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1. What is the difference between Telemedicine and Telehealth?

The difference is that Telehealth is a more collective description, which includes any type of remote care. This would include remote apparatus like blood pressure monitors and glucose measurement devices. Telemedicine is confined to the actual act of providing that care to a patient. They're often used interchangeably, but there is a clear difference.

Please also refer to the HPCSA communication titled, "Guidance on the Application of Telemedicine Guidelines During the Covid-19 Pandemic" which was sent out on 26 March 2020. You will see that in this document, telehealth is a broader category which includes telemedicine and that the HPCSA has replaced references to

"Telemedicine" (in its Telemedicine Guidelines Booklet which you can find at

https://www.hpcsa.co.za/Uploads/Professional_Practice/Conduct%20%26%20Ethics/Booklet%2010%20Telemedicine%20September%20%202016.pdf

With "Telehealth" which includes amongst others, Telemedicine, Telepsychology, Telepsychiatry, Telerehabilitation, etc, and involves remote consultation with patients using telephonic or virtual platforms of consultation.

2. Has anyone used telehealth yet? Does it work?

Telehealth is as old as the telephone. It certainly works. You will find research all over the world on how Telehealth has improved quality of care, ensured continuum of care and reduced the readmission of patients for the same conditions.

Also, Google telehealth and robots used in healthcare, for confirmation that the landscape is changing. Here is some food for thought: <https://hospitalnews.com/medical-robots-nine-exciting-facts/> (see fact number 4 specifically with regard to the use of telehealth).

3. Are we allowed to advertise, that we as a practice do offer Telehealth? Or would that be touting?

One can certainly inform the public about your services on offer, including the place of services that these are offered at. One must be sure that you comply with other HPCSA regulation and ethics, including that of making professional services known.

You can find all the HPCSA guidelines booklets here:

<https://www.hpcs.co.za/?contentId=0&menuSubId=18&actionName=Core%20Operations>

Booklet 2 deals specifically with advertising, canvassing and touting. Advertising is allowed so long as it is, "not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition." The HPCSA Ethics booklets describe canvassing and touting as follows: 9.3 Touting involves drawing attention to one's professional goods or services by offering guarantees or benefits that fall outside one's scope of practice. An example is advertising free Wi-Fi services to patients while waiting for their consultations.

9.4 Canvassing involves the promotion of one's professional goods and services by drawing attention to one's personal qualities, superior knowledge, quality of service, professional guarantees, or best practice. An example of canvassing is a health care practitioner declaring on social media or posting patient reviews that state he or she is 'the best health care practitioner in the country'. I don't believe that advising patients that you are able to consult with them via virtual platform during Covid-19 would constitute either canvassing or touting in terms of these definitions. HPCSA regulation speaks to

Touting and advertising as follows:

Advertising and canvassing or touting (1) A practitioner shall be allowed to advertise his or her services or permit, sanction or acquiesce to such advertisement: Provided that the advertisement is not unprofessional, untruthful, deceptive or misleading or causes consumers unwarranted anxiety that they may be suffering from any health condition. (2) A practitioner shall not canvass or tout or allow canvassing or touting to be done for patients on his or her behalf.

Touting: means, but is not limited to, conduct which draws attention, either verbally or by means of printed or electronic media, to one's offers, guarantees or material benefits that do not fall in the categories of professional services or items, but are linked to the rendering of a professional service or designated to entice the public to the professional practice

Telehealth certainly does fall in the categories of professional services, as allowed by the HPCSA.

4. I believe Telemedicine will only be paid for by the medical aids while we are on lockdown. Is it worth then to go to all the trouble?

Medical aids actually paid for virtual care before Covid-19, and while we saw many more adding virtual care to their benefits, it was generally paid for by the larger funds long before Covid-19. Discovery has Dr. Connect, ProfMed partnered with Medici. Bankmed announced their benefit about 2 years ago. MMI had a benefit as well. Due to the efficiencies attached to telemedicine, I believe that medical aids will fund appropriate virtual care long after Covid-19. I think it's certainly worth jumping onboard.

Also to note that Discovery for example was paying for virtual consultations prior to COVID-19, so it is my understanding that this would continue, provided it is within the regulatory framework. This enhances healthcare to be more affordable and accessible.

COVID-19 is going to no doubt be with us for a long time. We cannot remain in lockdown until a cure is found. I believe it is likely that telehealth will likely continue to be allowed to try to manage the spread of COVID-19, long after lockdown ends.

5. Although some Medical Schemes are paying, some are not paying for the full amount (Discovery). Is this fair to the patient and the practitioners? Why should a patient have a co-payment for telehealth if it would have been funded should they have come into see the physio?

I agree fully with that concern, and pressure needs to be put on the funders to honour this form of treatment, to the benefit of the patient, and where appropriate. We do need to do our part in ensuring that this form of patient engagement is used appropriately and responsibly. Those associations that have active and constructively engaged with the schemes, like Discovery, have managed to get their services 100% reimbursed, like psychology.

6. Please provide guidance on photos of children used for posture assessment

Unfortunately, I (Kristy) cannot provide legal advice. My intention was to make people aware that transmitting pictures or video of certain parts of children's bodies could easily infringe on legislation relating to pornography and child protection. You should therefore proceed with caution and make sure that you are aware of these laws and what is allowed and what is not allowed. If necessary, seek guidance from your own professional and regulatory bodies and even seek independent legal advice on this- BEFORE you render services which may get you into trouble. Thought also needs to be given to potential issues if the child is a different gender to the practitioner. This was brought up as a concern by one of our insured members and I felt it worth mentioning- as I had not even considered this issue previously, and I doubt many have- but potential implications if there is an alleged infringement could be devastating. This may be a case where face-to-face consultations, with parent or chaperone, are the more prudent way to proceed, but please seek independent legal advice on this, if you are potentially impacted.

7. If you do make a video that you share with your patient, how do you make sure they don't share your intellectual property?

I, Neil, don't think you can really control that. I would advise that you include in the video who the clip was intended for, and from who this comes, and for what treatment. Also be sure that the video is included in your consent and contracting with the patient, to ensure that this is legally protected. The Medici platform doesn't allow for the forwarding of a video to another patient.

(Kristy) I would advise obtaining independent legal advice on this to ensure that you have proper disclaimers in place to protect you. While Google can again provide you with a starting point of issues to consider, for example you can look at the following disclaimers: <https://hms.harvard.edu/news-events/multimedia/video-library/video-disclaimer> please do not just go and cut and paste such disclaimers into your own videos, firstly as you may be infringing copyright in doing so, and secondly, because it is prudent to obtain legal advice pertaining to your own particular circumstances with regard to our regulations and legislation (and potentially overseas' regulations and legislation) depending on where your video may end up.

8. We have been advised to video our sessions as proof of what was done? Should one then move it to a hard drive?

I (Neil) would think that this is under the AHPCSA regulation as a Chiro or other discipline regulated by the AHPCSA. I would advise that you engage with your Association in understanding what their position is on the videoing of your sessions, ensure that you have the required consent from the patient, and that this is stored securely and safely. I would also request guidelines from the AHPCSA on this matter. I am also concerned about the application of this requirement, and would refer you to the regulation in this regard, as my understanding is that the session needs to be recorded, which practically could mean that you need to note the time and date of the session, between who the session took place, and the details of the engagement. A requirement to have all sessions video recorded and stored may be challenged, both from a practical and patient privacy point of view.

9. What about patients recording sessions without your consent?

Unfortunately, this requires independent legal advice. I, Kristy, am not licenced to provide general legal advice. My thoughts are that you could refuse to treat the patient if they insist on recording the session without your consent. I know for example that certain hospitals will not allow the taking of photographs in the delivery room. I think it is your right to refuse treatment if you do not wish the session to be recorded. Obviously, you cannot refuse treatment in an emergency, but I doubt that someone facing an emergency is going to insist on filming their treatment. My concern would be that you have no control of where that video is disseminated after your session. You may even find unscrupulous characters filming their own sessions and then posting it online anonymously, and then claiming that you have breached their confidentiality because the content has found its way online. We need to be cautious of people's motives for wanting to film the session. While it may be useful for a patient to refer back for reminders for example on how to perform certain exercises, you have no guarantees that such videos will not be shared with others and there may be potential liability exposure to you in this- especially, if such video has gone out without any disclaimers protecting your interests. Even if you have no objection to someone filming the session, I would strongly advise that you obtain independent legal advice before you do so, to ensure that a document is drafted for such patient to sign providing you with the necessary indemnities from the patient for any liability which may arise out of that video or the sharing of it, etc. There are countless issues and this is a topic that warrants its own webinar- for example, if there is music playing in the background- you may be sued for infringement in using the music without paying for it or authorisation, etc.

10. How do we legally send videos and charge e.g. a WhatsApp video?

As addressed in point 7. Also, I do not think that sending of video clips can be charged for, as this is not active engagement between the patient and the practitioner, and does not take into account the required continual re-assessment and interpretation of the patient responses.

11. Is there a list of medical aids who cover telehealth and are there specific codes or modifiers that we need to add in order to claim?

Yes, there are lists of schemes that cover Telehealth, as well as the rate at which these are covered. This is managed and maintained by systems like the ProfNet Health Code Index and Funders File, together with other systems. It is important that the organisation providing this is constantly maintaining and updating these, to ensure that you are correctly informed - rates and positions of schemes are changed often, and requires ongoing management and maintenance. For some disciplines this is in the form of a "dummy code" for telehealth, while for other schemes and disciplines, this is using the usual consulting and sometimes even treatment codes for telehealth. The rates for these may be at full rate of face-to-face consultations, or at a % reduction of this rate.

Regarding the modifiers, there are no modifiers to my knowledge required by the schemes, while the place of service indicator is a requirement, being the Telehealth indicator of 02. This is also the recommended format by PHISC, and has been adopted by the majority of schemes. This also aligns with international practice.

12. Do we still need to fill in those extra forms for each client?

Additional administrative requirements may be in place depending on the medical scheme. Where this is administrative / in a managed health care approach, this may be appropriate. There is however concerns where a scheme / administrator may require that you send the SOAP / other clinical notes to the scheme in support of your treatment.

13. Please provide more information regarding the security of telehealth?

Data security has to be the first step in choosing a solution. It needs to be PoPI compliant and preferably HIPAA compliant. We're hearing that any end-to-end encrypted platform is compliant and this is not actually the case. End

to end encryption is only a start... There needs to be strict controls around who has access to the information and where the information is stored. HIPAA actually doesn't require end to end encryption, for compliance so long as you have a BAA in place. Zoom makes provision for this with their healthcare offering, but is expensive at \$200 per month. A BAA is a Business Associate Agreement. It's a standard HIPAA document where an entity with Protected Health Information effectively puts a vendor on notice: basically, we are going to transmit this personal information in your system, and you agree to abide by this set of rules and regulations., as well as an agreement to fully disclose a breach and the timeline around when it happened. This all comes down to the following... compliance requires a BAA between practitioner and platform provider that agrees to protection of Protected Health Information. One cannot expect a free platform to prove this kind of security for a prolonged period of time either.

14. Have Professional Indemnity insurers come to the party?

This will all depend on who your insurance is placed with. You need to ask your broker (or the MPS if you are with the MPS) the question with regard to your particular policy document (or membership option). With regard to all ProfNet, BASA, SASP, SAAA, CASA members covered under the CFP Broker's bespoke practitioners medical malpractice wording- you are covered for telehealth, subject to specific terms and conditions- as per the policy endorsements which you should have access to through ProfNet or your Society/Association. However- please note that there is NO cover in place for any student or intern rendering telehealth services. I have also been sending out numerous Telehealth updates for all our clients on this issue and if you are a CFP Broker's client or would like to be, you are welcome to contact any of us for advice on this issue: kristy@cfpbrokers.co.za , noleen@cfpbrokers.co.za , catherine@cfpbrokers.co.za or lauren@cfpbrokers.co.za . If you are a member of SASP, BASA, ProfNet, SAAA, SAOA, CASA or SASOHN or one of their affiliated members covered under their policies and you have missed any of these updates, please will you see whether you are able to access them on the membership portal of your Society, etc and if not please contact your Society directly as it is important that you receive our communications that we ask them to disseminate to you.

15. How are practitioners covered when consulting with clients in other countries?

This will depend specifically on your own policy wording and you need to contact the MPS or your own broker for advice on this. If you are covered under the CFP Broker's medical malpractice insurance policy through ProfNet or one of the associations or societies mentioned above, then please remember that there is a specific condition of cover attached to this as per the telehealth endorsement issued by iToo, which requires that. Where the Insured renders telehealth or telemedicine services to any patients outside of South Africa, the Insured will include a jurisdiction clause in their informed consent document, which reflects the patient and/or their guardian's agreement to submit to South African jurisdiction in the event of any dispute, complaint or claim arising out of the services. Reference to the Insured in this instance- is of course reference to yourself as the practitioner covered under the policy. Also, please bear in mind that if you are rendering services face-to-face in another country rather than via telehealth- that our policy will cover you, so long as you are ordinarily resident in RSA, you are only visiting such country, your visit does not exceed 60 consecutive days during any insurance period and you are not covered for any services rendered in the USA or Canada or any territory within their legal jurisdiction (including cruise ships in their territorial waters). You would also need to comply with all other terms and conditions of the policy.

I can however add that both the HPCSA and the AHPCSA from an ethics point of view do allow for treatment of patients in another country, but it is a requirement that the practitioner be duly registered in both the country they are practicing from, and the country that the patient is in.

16. Is there a difference between liability insurance and malpractice insurance?

CFP Brokers is a niche brokerage which specialises in liability insurance. Malpractice insurance is just one type of liability insurance. Liability insurance refers generally to the insurance you would take out to cover your liability to someone else, rather than your own loss. So these are also examples of liability insurance: professional indemnity

insurance (like medical malpractice insurance but for other professionals like engineers, scientists, architects, valuers, etc.), directors' and officers' liability, cyber-liability, employment practices' liability, trustees' liability, general and public liability, defective workmanship liability, film-maker's liability, air-side liability, products' liability, drone liability...As you can see there is a huge array of liability insurance products which includes medical malpractice indemnity insurance. CFP Brokers can help with all of these liability covers.

17. Is Zoom a secure platform? Apparently Zoom 5 is now safe? And Zoom says they are end-to-end encrypted

End-to-end encryption just means that the data that is transferred between two or more parties is protected under a digital key and only those parties can access that data. End-to-end encryption alone does not make for compliance though. There is much debate as to whether Zoom, or public platforms like it, is truly end-to-end encrypted, but for the sake of argument, let's assume that this is the case. End-to-end encryption simply doesn't make it compliant as a HIPAA compliant platform. For this to be in place, there has to be a BAA agreement in place...see answer above at 13.

18. Which platforms comply with HIPAA (Health Insurance Portability and Accountability Act of 1996)? My insurer insists on Zoom but we've all heard about Zoom-bombing!

HIPAA offers a free tech checklist to determine compatibility (not compliance - compatibility - the practitioner must be compliant)

We will also have the checklist up on our website before the next Webinar for you to do your own check
And we all know that Medici is HIPAA compliant.

19. HPCSA guidelines differentiated between 'servicing' and 'consulting' therapists

It is important to note that this is part of the original Booklet 10 guidelines on Telemedicine, on which the new amendments "Notice to amend Telemedicine Guidelines during COVID-19 – dated 3 April 2020" was published. So, while in the Booklet 10 regulations there is reference to the various roles the practitioner / therapist can play, as in those guidelines Telemedicine can only occur between 2 practitioners, the amendments to these guidelines allows for direct engagement of 1 therapist with a patient.

20. If the medical aid requests therapy notes - does the patient need to provide consent for this? And what if they do not consent?

Yes, the patient does need to give permission where there is personal information passed on to any third party, unless this is subpoenaed by a court of law.

Your clinical notes furthermore are your own notes, and can serve your own purpose of referring to the detail of what took place in your treatment of the patient, from which you can draft a report or response to the medical scheme / administrator, knowing for what purpose that report is serving.

CFP Brokers cannot advise on this and you should seek independent legal advice or advice from your own professional bodies on this- but I suspect that this would be determined by the contract between the medical aid and the patient. The terms of this contract may indicate that the patient has consented to the release of information to the medical scheme. I would not however just rely on the MS's word for this. It would be prudent to ask the patient for their consent to release the notes and if they do not consent- then I believe that this is an issue between the medical aid and their client and you should not get in the middle. Let the medical aid communicate the terms of the contract to the patient and the possible ramifications or implications if they do not consent to the release of the information requested. If the medical aid is trying to prevent fraudulent claims then this too needs to be communicated to the patient- by the medical aid. In any event- if you do release any information, be sure to make careful notes on your file as to who requested information from the file and your justification or consent to release such information so that this can be used to support you should any dispute arise at a later date.

21. If you ask the client to sign a form that they will not be able to hold you liable for getting COVID-19 by attending your practice, would this be binding. How would a patient prove this?

Again- sorry everyone- I am a licenced financial services provider (with a legal background). I am licenced to give advice on insurance not general legal matters. You should seek independent legal advice on this issue. But, my thoughts, which should not be construed as legal advice or acted upon as such, are as follows: Most of your liability policies are not going to cover you for any claims arising out of allegations related to COVID-19. It would be very difficult for a patient to prove that they contracted COVID-19 at your practice (unless you are unlucky enough that a whole raft of people are able to pinpoint the same back to your practice or track and trace reveals your practice to be the source). The burden of proof in law- is that he who alleges must prove. So unless your patient has led the life of a hermit- and not received any deliveries, it is going to be a very difficult for them to discharge this burden (causation). Causation is only one of the elements that they would be required to prove in order to be successful in their claim. The basic elements of delict are conduct, wrongfulness, fault, causation and damage. All five elements mentioned above must be present before a person can be found to be liable. Then- there is no blanket answer with regard to whether or not your indemnity would hold. You cannot for example fail to comply with regulations regarding sanitisation, etc. and expect an indemnity to exculpate you from any liability. Having an indemnity in place where this is legally and ethically permitted (by your regulatory body) is generally prudent- but it is not a silver bullet against claims. A court considering any claims may find that your indemnity does not apply in the circumstances.

22. Kirsty, how affordable is malpractice insurance for telemedicine?

Currently, the practitioners covered under our bespoke medical malpractice insurance policy through ProfNet, SAAA, CASA, BASA and SASP have been given this cover as free extension. We have been warned that this will be reviewed once we are out of lockdown. This is relatively new cover (only a handful of practitioners were requesting it prior to the Covid-19 pandemic), so the affordability going forward is really going to depend on what types of claims/complaints, etc. insurers have to deal with now. Cost will also depend on whether you are taking out cover as an individual or under your Association's policy. Remember that if you are taking out cover as an individual- then the insurers are going to want specific details relating to you and telehealth- for example how often you are rendering the services and what percentage of your turnover is generated through telehealth, etc. They will have other questions which they will ask to determine your specific risk and your specific premium.

23. Platforms are popping up. I received an email from Discovery for a new platform called Clickdoc. What are the things to look out for when choosing a platform? What kind of practitioner support do we need to look for when choosing a platform? Which are some of the "legitimate" platforms available, that offer safety and security? Please advise

There are a bunch that have just opened up. First thing has to be security, PoPI and HIPAA compliance and flexibility. A lot of the new platforms are just a video facility, similar to Zoom and Skype, requiring you and your patient to be available at the same time. Most ignore the benefits of text and phone calls within a secure environment. You need to have support and especially around letting your patients know that you are using telemedicine. Nothing worse than a great telemedicine solution and patients don't know about it. There are a bunch of new video platforms out at the moment with few differentiating themselves in terms of doctor features. Look for aspects that will for your practice and your patients.

24. Would WhatsApp be a recognised and secured platform? I like it as it is simple and easy for the end user (patient) to use.

iToo (The underwriter on CFP Broker's bespoke medical malpractice insurance policy for practitioners) recognises and recommends WhatsApp as a secure and recognised platform. Therefore, if you have your cover through BASA, SASP, SAAA, CASA or ProfNet- then the answer is yes- your insurers do accept WhatsApp as a secure

platform. However- I am not sure whether WhatsApp allows you the functionality to record a session and store it- and CASA members are specifically required to record their sessions (by the AHPCSA and consequently, by the Insurers).

25. Could you advise where to find the information which states that healthcare practitioners may only do home visits in the case of an emergency?

This applies to AHPCSA-registered practitioners only. If you are a CASA member please refer to

EXTRAORDINARY AHPCSA POLICY DECISION

(TO BE PROMULGATED IN THE GOVERNMENT GAZETTE PRESENTLY AS AN AHPCSA BOARD NOTICE)

STATE OF DISASTER: COVID19 PANDEMIC: AHPCSA EXCO DIRECTIVE

OPERATING DURING GOVERNMENT IMPLEMENTED LOCKDOWN

Ref no. 2 - 29April2020 which states the following: Pursuant to the South African Government Level 4 Alert Level notification, any

AHPCSA-registered practitioner or therapist is allowed to receive patients, but only at his/her registered private practice (as per the records of the AHPCSA) as from 1 May 2020 and until further notice from the South African Government and/or the AHPCSA or the AHPCSA Exco.

Any visit to a patient's private residence is not permitted, save in emergency circumstances only and only if prescribed personal protective equipment ("PPE") is utilised and worn and there is adherence to an appropriate hygiene protocol. Apart from the appropriate record-keeping on a patient's file in such a case, an additional separate register of visits to any patient's private residence for emergency visits, containing all salient information, shall be kept for all such cases by any practitioner or therapist carrying out such a home visit for emergency purposes and shall be made available to the AHPCSA on request. Whether or not this restriction will be lifted during Level 3 remains to be seen and I would advise keeping in touch with CASA and/or keeping an eye on the AHPCSA website for further notices.

26. Where do you add the virtual consultation codes for Psychologists?

These are not treatment codes (procedure codes), but place of service codes - your billing system should allow you indicate where the treatment took place, like consulting rooms, hospital etc. One of the options should be Virtual Consultations, which carries a place of service code of 02. See question 11

27. Are psychologists allowed to administer Neuropsychological assessments on Telehealth platforms?

We are not able to answer this one and would revert the question to the relevant Association / Society, or to the Psychology board of the HPCSA.

28. Why the difference in excess payment for Psychologists and Counsellors, but not Psychiatrists?

This would depend on the medical scheme in question. There are many inconsistencies in the market currently, as it attempts to correct. I encourage you to get behind your association / society to engage with the various medical schemes and administrators, to clarify and guide this process. There are instances where Psychologists are being paid at the full 100% rate, while GP's are only getting 65% of rate. It does vary from scheme to scheme, and discipline to discipline.

29. Will you please give exact guidelines regarding periods for storing records namely, IOD, Children, Adults?

There is a dedicated CPD course on this, as there is quite a lot of details in this, that would require more than just a short answer. I can further refer you to the HPCSA Booklet 9 = GUIDELINES ON THE KEEPING OF PATIENT RECORDS

30. With regards to possible future clawbacks, what is the appropriate time to spend on a telehealth consultation, to be able to bill for it?

This would depend on the discipline treating - where you are a consulting discipline, like Speech Therapy, Dietician, Psychologist etc., you bill for your time. You need to be sure that this is the time that is spent actively with the patient, and then bill accordingly. Ensure you have records of this engagement and robust clinical notes to back up the treatment that was rendered. Other treatment codes need to be justified and appropriate, avoiding over servicing or over billing. Consult with your Association / Society should you need more guidance in this regard.

31. Do you know if SASP (South African Physio Society) covers Physios malpractice during telehealth consultations? I have tried to enquire and will try again.

Yes, please see CFB Brokers' answers above. SASP members are definitely covered for telehealth subject to the terms and conditions of the specific telehealth endorsement and the policy document. I have sent out numerous Telehealth Updates to SASP and all our other Associations and Societies to share with their members. Please can I ask you to contact SASP to ensure that your contact details are correct if you have not been receiving our communications and please feel free to contact any of us at CFP Brokers: kristy@cfpbrokers.co.za; noleen@cfpbrokers.co.za, catherine@cfpbrokers.co.za or lauren@cfpbrokers.co.za if you have any questions at all about your cover (even if unrelated to telehealth).

32. Could you please provide us with the slides of the typed document presented by Kristy?

This will be shared on the Webinar tab of the EZMed website

