not comply with the principles of good medical practice. It is potentially dangerous with risks including medication misuse and missed or delayed diagnoses.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

Board assessment

The Board has considered the overall costs of the proposed revised guidelines to members of the public, medical practitioners and governments and concluded that the likely costs are not significant. The proposed guidelines are not expected to add costs to the public, registrants or government as their requirements are very similar to the current guidelines. The Board considers the proposed revised guidelines are easier to understand and therefore more beneficial to members of the public.

Commented [MC13]: The Board may not have considered the cost to Government of consumers stopping health consultations due to the change. The Board has not considered the cost to the technology sector. The Board has not considered the cost to investment and innovation in Australia which would be threatened by the fear that unexpected changes like the one proposed could be introduced after the event without strong evidence as to why.

E. Whether the proposal's requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

Board assessment

The Board considers the proposed revised *Guidelines: Telehealth consultations with patients* have been written in plain English that will help practitioners and the community to understand the Board's requirements. The Board is consulting on the guidelines to confirm this.

Commented [MC14]: The changes are likely to be confusing to consumers and possibly misinterpreted by Doctors who rightly feel in the best position to judge what patients -new or exisiting need

F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time.

Board assessment

If approved, the Board will review the guidelines at least every five years.

However, the Board may choose to review the guidelines earlier, in response to any issues which arise or new evidence which emerges to ensure the guidelines continued relevance and workability.

Appendix B: Patient and Consumer Health and Safety Impact Statement

The Medical Board of Australia's (the Board) Patient and Consumer Health and Safety Impact Statement (Statement)[30] explains the potential impacts of a proposed registration standard, code or guideline on the health and safety of the public, vulnerable members of the community and Aboriginal and Torres Strait Islander Peoples.

Below is the Board's initial assessment of the potential impact of proposed revised *Guidelines: Telehealth consultations with patients*, on the health and safety of patients and consumers, particularly vulnerable members of the community, and Aboriginal and Torres Strait Islander Peoples. This statement will be updated after consultation feedback.

1. **How will this proposal impact on patient and consumer health and safety, particularly vulnerable members of the community? Will the impact be different for vulnerable members compared to the general public?**

The Board has carefully considered the impact of revising the guidelines could have on patient and consumer health and safety, particularly vulnerable members of the community in order to put forward for consultation what is I kely to be the best option.

Overall, the guidelines do not significantly change the expectations of the Board. However, the proposed guidelines are clearer and easier to understand and will contribute to supporting safe practice and public protection.

Commented [MC15]: Changes to functionality which provide value to ATSI people should be avoided.

The impact is not expected to be significantly different for vulnerable members of the public. It might result in safer health care when accessing telehealth.

2. **How will consultation engage with patients and consumers, particularly vulnerable members of the community?**

In line with our consultation processes the Board is undertaking wide-ranging consultation. During preliminary consultation, the Board consulted with key stakeholders.

The Board is engaging with patients and consumers, peak bodies, communities and other relevant organisations during the public consultation to get input and views from vulnerable members of the community. In addition to professional stakeholders, we are consulting with:

Commented [MC16]: t is noted that no approach was made to the MSIA which is peak body for medical software

- Aboriginal and Torres Strait Islander Health Board of Australia
- Ahpra Aboriginal and Torres Strait Islander Health Strategy Group
- Ahpra Community Advisory Council
- Coalition of Aboriginal and Torres Strait Islander Peaks
- Council of the Ageing
- Health complaints entities
- Health consumer organisations:
  - Australian Consumers' Association (CHOICE)
  - Health Consumers of Rural and Remote Australia Inc Consumers Health Forum

Commented [MC17]: No approach apparently made to Australian Patients Association

[30] This statement has been developed by Ahpra and the National Boards in accordance with section 25(c) and 35(c) of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law). Section 25(c) requires Ahpra to establish procedures for ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice. Section 35(c) assigns the National Boards functions to develop or approve standards, codes and guidelines for the health profession including the development of registration standards for approval by the Health Ministers Council and that provide guidance to health practitioners registered in the profession. Section 40 of the National Law requires National Boards to ensure that there is wide-ranging consultation during the development of a registration standard, code, or guideline.

  - Consumers' Federation of Australia
  - Health Consumers of Rural and Remote Australia Inc
  - Health Care Consumers Association ACT
  - Health Consumers' Council (WA)
  - Health Consumers Queensland
  - Health Consumers NSW
  - Health Consumers Tasmania
  - Health Issues Centre (VIC)
  - Health Consumer Advocacy Network of South Australia
  - NT Aboriginal Health Forum
- National Aboriginal Community Controlled Health Organisation
- National Health Leadership Forum
- National Health Practitioner Ombudsman and Privacy Commissioner
- Office of the Health Ombudsman, Queensland

3. What might be the unintended impacts for patients and consumers, particularly vulnerable members of the community? How will these be addressed?

The Board has considered any potential unintended impacts of the proposal to revise the *Guidelines: Telehealth consultations with patients*. The Board has not identified any specific unintended impacts. However, consulting with relevant organisations and vulnerable members of the community will help the Board to identify any potential impacts.

Commented [MC18]: As our Submission demonstrates, there are several unintended consequences which have not been considered in the Draft Guidelines

The Board considers the provision of safe care, particularly to vulnerable community members, is paramount and improving access to safe care through safe and appropriate telehealth consultations is supported by the proposed guidelines.

The Board will fully consider and take actions to address any potential negative impacts for patients and consumers that may be raised during consultation particularly for vulnerable members of the community.

Commented [MC19]: This is high risk and could be avoided by adhering to existing principles to work through safety concerns.

4. How will this proposal impact on Aboriginal and Torres Strait Islander Peoples? How will the impact be different for Aboriginal and Torres Strait Islander Peoples compared to non-Aboriginal and Torres Strait Islander Peoples?

The Board has carefully considered any potential impact revising the guidelines may have on Aboriginal and Torres Strait Islander Peoples and how the impact might be different to non-Aboriginal and Torres Strait Islander Peoples in order to put forward the proposed option for feedback as outlined in the consultation paper.

The Board considers the provision of safe care, particularly for Aboriginal and Torres Strait Islander Peoples is very important and improving access to safe care through telehealth consultations is considered a benefit.

The Board has concluded that revising the telehealth guidelines is likely to provide a positive benefit for Aboriginal and Torres Strait Islander Peoples, particularly those living in remote areas and communities, if they have access to the necessary technology. Their access to safe care via telehealth is supported by the proposed guidelines. Patients will be able to access general care as well as specialist care from practitioners who they would otherwise not have access to. There are clear benefits to these communities and individual patients in being able to access timely, safe medical care through telehealth.

The Board's engagement through consultation will help to identify any other potential impacts and meet our respons bilities to protect safety and health care quality for Aboriginal and Torres Strait Islander Peoples.

5. How will consultation about this proposal engage with Aboriginal and Torres Strait Islander Peoples?

The Board is committed to the National Scheme's Aboriginal and Torres Strait Islander Cultural Health and Safety Strategy 2020-2025 which focuses on achieving patient safety for Aboriginal and Torres Islander Peoples as the norm, and the inextricably linked elements of clinical and cultural safety.

As part of the preliminary consultation process, the Aboriginal and Torres Strait Islander Health Board of Australia and the Aboriginal and Torres Strait Islander Health Strategy Group were consulted and feedback has been incorporated. During the public consultation, the Board will meaningfully engage with Aboriginal and Torres Strait Islander Peoples, including continuing to engage with Aboriginal and Torres Strait Islander organisations and stakeholders.

6. What might be the unintended impacts for Aboriginal and Torres Strait Islander Peoples? How will these be addressed?

The Board has considered what might be any unintended impacts of revising the existing guidelines. The proposed guidelines that support safe practice are expected to benefit Aboriginal and Torres Strait Islander Peoples and individual patients who use telehealth consultations.

Continuing to engage with relevant organisations and Aboriginal and Torres Strait Islander Peoples will help us to identify any potential impacts. We will consider and take actions to address any potential negative impacts for Aboriginal and Torres Strait Islander Peoples that may be raised during consultation.

7. How will the impact of this proposal be actively monitored and evaluated?

Part of the Board's work in keeping the public safe is ensuring that all the Board's standards, codes and guidelines are regularly reviewed.

Revising the existing *Guidelines for technology-based consultations* and an *Information sheet - Inter-jurisdictional technology-based patient consultations* that were published is timely and will ensure the guidance is updated and relevant.