

LAWS OF MALAYSIA

ACT 564 TELEMEDICINE ACT 1997

Date of Royal Assent : 18th June 1997
Date of publication in the Gazette : 30 June 1997
Date of coming into operation :

ARRANGEMENT OF SECTIONS

Section 1. Short title and commencement.

(1) This Act may be cited as the **Telemedicine Act 1997**.

(2) This Act shall come into force on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for different provisions of this Act.

Section 2. Interpretation.

In this Act, unless the context otherwise requires -

"Council" means the Malaysian Medical Council established under section 3 of the Medical Act [Act 50];

"Director General" means the Director General of Health, Malaysia;

"fully registered medical practitioner" means any person who is fully registered under section 14 of the Medical Act;

"Medical Act" means the Medical Act 1971 [Act 50];

"practising certificate" means a practising certificate issued under section 20 of the Medical Act;

"provisionally registered" means provisionally registered under section 12 of the Medical Act;

"registered medical assistant" means any person who is registered under the Medical Assistants (Registration) Act 1977 [Act 180];

"registered midwife" means any person who is registered under the Midwives Act 1966 [Act 436];

"registered nurse" means any person who is registered under the Nurses Act 1950 [Act 14];

"telemedicine" means the practice of medicine using audio, visual and data communications.

Section 3. Persons who may practise telemedicine.

(1) No person other than -

(a) a fully registered medical practitioner holding a valid practising certificate; or

(b) a medical practitioner who is registered or licensed outside Malaysia and -

(i) holds a certificate to practise telemedicine issued by the Council; and

(ii) practises telemedicine from outside Malaysia through a fully registered medical practitioner holding a valid practising certificate, may practise telemedicine.

(2) Notwithstanding paragraph (1)(a), the Director General may, upon an application being made by a fully registered medical practitioner, permit in writing, subject to such terms and conditions as the Director General may specify, a provisionally registered medical practitioner, a registered medical assistant, a registered nurse, a registered midwife or any other person providing healthcare, to practise telemedicine if such person -

(a) is deemed suitable by the Director General to be so permitted; and

(b) is under the supervision, direction and authority of the fully registered medical practitioner making the application.

(3) Any person who practises telemedicine in contravention of this section, notwithstanding that he so practises from outside Malaysia, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Section 4. Certificate to practise telemedicine.

(1) An application for a certificate to practise telemedicine referred to in paragraph 3(1)(b) shall be made by a medical practitioner registered or licensed outside Malaysia through a fully registered medical practitioner to the Council in such manner or form and accompanied by such documents, particulars and fees as may be prescribed.

(2) The Council may issue to the applicant a certificate to practise telemedicine for a period not exceeding three years subject to such terms and conditions as the Council may specify in such certificate.

(3) The Council may at any time vary the terms and conditions of a certificate to practise telemedicine issued under subsection (2).

(4) The Council may at any time cancel any certificate to practise telemedicine issued under subsection (2) if the person to whom the certificate is issued contravenes any term or condition specified in the certificate.

(5) Any person who is aggrieved by the refusal of the Council to issue a certificate to practise telemedicine or by the cancellation of a certificate to practise telemedicine may appeal to the Minister whose decision shall be final.

Section 5. Patient's consent.

(1) Before a fully registered medical practitioner practises telemedicine in relation to a patient, the fully registered medical practitioner shall obtain the written consent of the patient.

(2) The consent given by a patient under subsection (1) is not valid for the purpose of that subsection unless the fully registered medical practitioner has, before the consent is given, informed the patient -

(a) that he is free to withdraw his consent at any time without affecting his right to future care or treatment;

(b) of the potential risks, consequences and benefits of telemedicine;

(c) that all existing confidentiality protection apply to any information about the patient obtained or disclosed in the course of the telemedicine interaction;

(d) that any image or information communicated or used during or resulting from telemedicine interaction which can be identified as being that of or about the patient will not be disseminated to any researcher or any other person without the consent of the patient.

(3) The consent given by a patient under subsection (1) shall not be valid for the purpose of that subsection unless the consent contains a statement signed by the patient indicating that he understands the information provided pursuant to subsection (2) and that this information has been discussed with the fully registered medical practitioner.

(4) The written consent under subsection (1) and statement under subsection (3) of a patient shall become part of the patient's medical record.

(5) Where the patient is a minor, or is under such mental disability as to render him incapable of giving an informed consent, consent may be given on his behalf by his next friend or guardian *ad idem*.

(6) Any fully registered medical practitioner who contravenes this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Section 6. Regulations.

(1) The Minister may make such regulations as appear to him to be necessary or expedient for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made -

(a) to prescribe the minimum standards in respect of any facility, computer, apparatus, appliance, equipment, instrument, material, article and substance which are to be used in the practice of telemedicine on any premises;

(b) to provide for acceptable quality assurance and quality control in respect of telemedicine services;

(c) to require persons practising telemedicine to maintain such books, records and reports as may be necessary for the proper enforcement and administration of this Act and to prescribe the manner in which such books, records and reports are to be kept and issued;

(d) to require the furnishing of statistical information to the Director General;

(e) to provide that the contravention of any provision of any regulation made under this Act shall constitute an offence and that persons convicted of such offence shall be liable to a fine or imprisonment or both but such fine shall not exceed five thousand ringgit and such imprisonment shall not exceed one year;

(f) to prescribe the offences under this Act or the regulations made under this Act which may be compounded and the person by whom and the manner in which such offences may be compounded;

(g) to prescribe any other matter which is required or permitted by this Act to be prescribed.

LIST OF AMENDMENTS

<i>Particulars under section 7(ii) and (iii) of the Revision of Laws Act 1968 (Act 1)</i>	<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
-------------------------------------------------------------------------------------------	---------------------	--------------------	----------------------

- NIL -