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**NATIONAL TELEHEALTH REGULATION/  
POSITION STATEMENT AND RECOMMENDATIONS**

Approved March • , 2009

**Introduction**

Medical and allied professional groups have begun to change and increasingly adopt telehealth into integrated practice patterns. Traditional geographic borders are being made less relevant by evolving telehealth. Additionally, a broader range of health care professionals (including physicians, therapists, nurses and technologists) are becoming involved in the delivery of care through a variety of telehealth options. However, the regulatory environment governing telehealth, and in particular, cross provincial/territorial borders, has not adapted as quickly and is in effect, inhibiting the adoption of telehealth more broadly; a solution that can reduce disparities in healthcare and decrease healthcare costs.

Although several regulatory authorities (i.e. Colleges) in some provinces have implemented telehealth policies<sup>1</sup>, or by-laws, there is no consistent approach to the practice of telehealth. Regulations and policies must be developed to facilitate the use of telehealth, to improve access, quality and efficiency of medical care to all Canadians regardless of location. Uniform rather than patchwork regulations are required in this area to recognize, document and consolidate current practices as between specific regions and medical disciplines. A failure to do so will compromise further expansion of telehealth due to uncertainty by practitioners over compliance with numerous and sometimes inconsistent licensing requirements and clinical/technical standards. The failure to regulate legitimate forms of telehealth risks the perception that this model delivery of health care somehow represents unsound practice or is otherwise indistinguishable from the more specific esoteric, Internet-based health information websites.

**National Telehealth Regulatory Framework**

A national telehealth regulatory framework is required in light of the multi-disciplinary and multi-jurisdictional nature of telehealth delivery. An integrated and flexible regulatory framework is preferred to minimize overlap and incompatible expectations.

An integrated national regulatory framework should, at a minimum, specify which licensing authorities have the jurisdiction to:

- Licence;

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<sup>1</sup> While several Regulatory Authorities (Colleges) have policies related to Telehealth, Québec's Act *Respecting Health Services and Social Services (Loi sur les services de santé et les services sociaux)* is, to date, the only province to enact legislative provisions specifically related to telehealth services. Professionals practicing telehealth at a public "institution" in Québec, as defined in the Act, should be familiar with the legislative requirements, including the need to enter into an agreement in the course of providing telehealth services. The Act also addresses other issues, such as the location where telehealth services are presumed to have been provided.

- Establish policies and standards; and
- Discipline a particular health care professional involved in practicing inter-provincial/territorial health

An integrated approach to telehealth regulation will encourage health care professionals to take advantage of the clinical benefits of telehealth while minimizing concerns over potential compliance issues. Certainty and consistency in regulation will also benefit patients receiving care through telehealth, including by promoting a minimum level of care and clarifying professional accountability. A national telehealth regulatory framework is particularly needed in a country such as Canada where a relatively small population is spread out over a large geographic area. Consistent national regulation will encourage the further development of telehealth delivery to remote and sparsely populated regions, thus improving access to quality medical care and reducing the burden on patients traveling for care.

### **Licensure**

The provincial/territorial medical regulatory authorities for each profession have an obligation to licence and regulate their respective health care professionals. The purpose of physician and health professions licensing is to maintain a high standard of care in clinical practice and to ensure public protection against unlicensed or unqualified practitioners. A consistent framework is needed to guide these various Colleges through this process.

Telehealth policies should generally be directed primarily towards *facilitating* standards-based licensure without, at this time, directing or regulating the standards of practice for each individual professional discipline. Regulatory authorities contemplating the adoption of such a policy should, at a minimum, consider addressing the following licensure issues:<sup>2</sup>

1. Establish licensing requirements for their professionals practicing telehealth in their jurisdiction.
2. Determine what licensing or registration requirements professionals practicing telehealth will be required to satisfy in the resident jurisdiction of their telehealth patients. “Registration” may be preferred over full “licensure”. For example, it may be sufficient that professionals practicing telehealth into another jurisdiction be duly licensed in the province/territory in which their practice is located and to register with the regulatory authority in the jurisdiction into which they are delivering telehealth.
3. Consider how jurisdiction will be determined in cases where a professional is delivering telehealth into the province/territory from an outside jurisdiction. One possible means is to designate the patient’s location as the place where telehealth occurs for the purpose of determining jurisdiction. Alternatively, it may be possible for the practitioner to agree to be subject to the jurisdiction into which he/she is delivering telehealth (i.e. to attorn to the

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<sup>2</sup> The Federation of Medical Licensing Authorities of Canada (now the Federation of Medical Regulatory Authorities of Canada) adopted resolutions in 1998 recommending that medical regulatory authorities in Canada (i.e. Colleges) approach the issue of licensure in a similar fashion.

jurisdiction of the College where the patient is located concerning all matters arising from the practitioner's practice of telehealth in the outside jurisdiction).

Telehealth practiced strictly within a defined geographic boundary (e.g. as between professionals practicing in different hospitals within the same local health authority) will usually not give rise to unique issues concerning licensure as practitioners will be expected to be licensed by a regulatory authority in one jurisdiction, to which he/she will be accountable. Nevertheless, even these professionals must consider other issues, such as whether there may be particular requirements or expectations in each location regarding qualifications, equipment, liability protection, etc.

The CST is of the view that health care professionals should not be required to obtain full licensure (i.e. as required by professionals whose practice is located in the jurisdiction) in each province/territory into which they provide telehealth services, except in limited circumstances. "Special licensure" or a limited exemption may be considered where, for example, the frequency of telehealth services being provided does not justify full licensure. Health care professionals providing telehealth across disciplines should also not be required to obtain full licensure with each regulatory authority, except in limited circumstances. The concept of "special licensure" could be supported if every regulatory authority in each province/territory implemented a standard definition of "professional misconduct" related to inter-provincial/territorial practice of telehealth.

### **Standards and Guidelines**

A national framework for the licensure and regulation of health care professionals is merely a starting point. Consistent licensing and discipline of inter-provincial/territorial telehealth services is not necessarily intended to address the varying and fluid standards and policies regarding the practice of medicine. Health care professionals will still be required to inform themselves of applicable policies and guidelines that exist in the patient's jurisdiction.

The establishment of a consistent licensing and discipline framework may facilitate a united effort to develop integrated standards, guidelines and policies for the practice of inter-provincial/territorial telehealth involving different health disciplines. While the development of consistent clinical and technical standards by individual medical regulatory authorities is important, the challenge will be to find agreement on uniform standards across all practice disciplines. As a starting point, such policies should largely reflect the best practices currently in use in each profession and in each jurisdiction. The development and implementation of telehealth standards and guidelines can provide a uniform roadmap for efficient, safe and effective use of telehealth across Canada.

### **CST Position**

The CST supports the following positions on telehealth: (a) a national telehealth regulatory framework that provides for a simple but adequate provincial/territorial supervision and licensure system of physician and other allied health professionals who engage in cross provincial/territorial telehealth but that does not cause a burden on the ability of those professionals to provide timely healthcare services to any Canadian resident; and (b) the

development of integrated telehealth standards, guidelines and policies for the practice of cross-jurisdictional telehealth.

The CST encourages regulatory Colleges and provincial/territorial health ministries/departments to support the deployment and integration of telehealth into mainstream health care delivery through establishment, on a priority basis, of a national telehealth regulatory framework and standards, guidelines and policies for inter-jurisdictional telehealth. The CST supports policies at the federal, provincial/territorial and local levels that create collaborative and practical working agreements regarding telehealth medical licensure and practice.

### **The CST**

The CST is the premier Canadian non-profit health association incorporated in 1998, devoted to advancement and adoption of information and communication technology in the delivery of health and health services. The organization promotes all aspects of telehealth which is the use of information and communication technologies to deliver health services and transmit health information over long and short distances. The CST strives to bring together key stakeholders involved in and interested in furthering the development and implementation of telehealth practices. It acts as a major resource for information and knowledge sharing and contributes to, and advocates for telehealth policy and standards development.