

From: Tim Smyth
To: [medboardconsultation](#)
Subject: COMMENTS ON TELEHEALTH GUIDELINES DISCUSSION PAPER
Date: Sunday, 8 January 2023 5:47:47 PM
Attachments: [TJS COMMENTS JAN 22 Medical-Board---Public-Consultation-â-Telehealth-consultations-guidelines.DOCX](#)

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Hi,

I am approaching [REDACTED] in 2023 and first commenced medical practice in [REDACTED]. While an emotional step, I transferred to retired category of medical registration in September 2022. I will also be retiring from legal practice in June 2023. In my consulting, health service management and legal work I have had extensive involvement in clinical governance, digital health and safety and quality. I have been a member of project teams for an ADHA Telehealth Standards Project, DOHAC review of Health Care Homes, AIIA white paper on telehealth, roundtables on improving access to mental health services and discussions on reforming primary care.

As I have noted in the attached marked up comments on the draft guidelines, my concerns with the draft guidelines are:

- very little reference to better meeting needs of patients and families (ie needs more of a consumer focus and tone) – in appropriate circumstances of course
- reads as if the starting point is automatic assumption that telehealth is a “poor cousin” and that face to face consultations are the “gold standard”. I think a more nuanced approach is needed, while agreeing 100% that the telehealth “cowboys” need to be out of business
- while these are guidelines for doctors, reads as if focus is solely on a medical practitioner telehealth. There are clear benefits from practice nurse telehealth consultations and where available at a medical practice, other allied health professional telehealth consultations. These can also free up time for the medical practitioner.
- some of the wording is open to misinterpretation – eg patient hasn’t been “seen by the doctor”. Suggest care needed with wording here as likely to be taken literally. Don’t you actually mean the patient is not a patient of the *practice* and/or contemporaneous medical records are not available to the doctor?
- a number of practical points regarding wording (eg reads as a prohibition on doctors using their personal mobile phones and/or PC/laptop when away from their rooms/practice)
- emergency situations – I think the wording on page 11 needs revisiting.
- International telehealth – this needs revisiting as not practicable.

I am very happy to discuss my comments with the AHPRA/Board team.

Tim

Dr Tim Smyth
Practice Principal
Health Sector Law
[REDACTED]

Liability limited by a scheme approved under the Professional Standards Legislation

Public consultation

DR TIM SMYTH COMMENTS 8 JAN 2023

14 December 2022

Draft revised guidelines: Telehealth consultations with patients

Summary

Telehealth is used to improve access to medical services, where patients are unable to attend, or as an alternative to face-to-face consultations. Telehealth consultations use technology 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.

The Medical Board of Australia (the Board) published *Guidelines for technology-based consultations* and an *Information sheet - Inter-jurisdictional technology-based patient consultations* in 2012-13. These guidance documents have been merged and updated in the draft revised *Guidelines: Telehealth consultations with patients*.

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 routine 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.

This paper:

- proposes revised guidelines for telehealth consultations with patients
- outlines the rationale for the proposed revisions
- discusses options that the Board considered before deciding to consult on this proposal
- proposes questions for consideration.

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Commented [TS1]: This is a rather negative wording and suggests telehealth should be an exception in most cases. I would suggest that there is a place for telehealth to provide convenience for patients, promote compliance with recommended care and optimise usage of both the medical practitioner's time and other health professionals in the practice, especially practice nurses. Isn't the issue not one of telehealth being a "poor substitute" for face to face with a doctor and more the "appropriate use" of telehealth?

Commented [TS2]: Why not add "patient convenience" and better utilisation of doctor time?

Commented [TS3]: Not just "examination", may also be a need for direct in person discussion.

Commented [TS4]: Suggest care needed with wording here as likely to be taken literally. Don't you actually mean the patient is not a patient of the practice and/or contemporaneous medical records are not available to the doctor?

This consultation is open until **Friday 17 February 2023**.

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Making a submission in the preliminary consultation

The Medical Board of Australia (the Board) is releasing this consultation paper to seek feedback on draft revised *Guidelines: Telehealth consultations with patients*.

One of the functions of National Boards is to develop and approve codes and guidelines to provide guidance to registered health practitioners. The National Law¹, which grants the Boards their powers, requires that they undertake wide-ranging consultation on the content of guidelines.

The Board invites comments on the draft revised *Guidelines: Telehealth consultations with patients*. We want your feedback on any issues with the content, format, expression or clarity of the consultation materials.

The Board will consider feedback from this consultation before determining next steps, which may include publishing revised guidelines.

Questions for consideration

The Board is inviting general comments on the draft revised *Guidelines: Telehealth consultations with patients*, as well as feedback on these 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?

Making a submission

Please provide written submissions by email, marked: 'Consultation: revised telehealth guidelines' to medboardconsultation@ahpra.gov.au by close of business on Friday 17 February 2023.

Relevant sections of the National Law

The relevant sections of the National Law are sections 35, 39, 40 and 41.

Publication of submissions

The Board publishes submissions at their discretion. We generally publish submissions on our website to encourage discussion and inform the community and stakeholders. Please advise us if you do not want your submission published.

We will not place on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

The Board can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the Freedom of Information Act 1982 (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or want us to treat all or part of it as confidential. **Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is requested.**

¹ The Health Practitioner Regulation National Law, as in force in each state and territory

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.

The Medical Board of Australia (the Board) published [Guidelines for technology-based consultations](#)² and an [Information sheet: Inter-jurisdictional technology based patient consultations](#)³ 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.

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.

Commented [TS5]: Why not a substitute in appropriate situations? The paper reads as if telehealth is a "poor cousin" of clinical care. The paper would benefit from a tone that is more positive, while also quite appropriately making clear that there are circumstances where telehealth is not appropriate.

Commented [TS6]: Suggest care needed with wording here as likely to be taken literally. Don't you actually mean the patient is not a patient of the practice and/or contemporaneous medical records are not available to the doctor?

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 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

² <https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Technology-based-consultation-guidelines.aspx>

³ <https://www.medicalboard.gov.au/Codes-Guidelines-Policies/FAQ/Information-interjurisdictional-technology-consultations.aspx>

additional burden on doctors providing telehealth as they would need to interpret it in the context of the telehealth consultation.

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 appropriately providing convenience for patients and their families, utilising the roles of other members of the health care team and optimising the medical practitioner's workload
- ~~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 [TS7]: What about the impact on patients and families? Not just in remote areas, also relevant for busy parents, residents in aged care and other settings.

Also appropriate use of telehealth by other members of the care team eg practice nurses, allied health professionals.

Can also contribute to better utilisation of the doctor's skills and time.

Part B: Draft revised guidelines: Telehealth consultations with patients

The Board has drafted revised *Guidelines: 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?

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[Please see my cover email and marked up comments.](#)



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 services⁴.

Telehealth consultations use technology as an alternative to face-to-face consultations⁵ 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 [routine](#) 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. An [appropriate](#) mix of face-to-face and telehealth consultations can provide good [quality](#) 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 describes 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.

⁴ Adapted from Department of Health. Telehealth. 2015 at <https://www1.health.gov.au/internet/main/publishing.nsf/Content/e-health-telehealth>

⁵ 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 who are not involved in the patient's care 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 required⁶.
3. Ensure steps have been taken to confirm the identity of your patient and that 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 may include family members, friends, other health practitioners, carers, care support workers 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 if in your clinical judgement, a face to face consultation is required, the telehealth consultation may need to conclude and other arrangements made for follow up, 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. It may be impractical in other situations for a face-to-face consultation to occur in the context of a continuing clinical relationship, for example situations limiting the patient's ability to attend a face to face consultation and in residential aged care and that it may be impractical for a face to face consultation to occur in the context of a continuing clinical relationship.

Commented [TS8]: (1) probably needs more fine tuning to reflect that it may be appropriate to have others in the room with the doctor and/or a multi person telehealth conference call/video consultation.

Other care settings would encourage involvement of others in the telehealth consultation (eg residential aged care).

Commented [TS9]: Disagree. What about an after hours telehealth consultation where doctor is using their mobile phone. Isn't the issue here more one of privacy, cybersecurity and ensuring that the telehealth consultation ends up in a clinical record?

Commented [TS10]: I think this 3(e) needs a major rewrite. Also it is not good medical practice if doctor simply ends the telehealth consultation. Appropriate follow up is required.

Also at a practical level, the telehealth consultation will have been booked and accepted in the first place.

Commented [TS11]: Needs some fine tuning. Telehealth is not just for rural and remote, it has a very valid place in urban settings.

⁶ 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 [advice and](#) treatment provided, including any medications prescribed 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](#)
 - ~~d.e.~~ [if not already documented in your practice clinical record system, the date and time the consultation summary was entered into your clinical record system](#) 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 [TS12]: I think this will be a bone of contention and confusion. what is meant by "uploaded to digital health infrastructure"? Are you meaning a practice EMR, a My Health Record event, an e referral, an e prescription?

This 14(d) needs rewording.

If you have not consulted with the patient, the patient is not a patient of your practice and/or you do not have access to a contemporaneous clinical record for 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 prescribes 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 possible and be followed up with more suitable arrangements for the continuing care and follow up of the patient.

International telehealth

Technology now crosses 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 prescribing 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 [TS13]: This needs revision and my suggested wording is more to illustrate the point.

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Commented [TS14]: Suggest care needed with wording here as likely to be taken literally. Don't you actually mean the patient is not a patient of the practice and/or contemporaneous medical records are not available to the doctor?

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Commented [TS15]: Again suggest a bit of fine tuning here. I don't see why in an emergency it should not continue to be a requirement to provide safe, quality care. Documentation should still occur.

What type(s) of emergencies are meant here?

Isn't the exception really that in a genuine emergency and no other alternative is available, providing a telehealth consultation to someone you don't know may be clinically, ethically and legally appropriate?

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Commented [TS16]: I think this para needs revisiting. It is not really practicable. If I am a cancer specialist in Sydney and I want my patient to have a telehealth consultation with a colleague in a cancer centre in US, UK or Canada for example, is the Board really saying that I have to get the colleague to apply for temporary registration?

Shouldn't this at very least have a carve out for specialist telehealth consultations.

There is also the technical legal point about what is meant by the words "in Australia".

What if the patient is a regular patient of a general practice and needs a telehealth consultation while on holiday overseas and can't get access to a doctor?

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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.

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

A new section on prescribing 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 prescribing 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 <i>Good Medical Practice: A Code of Conduct for Doctors in Australia</i> 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: <ul style="list-style-type: none"> • 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.

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.

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.

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)⁷ 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 likely 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.

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:

- 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
 - Consumers' Federation of Australia
 - Health Consumers of Rural and Remote Australia Inc

⁷ 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.

- 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.

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.

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 responsibilities 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 Strait 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.