

23 MAR 13 P3:17

SENATE
S. No. 1989

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Introduced by Senator MANUEL "LITO" M. LAPID

AN ACT
PROVIDING FOR A NATIONAL POLICY AND REGULATORY FRAMEWORK
FOR THE PHILIPPINE TELEMEDICINE INDUSTRY, PROMOTING THE
DELIVERY OF HEALTH SERVICES USING INFORMATION AND
COMMUNICATIONS TECHNOLOGIES, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The COVID-19 epidemic put the public health system to the ultimate test. It highlighted weaknesses in desperate need of reforms and action in the health sector. One such area is remote health care delivery. While our traditional health resources were consumed with pandemic treatment and management, most other medical needs, both critical and optional, were overlooked.

During the pandemic, in order to reduce viral transmission, healthcare systems in the Philippines were obliged to adapt to remote delivery. It has also proved difficult to accommodate both COVID-19 and COVID-19-free patients. Telemedicine has grown in popularity in the Philippines as access to information and communication technology has improved.¹ Because of the pandemic, teleconsultations can now be done through COVID-19 hotlines, websites, and mobile apps launched by several agencies and businesses.²

¹ The Role of Telehealth in the COVID-19 Pandemic, 2021 |

² Breaking Barriers Amid the Pandemic: The Status of Telehealth in Southeast Asia and its Potential as a Mode of Healthcare Delivery in the Philippines, 2021

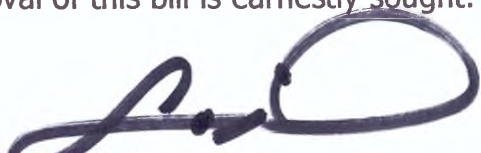
Many studies suggest that telehealth has improved healthcare provision during the COVID-19 pandemic and recommend it for public safety.³ These studies also discuss how telemedicine can contain the pandemic and preserve personal protective equipment. Telemedicine has also improved the management of chronic diseases and has proven to save travel time and money.⁴

Telemedicine, is one method of enhancing the country's healthcare system. By investing in telemedicine, the government can enhance healthcare delivery, labor productivity, and, eventually, economic success. The ultimate advantages that telemedicine brings to the public are convenience, security, and a safer healthcare alternative during the pandemic.

Ang suliranin sa kalusugan ngayong makabagong panahon ay nangangailangan ng makabagong solusyon. Sa ating panukalang batas, nais nating lunasan ang matagal nang suliranin sa kawalan ng ligtas at disenteng serbisyong pangkalusugan dahil sa kakulangan ng mga doktor at iba pang manggagawa sa sektor ng kalusugan, lalo na sa pinakamalalayong lugar. Sa pamamagitan ng "telemedicine" maari nang magbigay ng serbisyong pangkalusugan ang ating mga doctor sa ating mga kababayan sa malalayong lugar na hindi kinakailangan lumisan sa kanilang lugar na pinagtatrabahuhan.

This measure seeks to institutionalize a national telemedicine system and provide development and regulatory framework for the telemedicine industry.

In view of the foregoing, immediate approval of this bill is earnestly sought.



MANUEL "LITO" M. LAPID
Senator

³ Nguyen et al., 2008; Monaghesh and Hajizadeh, 2020; Somsiri et al., 2020; Bagayoko et al., 2014

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8606793/#B21>

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1 **AN ACT**
2 **PROVIDING FOR A NATIONAL POLICY AND REGULATORY FRAMEWORK**
3 **FOR THE PHILIPPINE TELEMEDICINE INDUSTRY, PROMOTING THE**
4 **DELIVERY OF HEALTH SERVICES USING INFORMATION AND**
5 **COMMUNICATIONS TECHNOLOGIES, AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

6 **SECTION 1. Title.** — T **SECTION 1. Title.** — This Act shall be known as the
7 "Telemedicine Development Act of 2023"

8 **SECTION 2. Declaration of Policy.** — The State recognizes the universal and
9 inalienable right of the Filipino people to health, including access to health services,
10 especially in times of a pandemic, where the new normal sets to maintain the state
11 of physical distancing and the public's limitation to travel and movement.

12 Towards this end, the State shall promote the use of electronic modes of
13 delivery of basic health services as a means of expanding access to primary health
14 care. It shall develop and regulate, the practice of telemedicine in the Philippines. It
15 shall recognize its practice as a legitimate means by which a patient may receive
16 medical services from a licensed physician without physical contact.

17 **SECTION 3. Objectives.** — This Act provides for and shall govern the:

- 1 a. Provision of access to health services in medically underserved rural
- 2 and urban area;
- 3 b. Standardization, upgrading, and maintenance of the distinct domain
- 4 of telemedicine;
- 5 c. Set mechanisms for policymaking, monitoring, and compliance,
- 6 including the formulation of required policies, guidelines, and
- 7 compliance mechanisms to support the attainment of the quality and
- 8 acceptable eHealth systems and services;
- 9 d. Upholding of competence, values, and profession ethic of physicians
- 10 who will engage with the telemedicine practice;
- 11 e. Develop infrastructure for information and communications
- 12 technology (ICT) for health to promote equitable, affordable, and
- 13 universal access to health services; and
- 14 f. Facilitate the exchange and access to secured personal health
- 15 information, including health providers sharing and use health and
- 16 medical information to improve care as well as public access to
- 17 relevant information for the promotion of their own personal health.

18 **SECTION 4. *Definition of Terms.*** — As used in this act, the following terms
19 shall mean:

- 20 a. *Practice of Medicine* - refers to acts constituting practice of medicine. A person
- 21 shall be considered as engaged in the practice of medicine when he or she (a)
- 22 shall, for compensation, fee, salary or reward in any form paid to him directly
- 23 or through another, or even without the same, physically or remotely examine
- 24 any person, and diagnose, treat, operate, or prescribe any remedy for human
- 25 disease, injury, deformity, physical, mental or psychical condition, or any
- 26 ailment, real or imaginary, regardless of the nature of the remedy or treatment
- 27 administered, prescribed or recommended; or (b) shall by means of signs,
- 28 cards, advertisements written or printed matter, or through the radio and
- 29 television, either offer or undertake by any means or method to diagnose, treat,
- 30 operate, or prescribe any remedy for any human disease, injury, deformity,
- 31 mental or physical condition; or, (c) uses the title of M.D. after his name.

- 1 b. *Telemedicine* - as defined by the World Medical Association, refers to the
2 practice of medicine over a distance, in which interventions, diagnostics, and
3 treatment decisions and recommendations are based on data, documents, and
4 other information transmitted through telecommunication systems.
- 5 c. *Telehealth* – refers to the delivery of health-related services and information
6 via telecommunication technology. It encompasses preventive, promotive,
7 curative, and palliative aspects.
- 8 d. *Physician* - refers to a professional duly-licensed to practice medicine, or
9 otherwise permitted to engage in the practice of medicine by the Medical Act
10 of 1959.
- 11 e. *Patient* - refers to any person receiving medical treatment *Domain* refers to a
12 specified field of knowledge or activity.
- 13
- 14 f. *Domain* – refers to a specified field of knowledge or activity.
- 15
- 16 g. *Telecommunication systems* – refer to a collection of nodes and links, including
17 devices and technology used, to enable telecommunication.
- 18
- 19 h. *Information and Communications Technology* – includes but is not limited to:
20 1. Compressed digital interactive video, audio, or data transmission;
21 2. Real-time synchronous video or web-conferencing communications
22 technology;
23 3. Secure web-based communication;
24 4. Still image capture or asynchronous store and forward; and
25 5. Modern smart medical device used for diagnosis and health care
26 services.

27 **SECTION 5. Coverage.** — This law shall apply to all existing telemedicine
28 practitioner, institution, entities, services and related application system in both
29 public and private. It shall not alter the scope of practice of any health care provider
30 or authorize delivery of health care services in a setting or in a manner not

1 authorized by law. It shall cover all other eHealth solutions and services including
2 relevant standard equipment in the field of health and ancillary services that uses
3 ICT and are complementary to existing minimum modalities or standards of health
4 care and other access to information.

5 **SECTION 6. *Enforcement.*** — The Department of Health (DOH) shall regulate
6 and supervise the telemedicine practice in the Philippines and shall be permitted to
7 create an attached agency intended for this purpose.

8 **SECTION 7. *Persons allowed to Diagnose through Telemedicine.*** — Only
9 licensed physicians or those licensed by the Professional Regulatory Board of Medicine
10 are allowed to diagnose and provide physician consultation services through
11 telecommunication systems.

12 **SECTION 8. *Privacy and Consent of Patients.*** — The following general
13 conditions shall be observed and complied with by the parties to telemedicine service:

14 a. Prior to the rendering of health services through telemedicine, the physician
15 who has the authority over the primary diagnosis shall obtain written informed
16 consent duly signed by the patient. The consent procedure shall ensure that
17 the following information is given and explained to the patient:

18

19 1. The individual retains the option to withhold or withdraw
20 consent, at any time, without affecting the right to access to
21 care or treatment which the individual would otherwise be
22 entitled;

23 2. A clear explanation of the potential risks, consequences, and
24 benefits of telemedicine;

25 3. All existing laws and stipulations on confidentiality shall apply;

26 4. The patient shall have access to all medical information transmitted
27 during a telemedicine consultation, and copies of this information shall
28 be made available to the patient;

1 5. Dissemination of any patient’s identifiable images or information from
2 the telemedicine consultation to other third parties shall not be made
3 without the consent of the patient; and,

4 6. The patient understands the written information provided pursuant to
5 subdivision and that this information has been discussed with the
6 physician, or his or her representative or assignee.

7
8 b. The written consent statement signed by the patient shall become part of the
9 patient’s medical record.

10
11 c. The failure of the physician to comply with this section shall be penalized under
12 this Act.

13 d. Where the patient is a minor or is incapacitated or incompetent, such that he
14 or she is unable to give informed consent, the patient’s legal guardian shall
15 sign in behalf of the patient.

16 e. The physician or persons engaged in telemedicine, including hospitals or
17 establishments which offer this service through its licensed physicians, shall
18 have the obligations of a data controller under the Data Privacy Act of 2012.

19 f. The patient shall have all the rights of a data subject under the Data Privacy
20 Act of 2012.

21 g. This section does not apply in an emergency situation in which a patient is
22 unable to give informed consent and the representative of that patient is not
23 available.

24 **SECTION 9.** *Establishment of physician-patient relationship.* — Upon
25 compliance to the preceding paragraph, the physician and patient interacting through
26 telecommunication services, for purposes of telemedicine practice shall be considered
27 to have established a physician-patient relationship, and all pertinent laws governing
28 and related to the said relationship shall likewise apply.

1 **SECTION 10. *Telehealth and Telemedicine Services*** — Telehealth is an
2 approach of providing health care services and public health with the use of ICT to
3 enable the diagnosis, consultation, treatment, education, care management, and self-
4 management of patients at a distance from health care providers. However, it shall
5 not be understood to modify the scope of medical practice or any health care provider
6 or authorize the delivery of health care service in a setting or manner not otherwise
7 authorize by the law.

8 **SECTION 11. *Electronic Medical/Health Record (EMR/EHR)*** — All data in
9 EMR/EHR shall be considered protected health data and shall be governed by
10 established rules for access, authentications, storage and auditing, and transmittal.

11 a. Disclosure — Disclosure of and accessibility to protected data in EMR/EHR shall
12 be limited and standardized following international and local rules and
13 regulation. Patients may secure a copy of their EMR/EHR upon request and
14 shall provide informed consent if their EMR/EHR is shared with third parties
15 except when these are processed to produce aggregate health statistics, for
16 social health insurance claims based on established guidelines, for public
17 health emergency concerns and national security.

18 b. Covered Entities — covered entities may disclose protected health
19 information to law enforcement officials performing their official duties and
20 responsibilities as required by existing national and local laws and with proper
21 order from duly concerned bodies.

22 **SECTION 12. *Standards of Care*** — The Standards of Care to be provided
23 shall be based on established clinical or service guidelines and services given must
24 be the same regardless of whether a healthcare provider provides healthcare services
25 in person or electronically. The primary accountable for the healthcare delivery shall
26 be the attending physician.

27 Telemedicine shall not replace health care providers providing services in
28 person or relegate them to less important role in the delivery of healthcare. The
29 fundamental healthcare provider-patient relationship is not only to be preserved but
30 also augmented and enhanced.

1 **SECTION 13.** *Secure Health Information Exchange (HIE)* — The DOH,
2 Department of Information and Communications Technology (DICT), Department of
3 Science and Technology (DOST), and Philippine Health Insurance Corporation.
4 (PhilHealth) shall establish a secured health information exchange using a common
5 trust framework and a common set of rules which serves as the foundation for
6 electronic information exchange across geographical and health-sector boundaries.
7 The HIE includes the physical infrastructure, standards, core services, and
8 applications that will strengthen the national eHealth environment.

9 **SECTION 14.** *Compliance required.* — Hospitals, establishments, or persons
10 allowed under this Act, to offer the delivery of medical services through
11 telecommunication systems, or otherwise regarded as telemedicine practice, shall
12 meet the following requirements:

- 13 a. All persons and facilities including but not limited to clinics, hospitals, and
14 medical establishments, which will undertake telemedicine practice shall be
15 registered with the DOH as facilities rendering telemedicine;
16
- 17 b. All personnel employed by, whether regular or contractual, the above-stated
18 facilities, intended to handle all the data and telecommunication systems under
19 this Act shall be licensed or certified by their respective board or agency, where
20 licensure is required by law;
21
- 22 c. All equipment and telecommunication systems intended to be used in carrying
23 out telemedicine shall be duly declared upon registration with the DOH and
24 the operating personnel for the equipment or system shall be licensed or
25 certified, as required by law;
26
- 27 d. All telemedicine services shall be available, at reasonable times, to all persons
28 intending to avail such services. To the extent feasible, the facility shall make
29 all services accessible to all;
30

- 1 e. Software platform that connects existing or new medical devices and
2 gateways shall be defined and regulated to ensure seamless data transfers
3 based on established industry and national standards, and standardization
4 of EHR/EMR; and
5
6 f. The required ICT infrastructure to implement eHealth systems and services
7 shall conform to the national ICT infrastructure plan and standards.
8

9 **SECTION 15. *Implementing Rules and Reputations.*** — Within ninety (90)
10 days after the approval of this Act, the DOH, Department of Information and
11 Communications Technology, in consultation and coordination with appropriate
12 government agencies, representatives from the private sector, and other
13 stakeholders, shall promulgate the necessary implementing rules and regulations for
14 the effective implementation of this Act.

15 **SECTION 16. *Separability Clause.*** — In the event that any part, section or
16 provision of this Act shall be declared unconstitutional or invalid by a competent court,
17 the remaining provisions thereby shall remain valid and in full force and effect as if
18 the sections or provisions so annulled or voided had never been incorporated herein.

19 **SECTION 17. *Repealing Clause.*** — All laws, decrees, executive orders,
20 issuances, rules and regulations, or parts thereof not consistent with the provisions of
21 this Act are hereby repealed or modified and/or superseded as case may be by this
22 Act accordingly.

23 **SECTION 18. *Effectivity.*** — This Act shall take effect fifteen (15) days after its
24 complete publication in the Official Gazette or in at least two (2) newspapers of general
25 circulation, whichever comes earlier.

26 *Approved,*