POSITION STATEMENT

Guiding Principles for Telehealth Nursing and Midwifery

September 2024

Bord Altranais agus Cnáimhseachais na hÉireann
Nursing and Midwifery Board of Ireland

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NCSBN
Leading Regulatory Excellence

NMBI Guiding Principles for Telehealth Nursing and Midwifery – Adapted for Ireland

1. Telehealth nurses and midwives must be registered in the jurisdiction(s) where they will provide care for patients/service users.
2. In addition to fulfilling the jurisdictional educational requirements, telehealth nurses and midwives must have specific competencies for telehealth nursing or midwifery as outlined in the NMBI Digital Health Standards and Requirements for Undergraduate Nursing and Midwifery Education Programmes (NMBI 2023) and the All-Ireland Nursing and Midwifery Digital Health Capability Framework (ONMSD 2021). This includes knowledge of the language and cultural norms of the jurisdiction(s) where they are caring for patients/service users.
3. Telehealth nurses and midwives must abide by the laws/regulations of the jurisdiction where the patients/service users they care for are located. (Including privacy/confidentiality laws).
4. Telehealth nurses and midwives must abide by the NMBI Code of Professional Conduct and Ethics (2021) and the scope of practice requirements of the jurisdiction in which they are registered.
5. Telehealth nurses and midwives who wish to prescribe medications/treatments, must have prescriptive authority in the country in which the patient/service user is located.
6. Complaints about a nurse or midwife providing telehealth care should be sent to both the regulatory body in the jurisdiction where the incident occurred, and the regulatory body in the jurisdiction where the nurse or midwife is registered.
7. Employers are responsible for all nurses and midwives caring for patients/service users and ensuring that all jurisdictional requirements for telehealth nursing and midwifery are met. Employers are also responsible for reporting incidents involving a telehealth nurse or midwife to the appropriate regulatory body.
8. Regulators should use these principles to educate the public in their jurisdiction.

International Recommendations

- The National Council of State Boards of Nursing (NCSBN) recommends an international registry of telehealth nurses should be established in the future.
- The NCSBN also recommends that telehealth companies should have to sign an international agreement that they will abide by the guiding principles and /or the laws and regulations of the jurisdictions in which their nurses and midwives are providing telehealth services.

Background

Telehealth is a broad term that encompasses any service where healthcare is delivered remotely through the use of technology. The advantages of telehealth include improved efficiency in delivery and access to health care. In recent years many nursing and midwifery services are delivered via telehealth, with services including triage, advice, support, consultation for minor ailments, home nursing and nursing diagnoses. Telehealth is quickly evolving in healthcare and is often challenging to regulate. Technological progress creates opportunities for better, cheaper, and more accessible health services, but it also creates challenges such as inferior standards of care or lack of regulatory oversight in cases of cross-jurisdiction telehealth, which are recognised by regulators around the world.

In relation to nursing and midwifery, the telehealth market career opportunities have expanded dramatically. Challenges are emerging regarding the regulatory intricacies of telehealth and remote nursing and midwifery services specifically for trans jurisdictional working.

The Nursing and Midwifery Board of Ireland's (NMBI) main responsibility is to protect the public and to promote the integrity of the professions of nursing and midwifery. Areas of potential risk have been identified by England's Care Quality Commission (CQC) when considering telemedicine as opposed to face-to-face interactions. These include:

- Access to patients' long-term medical records in different locations
- Identification of the patient where there is a lack of access to patients' medical records
- Healthcare based on an asynchronous (not in real-time) text-based relationship, such as through questionnaires or standardised emails, varies enormously across providers
- Difficulty sharing information between healthcare professionals while respecting the patients' rights to confidentiality.

Practice in the United Kingdom

The General Medical Council (GMC) in the UK published research in 2018 on regulatory approaches to telemedicine and found that definitions of telemedicine were multifaceted with variability across countries. Some regions required doctors to be licensed in the jurisdiction of the patient, while others tend to require doctors to be licensed in their own jurisdiction. Most regulators emphasised that doctors must maintain the same standards of care when treating a patient virtually as they would when providing a face-to-face episode of care.

Doctors treating patients based in the UK must be registered with the GMC and hold a licence to practise. Therefore, a patient in the UK can only receive treatment from a doctor based outside the UK if that doctor is also GMC registered. Where the advertising originates from a country outside the UK, then it is treated as a cross-border complaint and the Advertising Standards Authority can refer that complaint to the local regulator.

Previously, under EU law, the UK (English, Welsh, Scottish or Northern Irish) national laws applied to non-contractual (for example, personal injury) and contractual claims based on digital health delivery to patients in the UK, whatever the country of origin of the provider. In accordance with retained EU law, the situation is not expected to change significantly post-Brexit. With digital health technologies and telemedicine, compliance with the local pharmacy regulations and prescribing rules will be necessary.

Practice in Europe

In the European Union (EU) most member states do not have legal instruments specifically dealing with telemedicine/telehealth, and only a few have adopted national regulations or professional and ethical guidelines concerning the provision of these services. Within the European Union, the relevant jurisdiction is considered to be that at the origin of the service where the nurses or midwife is, rather than the location of the patient. The Electronic Commerce Directive (2000/31/EC) sets up an Internal Market framework for online services. The applicability of the service provider's Member State of establishment legislation is enshrined in the eCommerce Directive 30. If the healthcare professional complies with the legislation applicable to the taking up and exercise of an information society service in their Member State of establishment, they will in principle be free to provide services in other Member States (Article 3(1) and 3(2) of Directive 2000/31/EC). This is known as the 'country-of-origin principle'.

The Directive 2011/24/EU relates to patients' rights in cross border healthcare and requires that cross-border healthcare is to be provided in accordance with the legislation of the Member State of treatment. In the case of telemedicine, it expressly defines the Member State of treatment as that of the service provider's Member State of establishment. Indeed, to provide cross-border telemedicine services, the professional does not need to move. The professional does not have to have an authorisation of the patients Member State of residence.

The European Directive 2005/36/EC and updated 2013/55/EC on the recognition of professional qualifications only covers healthcare professionals that physically move to another Member State to practice their profession. This is for the most part not the case for the health care professionals providing cross-border telemedicine.

Practice Internationally

Within the United States of America, their rationale is that should anything go wrong, the patient should have recourse to a regional regulatory body, which could then investigate the complaint on the patient's behalf.

The Federation of Medical Regulatory Authorities of Canada (FMRAC) noted that most of the province or territory-level regulators agree that the patient's jurisdiction is the one in which a doctor should be registered, and those that do not require a local licence, at the very minimum require the practitioner to be registered with at least one Canadian professional regulator.

The Medical Board of Australia requires doctors treating patients in Australia to be registered with their Board regardless of where the doctor is located. This ensures that there is always at least one regulator who could investigate a patient's complaint regarding telemedicine service they received.

It is very difficult for regulators to know whether those requirements are always adhered to, for example, whether professionals practising remotely hold a licence. In these countries, as well as in New Zealand, the regulators predominantly adopt a complaints-based approach, which means that they usually only investigate individual doctors and their registration status with the relevant regulator in response to a complaint.

The global reach potential for telehealth means that, regardless of whether local registration is required or not, cooperation and collaboration between countries and regulators who generally have a national reach, becomes vital in ensuring that technology is safely used in providing health care. The general consensus is that professionals in these areas should adhere to the same standards of care as in "face-to-face" services.

Practice in Ireland

In an Irish setting, the Code of Professional Conduct and Ethics for Registered Nurses and Registered Midwives (2021) is the foundation of safe and effective nursing and midwifery practice, and our key tool in protecting the public. All registered nurses and midwives in each area of practice should adhere to the Code's principles, values, and standards of conduct. Nurses and midwives have a responsibility to uphold the values of the professions to ensure their practice reflects high standards of professional practice.

NMBI therefore, supports the National Council of State Boards of Nursing (NCSBN) Guiding Principles for Telehealth Nursing (2022) which were developed following extensive research and consultation to provide a regulatory solution to borderless healthcare delivery for registered nurses and midwives. These evidence-based principles were developed with international regulatory bodies to augment public protection and provide a basis for increased communication, enhanced understanding, and shared research across jurisdictions. As an associate member of the NCSBN, NMBI is endorsing these practice principles for nurses and midwives working in the area of telehealth in Ireland.

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