Telemedicine

Introduction

Telemedicine is the practice of medicine using information communication technologies\(^1\) to provide or assist in the provision of patient care at a distance\(^2\) (hereinafter “telemedicine”). This includes treating patients, communicating patient information and/or referring patients via telemedicine.

Telemedicine is in a constant state of evolution as technology provides opportunities for developing new approaches to the delivery of care. The CPSO recognizes the value of telemedicine and, in particular, the way in which it can benefit patients, physicians and other health care providers, and the broader health care system by improving access to care, and increasing efficiencies in the delivery of care.

Whether telemedicine is an appropriate way to provide or assist in the provision of patient care will depend on the circumstances of each case. This policy sets out the CPSO’s expectations of physicians who practise telemedicine.

Principles

The key values of professionalism articulated in the CPSO’s Practice Guide – compassion, service, altruism and trustworthiness – form the basis for the expectations set out in this policy. Physicians embody these values and uphold the reputation of the profession when practising telemedicine by:

1. Acting in patients’ best interests;
2. Demonstrating professional competence, which includes meeting the standard of care and acting in accordance with all relevant and applicable legal and professional obligations to provide the highest possible quality of care;
3. Maintaining patients’ privacy and confidentiality when collecting, using or disclosing personal health information;
4. Communicating and collaborating effectively with patients, physicians and other health care providers;

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\(^1\) The specific technology that can be used is constantly evolving. Some current examples include, but are not limited to, the use of telephones (e.g. land lines and mobile phones), email, video and audio conferencing, remote monitoring and telerobotics.

\(^2\) The distance can be physical or temporal.
5. Recognizing and appropriately managing conflicts of interest, and avoiding situations where there may be a perceived conflict of interest; and
6. Participating in the self-regulation of the medical profession by acting in accordance with the expectations set out in this policy.

Purpose & Scope

This policy sets out the CPSO’s expectations of physicians who practise telemedicine.

This policy applies to all physicians who are members of the CPSO, regardless of where the physician or patient is physically located when telemedicine is practised, and it applies broadly to the practice of telemedicine. Expectations are provided in relation to treating patients, communicating patient information and/or referring patients via telemedicine.

In addition, this policy sets out the CPSO’s expectations for physicians who are not members of the CPSO, but practise telemedicine by providing or assisting in the provision of care to patients who are physically located in Ontario at the time of care. These expectations are set out in the last section of the policy, titled ‘Expectations for Non-CPSO Members’.

Policy

Physicians must act in accordance with the expectations set out in this policy when practising telemedicine.

1. General Expectations for Telemedicine

The practice of telemedicine is the practice of medicine; physicians’ existing legal and professional obligations with respect to practising the profession are not altered simply because care is provided via telemedicine as opposed to in-person. Accordingly, physicians are reminded that a physician-patient relationship is established via telemedicine in the same circumstances as when the relationship is established in-person.³

³ The existence of a physician-patient relationship will be established having regard to the nature and frequency of the treatment provided, whether there is a medical record, whether the physician bills for the services provided, and any other relevant factors.
Physicians must evaluate whether telemedicine is an appropriate way to provide or assist in the provision of care by considering whether providing care in this manner will enable physicians to satisfy all relevant and applicable legal and professional obligations, and meet the standard of care.

In doing so, physicians must:

- Consider the patient’s existing health status, specific health-care needs and specific circumstances, and only practise telemedicine if it is in the patient’s best interests.

- Identify what resources (e.g. information communication technology, equipment, support staff, etc.) are required to obtain necessary patient information when assessing the patient and/or referring the patient; only proceed if those resources are available and can be used effectively.

- Consider the reliability, quality and timeliness of the patient information obtained via telemedicine; it must be sufficient to verify, to the extent possible, the identity of the patient, and to meet the standard of care.

- Analyze the potential harm associated with practising telemedicine and only proceed if it does not expose the patient to a higher degree of risk than in-person care.

- Protect the privacy and confidentiality of the patient’s personal health information. More specifically,
  - Evaluate whether the information communication technology and physical setting being used by the physician has reasonable security protocols in

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4 Including, for example, legal obligations with respect to privacy and confidentiality as set out in Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Schedule A (hereinafter PHIPA), and mandatory liability coverage as set out in Section 50.02 of the General By-Law, enacted under Section 94 (1) of the Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991, S.O. 1001, c.18.

5 Professional expectations set out in the CPSO’s Practice Guide and policies.

6 It is particularly important for diagnostic images to be of sufficient quality.

7 The security standards for information communication technology are constantly evolving, so physicians may want to contact the Office of the Information & Privacy Commissioner of Ontario (IPC) and/or the Canadian Medical Protective Association (CMPA) for the most up-to-date advice. Physicians can also refer to the following resources: Ann Cavoukian, Stuart Shapiro, and R. Jason Cronk, Esq. Privacy Engineering: Proactively Embedding Privacy, by Design, January, 2014. Published by the MITRE Corporation, Enterprivacy Consulting Group and the IPC; Ann Cavoukian, Encryption by Default and Circles of Trust: Strategies to Secure Personal Information in High-Availability Environments, December,
place to ensure compliance with physicians’ legal\textsuperscript{9} and professional\textsuperscript{10} obligations to protect the privacy and confidentiality of the patient’s personal health information.

\begin{itemize}
  \item Confirm, to the extent possible, that the patient is using the information communication technology in a private and secure manner, and is in a physical setting that permits the sharing of the patient’s personal health information in a private and secure manner.
\end{itemize}

\begin{itemize}
  \item Ensure the physical setting in which the care is being delivered is appropriate and safe; there must be a plan in place to manage adverse events and/or emergencies.
  \item Ensure there is ongoing monitoring and evaluation of the use of telemedicine and other quality assurance measures in place to confirm the care being provided is safe, effective and within the standard of care.
\end{itemize}

2. Specific Expectations for Practising Telemedicine Across Borders

In addition to the general expectations for telemedicine set out above, there are a number of specific expectations regarding the practice of telemedicine across provincial, territorial and international borders. These expectations are grounded in the CPSO’s duty to serve and protect the public interest,\textsuperscript{11} which includes ensuring physicians provide quality care to patients regardless of where the physician and patient are physically located.

a) Expectations for CPSO Members

Physicians can provide or assist in the provision of care via telemedicine when the physician or patient is physically located outside of Ontario.

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\textsuperscript{9} One of the ways to ensure that the technology being used has reasonable security protocols in place is to carry out telemedicine sessions within a facility accredited by the Ontario Telemedicine Network.

\textsuperscript{10} As set out in the CPSO’s Practice Guide and Confidentiality of Personal Health Information policy.

\textsuperscript{11} Section 3(2) of the Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991, S.O. 1001, c.18.
Physicians are reminded that the CPSO maintains jurisdiction over its members\textsuperscript{12} regardless of where (i.e. physical location) or how (i.e. in-person or via telemedicine) they practise medicine. In keeping with its statutory obligations as a medical regulatory authority, the CPSO will investigate any complaints made about a member,\textsuperscript{13} regardless of whether the member or patient is physically located in Ontario.

When providing or assisting in the provision of patient care in another province, territory or country via telemedicine, physicians must comply with the licensing requirements of that jurisdiction. This may require that physicians hold an appropriate medical licence with the medical regulatory authority of the jurisdiction in which they are practising via telemedicine.

\textbf{Referring patients to out-of-province physicians}

Physicians can refer patients to out-of-province physicians. These out-of-province physicians are not physically located in Ontario, and may or may not be members of the CPSO. As such, physicians are required to take additional steps to ensure quality care is provided.

Before referring patients to out-of-province physicians, physicians must take reasonable steps to assure themselves that the referral is appropriate, just as they would when referring patients to physicians who are physically located in Ontario.

More specifically, physicians must have reasonable grounds to believe that the out-of-province physician to whom they are making a referral has the appropriate knowledge, skill and judgment to provide the required care or information to assist in the provision of care, and is appropriately licensed. As with in-person care, referring physicians must evaluate the information the out-of-province physician provides to determine how it should be used to inform patient care.

When physicians refer patients to out-of-province physicians, they must inform their patients that the out-of-province physician is not physically located in Ontario, and may or may not be licensed in Ontario. It is recommended that physicians alert patients to the ‘patient information sheet’ appended to this policy, and communicate the relevant content contained in that document, as appropriate.

\textsuperscript{12} Sections 13 and 14 of the \textit{Health Professions Procedural Code}, Schedule 2 of the \textit{Regulated Health Professions Act, 1991}, S.O. 1001, c.18.

\textsuperscript{13} Section 25 (1) and (4) of the \textit{Health Professions Procedural Code}, Schedule 2 of the \textit{Regulated Health Professions Act, 1991}, S.O. 1001, c.18.
b) Expectations for Non-CPSO Members

The CPSO recognizes that Ontario patients may seek care via telemedicine from non-CPSO members who are physically located outside of Ontario, independent of any involvement of a CPSO member. The CPSO expects that non-CPSO members will comply with licensing requirements in their jurisdiction, and will provide care in accordance with the standard of care.

If the CPSO becomes aware of concerns about care provided to an Ontario patient via telemedicine by a non-CPSO member, the CPSO may share that information with the regulatory authority that has jurisdiction over the member, so that appropriate action can be taken by that regulatory authority.