

# ALWAYS CONNECTED – TELEMEDICINE IN INDIA!

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In times of COVID-19, the world is moving towards contact-less services. The industry has turned the COVID-19 pandemic into an opportunity, and we anticipate roll-out of various unique ventures and measures as an outcome of the changing equations. One such opportunity lies in the world of telemedicine ("Telemedicine"). The COVID-19 pandemic has been an extraordinary situation wherein everything had come to a standstill. Patients were unable to consult the medical practitioners physically. However, with the advent of Telemedicine, the current situation will no longer be a barrier. Telemedicine will facilitate treatment of minor health complications at affordable prices.

## The obvious question would be: What is Telemedicine?

Telemedicine is a mechanism where healthcare services are provided to patients by using information technology, especially where distance (now physical distancing!) is a crucial factor. Generally, such healthcare services are provided in relation to minor health complications that may not have far reaching consequences.

## First things first - Is Telemedicine legal?

To put an end to the speculations about the future of Telemedicine in India, the Board of Governors ("Board") issued the



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*Avikshit has successfully led several high value mergers & acquisitions for domestic and offshore clients. His expertise in corporate advisory work mainly comprises of deal structuring, negotiations, documentation and execution of transactions.*

*Avikshit closely works with clients in the conceptualization, negotiation and closing of corporate and commercial transactions. He is approached by the World Bank on a regular basis for his expert comments on investments in India. Avikshit has successfully navigated the tricky medico regulatory environment with clear and concise advice. He is well conversant with the compliance on regulatory and policy issues, ethics, data exclusivity and protection, commercial arrangements and transactions in the healthcare/pharmaceutical sector which includes M&A, licensing and IPR issues.*

*Avikshit is well regarded by clients for his pragmatic approach and commercial awareness, and for his exceptional service-oriented attitude. He has been recognised as a "40 under 40 Lawyer" by Legal Era in 2017. He has also been recognised as the Runner Up under the category "Partner of the Year" at the IDEX Legal Awards, 2017.*

*Here, we would like to share that Juris Corp is engaged by a pharma giant for developing content for one of India's first comprehensive Medico-Legal Application which has been launched recently, and comprises of FAQs, case laws and case summaries on multiple Acts and Regulations pertaining to the medical field. Avikshit is leading this mandate. The details of the same have been attached.*

Telemedicine Practice Guidelines on 25<sup>th</sup> March 2020 ("Guidelines") under the Indian Medical Council Act, 1956. The Guidelines were incorporated in the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 by way of an amendment. The Guidelines *inter alia* provide for the following:

- Who is entitled to practice?
- Online course on practice of Telemedicine
- Tools for Telemedicine
- Requirement of identification and consent
- Mode of Telemedicine
- Guidelines for prescribing medicines through Telemedicine
- Duties of a medical practitioner
- Guidelines for technology platforms enabling Telemedicine.

A glance at the regulatory canvass surrounding Telemedicine in India, it was clear that there was a grey area. Whenever a discussion on Telemedicine crops up, the judgment of the High Court of Bombay in **Deepa Sanjeev Pawaskar vs. State of Maharashtra** becomes relevant.

In this case, a patient was treated by the medical staff on instructions of the medical practitioner over a telephonic conversation and the patient died. The High Court of Bombay held that this was a case of prescription without diagnosis and it amounted to culpable negligence. On an appeal, the Supreme Court of India held that the medical practitioners should not be arrested. This judgement created a dilemma about the future of prescription of medicines over electronic medium in India. However, the introduction of the Guidelines, is a shot in the arm for creating the future of digital/virtual treatment of patients in India.

## Government's response towards the healthcare sector

The Government of India has made a substantial allocation of INR 69 Thousand Crores to the health sector in India for the financial year 2020-2021. This makes the Telemedicine arena even more lucrative. It has been observed in the Report of the National Digital Health Blueprint published by the Ministry of Health & Family Welfare, Government of India that the need of the hour is to establish and manage the core digital health data and the infrastructure required for its exchange. The vision of the National Digital Health Blueprint is to create a Digital Health Eco-system that supports universal health coverage in an efficient, accessible, inclusive, affordable, timely and safe manner through the provision of a wide range of data and infrastructure services.

## Telemedicine: A boon for the healthcare sector

### 1) COVID-19 pandemic:

The COVID-19 pandemic has defined the "new normal" and it will play a major role in the success of Telemedicine. With majority of the businesses moving towards a contact-less approach, healthcare is the latest entrant. Patients would prefer a contact-less consultation with a medical practitioner for minor health complications as opposed to an in-person consultation to avoid risk of contracting any kind of virus.

## 2) Cost effective product

Generally, the first consultations with medical practitioners are expensive. In case of a Telemedicine set-up, the medical practitioners will not be burdened with fixed costs viz. rental expenses, expenses towards salaries of staff, maintenance expenses etc. The medical practitioners can pass on this benefit to the patients and the Telemedicine services can be provided at lower rates. This will make Telemedicine consultations cost-effective.

## 3) Flexibility

If one were to estimate, it takes around 2-3 hours for an in-person consultation with a medical practitioner i.e. the time for visiting the medical practitioner till the time the consultation is completed. The time spent on consultation may be considerably reduced if the consultations are scheduled through Telemedicine. Further, such consultation will also be flexible and can be scheduled as per the convenience of the patient. Telemedicine can provide rapid access to patients which otherwise would not have been available.

## 4) No barriers

India faces an inequality in the healthcare distribution. Although a large portion of the Indian population lives in rural areas, majority of the medical practitioners are based in cities. A large portion of the Indian population lacks basic healthcare facilities. Poor infrastructure of rural health centres adds to the plight of rural India. Telemedicine coupled with technology can turn out to be the cheapest and the fastest way to abridge the rural-urban divide. Telemedicine will be a game-changer in various locations in India where adequate healthcare facilities are not available.

## 5) Treatment of minor health complications

Telemedicine will be used to treat minor health complications viz. common cold, fever, acidity, headache, viral fever, infections etc. Usually, self-medication / home remedy is the first approach adopted by any patient to cure such minor health complications instead of going to a medical practitioner. Convenience offered by Telemedicine (time and cost) will attract a lot of patients and will be instrumental for a shift in their approach from self-medication to Telemedicine. Flexible and cost-effective consultations will encourage patients to consult for early treatment which will result in early detection and treatment.

## 6) Research and Development

The healthcare sector is ever evolving. The key to the development of the healthcare sector is research and development. Telemedicine will prove to be a data warehouse paving the way for the future research and development. Medical practitioners, through Telemedicine, will be able to cater to patients of various age groups and from various geographical areas in India. This will provide the medical practitioners with comprehensive data which can be further used for research and development in the healthcare sector.

### What should you look out for?

While Telemedicine may not appear as a very big step in the field of healthcare, it is definitely a big step for ensuring basic medical services to all corners of the nation at a reasonable price and time. However, Telemedicine needs to evolve with time by using enhanced technology to increase its outreach together with making it more cost efficient. The mode of storing patient information and other

relevant data becomes crucial and can pave the way for multiple research and development projects.

Further, the legal regime in this regard must be made very clear and necessary changes need to be carried out in all legislations that have a bearing on the entire process of Telemedicine. Clear legislations will not only promote the interests of start-ups but also encourage more and more qualified medical practitioners to step ahead and become a part of this digital healthcare ecosystem which will result in the greater good.

The current environment accompanied with legislative support and stakeholder interests may bring about the necessary push for India to embrace Telemedicine.

*Wise words: Strike while the iron is hot! These words become relevant in the current scenario. Now is the time for the brave new world – Telemedicine in India.*

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