

TELEMEDICINE: A GLOBAL APPROACH TO TRENDS AND PRACTICES
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LAWS AND REGULATIONS ON TELEMEDICINE
1. Is telemedicine allowed in your country? If so, how is it defined?
<p>Yes. In Thailand, telemedicine can be defined in two ways.</p> <p>The Ministry of Public Health (MoPH) defines ‘telemedicine services’ as medical facilities provided to service receivers by a practitioner via telemedicine where information is exchanged that is beneficial for consultation, examination, diagnosis, treatment, nursing, prevention, health reinforcement and recovery or which is beneficial for the continuous education of medical and public health personnel.</p> <p>The Medical Council of Thailand (TMC) defines ‘telemedicine services’ as the transmission or communication of modern medical practices data by medical practitioners (either from the public or private sector in Thailand), from one location to another by electronic means with the purpose to providing consultations or recommendations to others.</p>
2. Please provide a high-level overview of the legal framework regarding telemedicine in your country.
<p>The principal regulations governing telemedicine services in Thailand are:</p> <ul style="list-style-type: none">• Medical Facility Act of Thailand (MFA), also known as the Sanatorium Act;• Notification of Ministry of Public Health Re: Standards of Telemedicine Services provided by Medical Facility B E 2567 (2021), published on 1 February 2021 (the MoPH Notification); and• Notification of Medical Council of Thailand Re: Guidelines in respect to Telemedicine and Online Clinic No. 54/2563, published on 21 July 2020 (TMC Notification). <p>According to the MoPH Notification and TMC Notification, telemedicine services must be provided by licensed doctors registered with the Medical of Council Thailand and the service must be operated through licensed clinics/hospitals.</p> <p><i>Telemedicine services rendered by private clinics/private hospitals</i></p> <p>The MFA is the main piece of legislation controlling private clinics/private hospitals. Under the MFA and its by-laws, a clinic or hospital wishing to provide telemedicine services must receive prior approval from the Department of Health Service Support (DoHSS) in the Ministry of Public Health.</p> <p><i>Telemedicine service rendered by public hospitals</i></p> <p>Unlike private clinics/private hospitals, public hospitals under the supervision of the Ministry of Public Health or another Ministry can provide the telemedicine service without having to obtain prior approval from the DoHSS.</p>
3. Briefly identify the key licensing bodies for telemedicine and outline their responsibilities.
<p>The Department of Health and Support Services (DoHSS) is the key licensing body which governs telemedicine services provided by private clinics and private hospitals.</p>
4. Was telemedicine authorized during the Covid-19 pandemic?

<p>Yes. Telemedicine services were authorised during the pandemic to improve patient care by reducing the number of visits, travel costs, the risk of exposure to Covid-19 and congestion in hospitals.</p> <p>For example, there was a collaboration between the National Health Security Office (NHSO), Siam Commercial Bank (SCB) and Good Doctor Technology Thailand (GDTT) to provide telemedicine service to Covid-19 patients. Any person who tested positive for Covid-19 could use the 'Spring Up Application' without paying fees. Covid-19 patients were required to input information such as their name, mobile phone number, address, symptoms, and an image of a self-antigen test kit showing their positive test result. The service provider would then contact the patient for further verification. Subsequently the patients would meet virtually with doctors who would prescribe medicine. The prescriptions would be sent to a pharmacy partnered with the NHSO. A delivery service sent medicine to the patient. A doctor would monitor the patient's symptoms within 48 hours of the first consultation.</p>
<p>5. Is there any possibility of the regulatory landscape being changed in the post-pandemic scenario? Or has there been already a change in the regulation in the post-pandemic scenario?</p>
<p>No significant changes are expected to the laws and regulations governing telemedicine services.</p>
<p>6. What types of teleservices are allowed? (e.g. second opinion, teleconsultation, tediagnosis, telesurgery, among others)</p>
<p>The laws do not provide a detailed explanation of the types of permitted teleservices. The MoPH Notification requires that before offering telemedicine services, the doctor and hospitals/clinics must ensure that the patients are properly informed about the telemedicine and the limitation of services. The TMC Notification requires that the doctor must be aware that not all diseases or conditions can be diagnosed or treated via telemedicine.</p> <p>From the above provisions, we opine that teleservice such as second opinions, teleconsultation, tediagnosis, telesurgery, etc, are allowed in Thailand, as long as the following conditions are met: (1) teleservices are medical services as notified and approved by the DoHSS and there are attending physicians specialising in the particular diseases for which telemedicine services are provided; and (2) the patient's consent has been obtained.</p>
<p>7. Who can use telemedicine services? Please indicate if whether only doctor-doctor or also patient-doctor remote medical services are allowed.</p>
<p>Both patient-doctor remote medical service and doctor-doctor service are permitted. In fact, the Notification on Telemedicine, which is a by-law of the MFA, prescribes that doctor-doctor services (or medical consultations between medical practitioners) do not fall within the scope of telemedicine. As such, doctor-doctor services are not currently subject to the telemedicine regulations in Thailand.</p>
<p>8. Please outline the funding model for telemedicine. Is it available in your jurisdiction public health system? Is telemedicine under mandatory insurance coverage? Please indicate what legislation applies.</p>
<p>Yes. Certain telemedicine services (eg, Covid-19 telemedicine services, and outpatient telemedicine services for common diseases) can be reimbursed under the Thai national health insurance.</p> <p>The Thai national health insurance is divided into three main schemes:</p> <ol style="list-style-type: none"> 1. The Social Security Scheme (SSS) This scheme is administered by the Social Security Office and financed by tripartite contributions from the government, employers, and employees. It covers employees, and employers with one or more employees. This scheme is not applicable to those covered by the Civil Servant Medical Benefit Scheme (below) or to employees of foreign entities. 2. The Civil Servant Medical Benefit Scheme (CSMBS)

<p>This scheme is administered by the Social Security Office and provides healthcare benefits to government officials and their dependents (spouse, parents, and up to three children).</p> <p>3. The Universal Health Coverage Scheme (UCS) This scheme is administered by the MOPH and covers the remaining population not covered under either the SSS or the CSMBS.</p> <p>Examples of telemedicine services that have been included in the health benefits of Thai national health insurance are: Covid-19 patients under the USC, CSMBS and SSS can be reimbursed for remote treatment received from authorised telemedicine applications; and patients under the USC who are in Bangkok and having one of 42 diseases (eg, red eyes, osteoarthritis, food poisoning, stomach ache, sore throat, back pain, flu, sinus problems, etc) can be reimbursed for remote treatment received via authorised telemedicine applications.</p>
<p>9. Please indicate whether any insurance requirements applicable to telemedicine services providers.</p>
<p>No. There is no specific legal requirement for a telemedicine service provider to procure insurance cover when providing telemedicine service in Thailand. Telemedicine service providers have the freedom to procure appropriate indemnity insurance such as medical professionals liability insurance.</p>
<p>REQUIREMENTS APPLICABLE TO HEALTHCARE PROFESSIONALS AND INSTITUTIONS</p>
<p>10. Who can practice telemedicine in your country? Please indicate whether other healthcare professionals are authorized to provide remote health services under the applicable rules (e.g. nurses, psychologists, nutritionists, alternative health therapies providers, etc.)</p>
<p>Telemedicine services must operate through a medical facility. Therefore, only licensed healthcare professionals (eg, doctors, pharmacists, nurses, psychologists, nutritionists, etc) who work at an approved medical facility can provide telemedicine.</p>
<p>11. Are there any specific education requirements or trainings that healthcare professionals need to meet or attend to provide telemedicine services?</p>
<p>There are no specific education or training requirements required for a healthcare professional to provide telemedicine services. However, as a general rule, healthcare professionals who provide telemedicine services must hold a degree specific to their medical expertise and obtain a licence from the relevant councils in Thailand.</p> <p>For example, to practice as a doctor in Thailand, a doctor must meet the educational requirements as prescribed in the Medical Profession Act B E 2525 (1982) and its bylaws, including: (1) a doctor must have knowledge in the medical profession and obtain a degree or certificate in medicine from a medical school recognised by the Medical Council of Thailand (TMC); and (2) a doctor must pass a medical competency assessment and obtain accreditation from the Center for Medical Competency Assessment and Accreditation (CMA).</p>
<p>12. Is there any registration requirement applicable to physicians that provide telemedicine services?</p>
<p>No. There is no registration requirement for physicians who provide telemedicine services.</p>
<p>13. Please indicate whether special licenses or authorizations are mandatory for institutional healthcare providers engaged in telemedicine services.</p>
<p>Yes. Clinics/hospitals that wish to provide telemedicine services must receive prior approval from the DoHSS.</p>
<p>REQUIREMENTS APPLICABLE TO TELEMEDICINE SERVICES</p>
<p>14. Are there specific requirements applicable to the telemedicine platform?</p>
<p>Yes. It is recommended that platform operators be aware of the following general requirements:</p>

<ul style="list-style-type: none"> • Telemedicine services must be operated through a medical facility (eg, a clinic or hospital that has obtained a licence from the DoHSS). • Telemedicine systems (ie, platforms) must be able to verify the identities of both doctors and patients. The identification process must be in accordance with the Personal Data Protection Act (PDPA). • If patients' personal data is required on the platform, it must be ensured that the data is collected and secured in accordance with the PDPA. • The clinic/hospital must ensure that its telemedicine system is equipped with a system for patient registration, health data records and summary reports. • The clinic/hospital must provide adequate telecoms equipment that allows clear communication between service providers and users with appropriate levels of security.
15. Are there any requirements regarding electronic equipment and internet speed for telemedicine services?
No. There are no specific requirements regarding electronic equipment or internet speed for telemedicine services.
16. Does the legislation provide for specific rules concerning patients' medical records?
Yes. The clinic/hospital must ensure that its telemedicine system is equipped with a system for patient registration, health data records and summary reports. And the telemedicine service provider must ensure that the telemedicine system and subject's data (both personal data and sensitive data) are collected and secured in accordance with the PDPA.
17. Are there geographic location requirements applicable to the provision of telemedicine services?
Telemedicine legislation in Thailand only governs telemedicine services provided by service providers based in Thailand. The legislation does not specifically address the provision of telemedicine services provided by foreign physicians/entities practicing remotely from abroad.
18. Does the healthcare professional need to obtain patient's consent to engage in a telehealth?
Yes. Before engaging patients via a telemedicine platform, healthcare professionals need to obtain patient consent. Patients have the right to reject the use of telemedicine.
19. Is there any other important requirement that should be highlighted?
<p>To advertise telemedicine services, the service provider is recommended to adhere to the general requirements prescribed by the DoHSS which are summarised as follows:</p> <p><i>Permissible statements</i></p> <ul style="list-style-type: none"> • name and qualifications or expertise of the doctor; • description of medical services; • pricing of medical services; • service hours; • academic/educational information; • if the term 'free' is to be used, the details of the free services, dates, times and locations must be specified. <p><i>Prohibited statements</i></p> <ul style="list-style-type: none"> • statements which are false, exaggerated or deceptive words and phrases, eg, 'top', 'best', 'absolute', 'complete cure', 'number one', 'first', 'most', 'better', '100% guarantee' or the use of other words, terms, pictures or sounds having a similar meaning; • statements that discredit other service providers; • statements that will cause misunderstanding as to the essential elements concerning the services offered;

- statements that directly or indirectly encourage the commission of an unlawful or immoral act or that adversely affect Thai culture; and
- statements that will cause disunity or adversely affect unity among the public.

Additionally, the advertisement of drug products via the telemedicine platform must be avoided. Please note that in Thailand not all drug products can be advertised to the general public.

DATA PRIVACY ASPECTS

20. Are there data privacy issues should be considered for the exploitation of such market? If your answer is positive, please provide a short description.

The main Act regulating data privacy and protection in Thailand is the Personal Data Protection Act B E 2,562 (2019) (PDPA). The subject's data (eg, medical records, prescriptions, etc) collected by telemedicine platform would fall within the scope of personal data and sensitive data, which are regulated under the PDPA.

It is important to note that the PDPA applies both within Thailand territory and extra-territorially. Furthermore, the data subject's explicit consent must be obtained before collecting, using, or disclosing sensitive personal data, including health records, unless the processing activities fall under the exception specified by law.

21. Does the applicable regulation provide for criteria and requirements for the security systems to protect the patient's information?

The MFA and its by-laws do not prescribe requirements for security systems (eg, requirements to code, encrypt algorithms or other data formats). The service provider is only required to ensure that the subject's data is secured in accordance with the PDPA.

Pursuant to Section 37 of the PDPA, the data controller (the telemedicine platform in this case) has the duty to provide appropriate security measures for preventing the unauthorised or unlawful loss, access, use, alteration, correction or disclosure of personal data, and such measures must be reviewed when necessary, or when the technology has changed, in order to efficiently maintain the appropriate security and safety measures. All of the aforementioned requirements must be in accordance with the minimum standards which are specified and published by the Committee. Data processors also have a similar duty to provide appropriate security measures and must notify the data controller of any personal data breaches that have occurred (Section 40(2) of the PDPA).

22. Does the applicable regulation provide for requirements for the transfer of information abroad?

Yes. The data controller is allowed to transfer personal data abroad if the destination country has adequate data protection standards in place and the data transfer is carried out in accordance with the rules set by the Personal Data Protection Committee (PDPC).

However, if the destination country does not have adequate data protection standards in place, the cross-border transfer must fall under one of the exceptions outlined below; otherwise, the data transfer from Thailand to an entity located outside of Thailand will not be permitted. The exceptions are as follows:

- transfers that are necessary for legal compliance; or
- transfers with the consent of the data subject (the data subject must be informed about the insufficient personal data protection standards of the relevant destination country or international organisation); or
- transfers that are necessary to comply with a contract to which the data subject is a contracting party, or if it is necessary to use the personal data to comply with the data subject's request before entering into such a contract; or

<ul style="list-style-type: none"> • where it is a legal obligation to transfer under a contract between the data controller and other persons, or legal persons, for the interests of the data subject; or • transfers to prevent or stop harm to the life, body or health of the data subject, or other persons, when the data subject is unable to provide consent at such time; or • transfers for which there is a significant public interest. <p>If the data controller or data processor in Thailand has put in place a personal data protection policy regarding the sending or transferring of personal data to another data controller or data processor who is in a foreign country, and is in the same affiliated business, or is in the same group of undertakings, and if the personal data protection policy has been reviewed and certified by the Personal Data Protection Office (PDPO) of Thailand, the data can be transferred, even if the transfer does not fall within one of the exceptions outlined above.</p>
<p>23. Is there any registration of databases requirement that companies must observe? Are there requirements regarding the recording of data in the patient's medical records?</p>
<p>No. There is no requirement to register databases.</p>
<p>LIABILITIES</p>
<p>24. Please provide a high-level overview of the liability of healthcare professionals and institutions involved in telemedicine practices.</p>
<p>According to the MFA and its by-laws, hospital managers and doctors who provide telemedicine services are liable to any adverse results arising from the services provided.</p> <p>There could be a risk if a service provider (healthcare organisation) did not obtain prior approval for engaging the telemedicine services or the services are rendered by a non-licensed healthcare professional. In general, the regulatory authorities will take the view that the service provider is liable as the supporter of any offenders in accordance with the Penal Code. Moreover, the regulatory authority can exercise its powers to block access or order the closure of a telemedicine platform belonging to that clinic/hospital.</p>
<p>TELEMEDICINE NUMBERS AND TRENDS</p>
<p>25. Is there any public disclosed information concerning the use and acceptance of telemedicine in your country?</p>
<p>Yes. Telemedicine services are generally accepted and have been gradually expanding in Thailand. The Ministry of Public Health has promoted the use of appropriate digital technology in delivering healthcare services. In addition, the National Health Security Office (NHSO) has collaborated with many private sector entities to launch pilot telemedicine services, such as: the collaboration between the NHSO and telemedicine applications to provide telemedicine service to Covid-19 patients; and the collaboration between the NHSO and telemedicine applications to provide the outpatient treatment for patients under the USC in Bangkok who suffer from one of 42 prescribed diseases.</p>
<p>26. What are the perspectives and trends in relation to the matter for the next few years? Please outline any unresolved issues, proposed changes or trends for the telemedicine sector and briefly indicate how these may foreseeably affect medical practice in the near future.</p>
<p>It is expected that the demand for remote healthcare services and self-assessment services will drastically increase in Thailand. The ease of doctor appointments and time efficiency are the major factors driving this growth.</p> <p>The issues or trends relating to telemedicine service in Thailand include:</p> <ul style="list-style-type: none"> • Internet connection or internet bandwidth – The MoPH has adopted the Thailand 4.0 policy to improve computer network infrastructure which will promote connectivity between digital health data and digital devices.

- Patient privacy and data protection – With an increasing number of people having access to health data, telemedicine service providers may face the challenge of maintaining data integrity. In the future, software and/or AI will play important role in the management of digital health data.
- Regulatory loophole of telemedicine services provided by foreign physicians/entities practicing remotely from outside Thailand – Although the current regulations do not regulate telemedicine services provided from outside of Thailand, it is possible that further notifications may be issued by the regulators to address this.
- Th use of medical devices or AI in telemedicine service – The will be an increasing trend. Service providers must ensure compliance with relevant laws governing medical devices and pharmaceutical product, such as advertising of medical products to the public must receive a prior approval from the Thai Food and Drug Administration.