Insurance Council of Australia

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Medical Board of Australia
C/-
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National Boards
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Dear Dr Tonkin

Draft revised guidelines: Telehealth consultations with patients

The Insurance Council of Australia **(ICA)**[1] represents general insurers, and in particular medical indemnity insurers[2]. The ICA is committed to promoting patient safety in medical practice, fairness in the treatment of medical practitioners by regulators and in the courts and the affordability of medical indemnity insurance.

The ICA welcomes the opportunity to participate in this consultation on the *Draft revised guidelines: Telehealth consultations and patients* released by the Medical Board of Australia. The proposed guidelines are an important step in managing the risks inherent in telehealth.

Executive Summary

Telehealth is becoming more widespread, particularly since the global COVID-19 pandemic, and fast becoming an accepted medium for the delivery of care offered by health providers. Notably, telehealth is particularly valuable for those in rural and remote locations with limited access to in-person care in some circumstances.

While telehealth has certainly provided numerous benefits and access, it is not without its risks. There are concerns that inappropriate use of telehealth may increase adverse outcomes and therefore professional negligence claims against health practitioners. Ideally, telehealth should be considered part of a holistic treatment model, which includes face-to-face consultations.

Telehealth can contribute to specific aspects of medical care, including follow-up on established appointments, chronic condition management and prescription refills, that should ideally be part of a clinical relationship involving face-to-face consultations. However, the guiding principle should be that telehealth forms part of holistic patient care, rather than technological convenience.

[1] The Insurance Council is the representative body of the general insurance industry in Australia and represents approximately 89% of private sector general insurers. As a foundational component of the Australian economy the general insurance industry employs approximately 60,000 people, generates gross written premium of $59.2 billion per annum and on average pays out $148.7 million in claims each working day ($38.8 billion per year).

[2] The ICA represents medical indemnity insurers Avant, Guild, MDA National, MIGA and MIPS.

Telehealth can provide access to medical care where face-to-face consultation is not available. There can be greater scope for use of telehealth alone in certain settings such as rural and regional settings, emergencies and during pandemics.

It is important to recognise that the standard of care should be consistent across all platforms whether face-to-face or the various modes of telehealth. Accordingly, regulation of telehealth should not endorse lower standards of care because of the limitations of the platform.

There will be situations, such as during pandemics, where telehealth can compensate for disruption to normal medical practice. In a situation where medical treatment would otherwise be foregone, telehealth provides a necessary alternative given public health imperatives. However, Guidelines should distinguish between normal and emergency situations in setting the scope of use for telehealth.

'Online only' models without clear clinical reason or compelling justification are concerning – the profession should avoid 'commercial' models focused on convenience, or use of telehealth as a substitute for providing face-to-face medical care in rural and regional hospital settings. While we have discussed circumstances where telehealth can augment normal medical practice, these grounds should have a clear basis.

'Online only' healthcare, that involves non-contemporaneous communication such as text, email or online forms without the support of video or telephone consultations are a distinct category of telehealth that could pose greater risks than contemporaneous telehealth consultation, particularly when used for prescribing, assessment, diagnosis, and advice generally.

Consultation Questions.

Q1 Is the content and structure of the draft revised Guidelines: Telehealth consultations with patients helpful, clear, relevant, and workable?

The Board may wish to consider renaming the section on "Prescribing" to "Prescribing and providing healthcare" or include referrals, test requests, med certificates to reflect the text that refers to providing healthcare. In the first statement of page 11, the Board may wish to add a footnote, so the reader understands that the statement does not preclude consulting on a first occasion by video or telephone.

The Board should also require disclosure of the level of experience in addition to other information such as specialisations, as required at clause 5 of the draft guidelines, given the risk that inexperienced doctors may not have the same supervision support when working in a telehealth environment.

The Board may wish to provide a definition of "digital health infrastructure".

The Guidelines should be clear that "consult" doesn't mean a doctor reviewing questionnaire tick box answers and may wish to provide elaboration in the Guidelines.

Q2 Is there anything missing that needs to be added to the draft revised guidelines?

The Board should consider providing a telehealth 'hub' on the Board's website or sponsoring a third party to provide a hub. This hub could feature links to various peak body telehealth guidance to help doctors determine when telehealth is clinically appropriate. The hub could also include a range of examples across specialities and settings on when telehealth is, and isn't, appropriate. The hub could also provide useful resources such as FAQs, similar to cosmetics The hub could also be referred to in the Guidelines.

The Board should consider expanding on the options for ascertaining the requirements of overseas regulators, including providing these requirements on the hub, when consulting with a patient in an overseas jurisdiction.

Doctors should be allowed to decide for themselves whether to provide/continue a telehealth consult based on clinical appropriateness.

The Board should consider providing guidance on what setting is available (e.g., when a patient is driving the car) This matter is not currently in the draft.

The Board/Ahpra should promote the existence and application of the guidelines, along with the Code of Conduct.

Q3. Do you have any other comments on the draft revised guidelines?

No other comments.

We trust that our submission is of assistance. If you have any questions or comments in relation to our submission please contact [redacted], General Manager, Policy – Regulatory Affairs, on telephone [redacted]

Yours sincerely

[redacted]

Andrew Hall
Executive Director and CEO