

Telemedicine

The Road Less Travelled by a Doctor

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The graphic features a dark blue rectangular area with a pattern of white, concentric, wavy lines that resemble a stylized fingerprint or a topographical map. The lines are more densely packed in the center and become sparser towards the edges, creating a sense of depth and movement.

Telemetricine

Different forms of telemedicine?

- Tele-Consultation
- Tele-Nursing
- Tele-Radiology
- Tele-ICU
- Tele-Surgery

‘The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment and prevention of disease and injuries, research and evaluation, and for the continuing education of health care providers, all in the interests of advancing the health of individuals and their communities.’



The Way FORWARD

Please UNDERSTAND

- The EXCLUSIONS in the Telemedicine Practice Guidelines
- Applicable REGULATIONS and Compliance
- The Need for DOCUMENTATION
- Contractual RELATIONSHIPS with COLLABORATING Partners
- Managing DATA
- Potential LIABILITIES and NEGLIGENCE

The EXCLUSIONS in Telemedicine Practice Guidelines

- Specifications for hardware or software, infrastructure building & maintenance
- Data management systems involved; standards and interoperability
- Use of digital technology to conduct surgical or invasive procedures remotely
- Other aspects of telehealth such as research and evaluation and continuing education of healthcare workers
- Does not provide for consultations outside the jurisdiction of India
- Technology platforms based on Artificial Intelligence/Machine Learning not allowed to counsel the patients or prescribe

Applicable REGULATIONS and compliance



The Need for DOCUMENTATION

- General Records
 - Informed Consents
 - Logs of telemedicine interaction
 - Phone logs
 - Email records
 - Chats
- Patient records
 - Reports
 - Documents
 - Diagnosis
 - Test results
 - Prescription

THE **MUST !**
Document

Contractual **RELATIONSHIPS** with **COLLABORATING** Partners

- Third Party Service Providers
 - Technology service providers
 - Telecom service providers
 - Telemedicine service centres
- Hospitals
 - Consultant
 - Employee
- Telemedicine Service Centers
 - Consultant
 - Employee

Important Clauses:

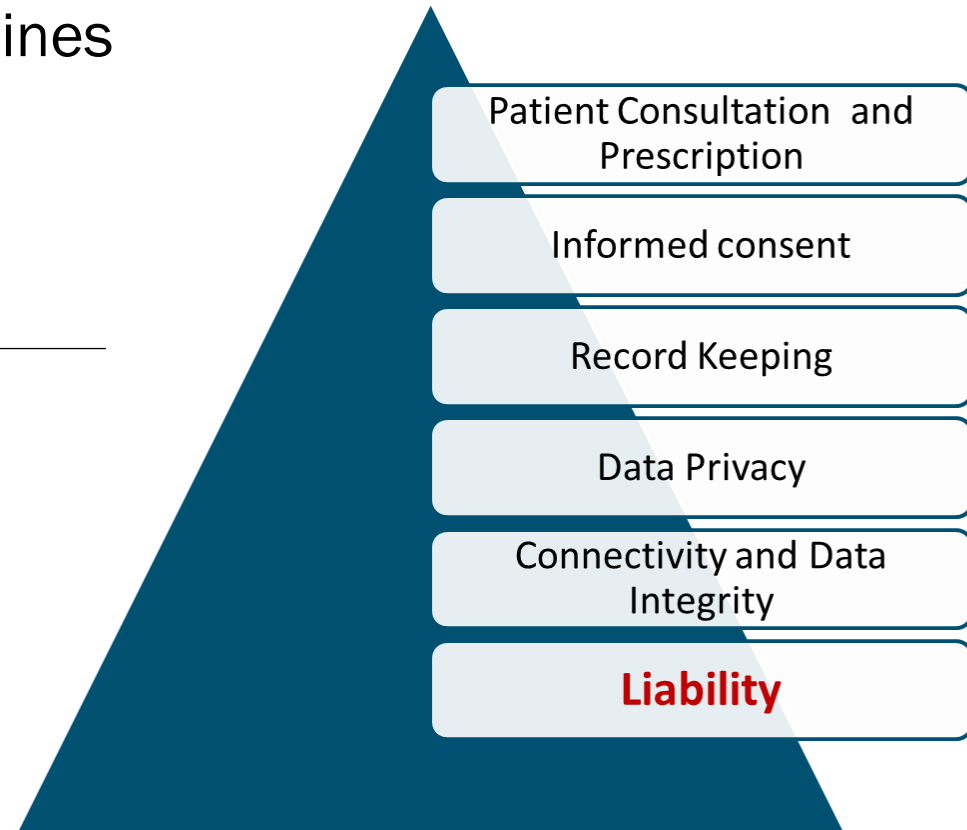
- Roles and Responsibilities
- Indemnification
- Representation and Warranties
- Obligations

Managing DATA

- Save and store all the data

Potential LIABILITIES and NEGLIGENCE

- Non Compliance with Guidelines
 - Breach of Data Privacy
 - Contractual Liability
-
- Medical Negligence





Nitty-Gritty of MEDICAL NEGLIGENCE



MEDICAL Negligence

- The jurisprudential concept of negligence differs in civil and criminal law
- For negligence to amount to an offence, the **Mens Rea** must exist.
- For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. **gross or of a very high degree.**
- Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution. (Section 304 A (Causing death by negligence) IPC)

Laws **APPLICABLE**

- Indian Penal Code, 1860
 - Death by Negligence
- Consumer Protection Act, 1986
 - Inefficiency of service
- Medical Council of India-Code Of Medical Ethics (NMC)
 - Guilty of committing professional misconduct
- Law of Torts
 - General civil liabilities

Certain Relevant CASE LAWS

- Indian Medical Association Vs. V. P. Shantha
- Jacob Mathew Vs State of Punjab
- Nizam Institute of Medical Sciences Vs. Prasanth S. Dhananka and Ors
- Martin F. D' Souza vs Mohd. Ishfaq
- Deepa Sanjeev Pawaskar and Sanjeev Anant Pawaskar v. State of Maharashtra
- Bolam vs. Friern Hospital Management Committee (1957)



The BEST Practices



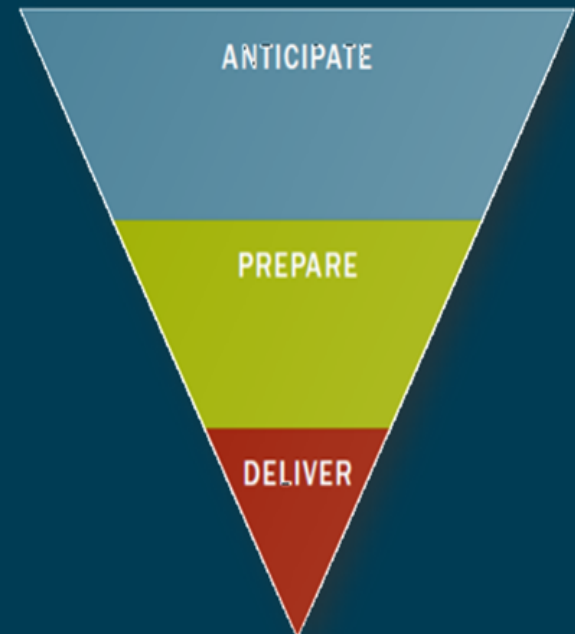
Best Practices - **GENERAL**

- Consultation to their best judgement
- Limited to first aid, life-saving measure, counseling and advice on referral
- Should not be anonymous
- Credentials to be declared to the patient
- Ask Age – Never consult Minor alone
- Explicit Consent: **MUST** - *If Health worker, RMP or a Caregiver initiates*
- Record consent in some form
- Prescription - appropriate diagnosis/provisional diagnosis – **MUST**
- No overseas consultations

Best Practices – **MITIGATING LIABILITY**

- Identification of doctor and patient
- Information of the potential risks, consequences and benefits of telemedicine during the first interaction
- Information that it is not equipped to handle emergencies
- Recording of Patient satisfaction after each Tele-Consult
- Proper documentation of everything
- Confirming all contracts with parties involved

The professional judgment
of a
Registered Medical Practitioner
should be
the guiding principle
for
all telemedicine consultations



“If you think compliance is expensive, try non-compliance”

..... *Paul McNulty*



“An Ounce of Prevention is worth a Pound of Cure”

..... *Benjamin Franklin*