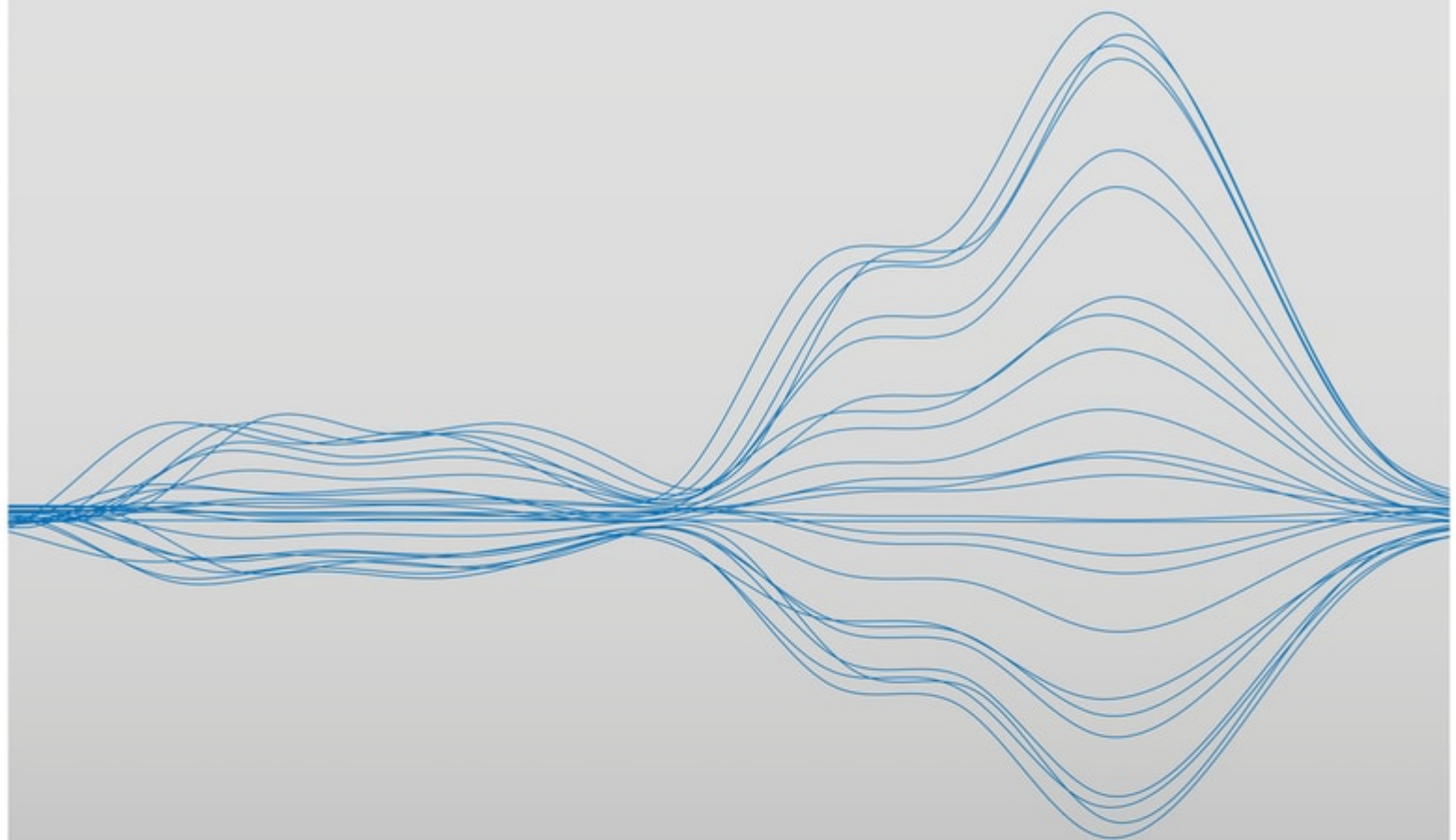


ARGENTINA

Telehealth around the world: a global guide



Introduction

The COVID-19 pandemic has caused healthcare systems around the globe to rapidly, and in some cases, radically rethink the delivery of medical care. The global expansion of telehealth services is one way we have seen this transformation occur. This has resulted in significant opportunities in the field, as well as unprecedented regulatory change.

As a quickly evolving area, 'telehealth' can have different meanings in different contexts. In this Global Guide, telehealth refers to the delivery of healthcare services where patients and providers are separated by distance, using information and communications technology for the exchange of information for the diagnosis or treatment of diseases and injuries. We have adapted this definition from the World Health Organisation's definition of telehealth.

Telehealth is not a new concept – healthcare providers, academics and technology developers have been advocating for its use for decades. There are many benefits to the widespread adoption of telehealth, including improved access to healthcare services, risk mitigation, convenience and flexibility, and in many cases, a reduction in overhead costs. However, the use of telehealth is not without its challenges. For example, it is not suited to all forms of healthcare, its implementation and adoption can be time consuming and costly, and additional care must be taken in relation to the transfer of patient health information.

The restrictions of movement in many parts of the world due to COVID-19 has caused governments to recognise the potential of telehealth, and amend laws and regulations seemingly overnight to enable healthcare providers to deploy telehealth solutions. Many governments have adopted telehealth reforms in a matter of weeks, which may otherwise have taken years to be considered and introduced.

Although many of these reforms presently have an expiration date (dependent on the duration of the COVID-19 pandemic), there is likely to be continued growth in telehealth due to the advantages of such a service – even after the pandemic. There are enormous opportunities in the telehealth space for businesses already operating in this field, businesses considering expanding into telehealth, and start-ups.

This Global Guide provides an overview of the current state of telehealth regulations worldwide and assists readers to identify the opportunities, challenges and risks, on a country-by-country basis. As the field of telehealth, and the regulations underpinning it, remain highly dynamic and subject to change, this document is intended as a general guide and does not constitute legal advice. Should you wish to discuss any aspects of telehealth with a specialist lawyer, please contact us below.

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Argentina

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Is the use of telehealth permitted?

Yes, telehealth is permitted in Argentina.

How is telehealth regulated?

In 2019, the Argentine Ministry of Health published a guide of recommendations for the supply of 'telehealth' (Disposition No. 21/2019). The "Recommendations for the use of telehealth: meeting between the health professional and the patient using real-time ICT" guide was prepared by a group of healthcare providers, coordinated by the Ministry of Health, with the objective of creating a guideline for the provision of telehealth in a safe, efficient and ethical way.

Pursuant to the General Resolution No. 282/2020 issued by the Superintendency of Health Services ("Superintendencia de Servicios de Salud"), all private health insurers must employ and promote the use of teleconsultation platforms in order to provide healthcare treatments. In all cases, they must guarantee that the data and information collected from the patient through the use of teleconsultation platforms is protected in the terms of the Personal Data Protection Law No. 25,326. Moreover, telehealth platforms are, in all cases, subject to a subsequent audit carried out by the Superintendency of Health Services.

In 2022, pursuant to the General Resolution No. 581/2022, the Argentine Ministry of Health published a new guide with recommendations in the telehealth field: "Recommendations for the use of telehealth and good practices for healthcare providers".

It should be highlighted that these guides are recommendations provided by the Ministry of Health in order to ensure the good practices in the use of telehealth. Notwithstanding, each of the Argentine Provinces may complement these recommendations by issuing their own regulations and laws.

Are there specific fields of healthcare in relation to which telehealth services are currently available, and do they involve the use of proprietary technology or platforms?

Pursuant to Section 6 of the Law No. 27,553, the healthcare services currently available through telehealth methods are: general practice, dentistry and collaborative activities related to them, and psychology. In all cases, these activities should be previously authorised by the competent authority, and they should comply with the provisions of the Patient Rights Law No. 26,529. These services are available by proprietary platforms and general videoconferencing apps. As both forms are permitted, the platform used will depend on each particular case.

Does the public health system include telehealth services, and if so, are such services free of charge, subsidised or reimbursed? Where the public health system does not include telehealth services, are such services covered by private health insurance?

The public health system is free of charge but generally does not include telehealth services because it lacks the infrastructure to provide them. However, pursuant to the electronic prescriptions of medicines and healthcare treatments Law No. 27,553, all the healthcare providers of the public health system are empowered to do so, and can issue electronic prescriptions.

Most of private health insurers offer some telehealth services such as appointments with a medical doctor via videoconference. No additional fees are charged to the patient as this is typically covered in the health insurance policy.

Do specific privacy and/or data protection laws apply to the provision of telehealth services?

There are no specific data protection laws relating to telehealth services precisely. However, the Ministry of Health's guides and recommendations include a section related to data protection and, in all cases, healthcare providers should comply with Law No. 25,326 of Personal Data Protection.

How should the cross-border transfer of personal information collected and processed in the course of telehealth services be carried out to ensure compliance with applicable privacy laws?

Pursuant to Law No. 25,326 of Personal Data Protection, the cross-border transfer of personal data of any kind is prohibited. However, this prohibition shall not apply in the following cases:

- International judicial collaboration;
- Exchange of medical data, when required by the treatment of the affected person, or an epidemiological investigation;
- Bank or stock transfers;
- When the transfer has been agreed within the legal framework of international treaties to which the Argentine Republic is a party; and
- When the transfer is aimed at international cooperation between intelligence agencies to fight organised crime, terrorism and drug trafficking.

In all cases, for the transfer of data, the owner's consent is required.

Are there any currently applicable codes of conduct on the use of telehealth systems and/or security of telehealth data in your jurisdiction?

Yes, as discussed in [Availability of Telehealth](#), the Ministry of Health has published two guidelines: (i) "Recommendations for the use of telehealth: meeting between the health professional and the patient using real-time ICT"; and (ii) "Recommendations for the use of telehealth and good practices for healthcare providers".

Are any specific laws, regulations, or self-regulatory instruments expected to be adopted in the near future?

The government has recommended that public and private healthcare providers implement and promote the use of teleconsultation platforms in order to provide essential health services.

Moreover, further regulations will be issued to implement Law No. 27,553 as discussed in [Regulation of Telehealth](#).

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