

Submitted by: Federation of Medical Regulatory Authorities of Canada

1. Are there ways that policies can better support innovation, choice and access to digital health care solutions? For example, do specific rules unnecessarily impact the ability to offer virtual products and services to Canadians? Please explain.

Comments from the Federation of Medical Regulatory Authorities of Canada (FMRAC): FMRAC is a member-based organization comprising the 13 provincial and territorial medical regulatory authorities. FMRAC itself is not a regulatory authority, nor does it have any authority over its members. Its members do have statutory authority to protect the public by ensuring that licensed physicians are qualified to practise safely in their jurisdiction. Bottom line: they regulate individual physicians. They do **not** regulate the health care system, devices that use digital technologies (including artificial intelligence) or drugs. Furthermore, they have no role to play in the payment of physicians for the provision of medical care, including the issuance of billing numbers.

The innovation of possible concern would relate to the delivery of safe care, as the medical regulatory authorities expect that the quality of care provided will be the same, regardless of the mode of delivery.

The Constitution assigns the responsibility for professional and trade licensure to the provinces and territories. Licensure may be an issue that arises during this consultation, as the expectation is that virtual and digital care will cross provincial and territorial boundaries. That may or may not be the case. During the pandemic, the provision of virtual care has been intra-jurisdictional, in fact most of the time it has been within the patient's own city. If that continues to be the case, there is no impetus to advocate for a pan-Canadian license.

2. What other barriers are impeding Canadians' access to virtual care and restricting innovation and choice in the health care sector? Can these barriers be reduced—and, if so, how—in order to facilitate the entry and expansion of digital solutions?

Comments from FMRAC: it is important to remember that, not only do the provinces and territories regulate and license professionals and tradespeople, in the case of health care, they also pay for it out of the public purse. The various governmental health plans may not be keen on paying physicians from outside the jurisdiction to provide to people in their jurisdiction. The payment system in Canada will likely be a significant barrier to cross-jurisdictional provision of care.

I will restate, however, that we do not have a good handle on the degree of necessity, if any, for regular and ongoing care to be provided from a physician in one jurisdiction to a patient who is in another jurisdiction.

3. What measures have other jurisdictions taken to improve access to virtual care? How have barriers to innovation and choice been eliminated, while balancing legal and regulatory requirements in the delivery of digital health care solutions? Can similar measures be adopted in Canada? Why or why not?

Comments from FMRAC: Australia used to have state-based regulation. It has now moved to a single license for health care professionals, including physicians. The constitution in that country is different. However, obtaining the information from a constitutional lawyer on what would enable pan-Canadian licensure may be a worthwhile exercise.

FMRAC approached this a bit differently: several jurisdictions are working on a Memorandum of Understanding (MoU) that will allow a physician licensed in, say Jurisdiction A, to provide care to patients in Jurisdiction B, with the understanding that the medical regulatory authority in Jurisdiction A (where the physician is located) would agree to deal with complaints levied against the physician from patients in Jurisdiction B. Unfortunately, not all provincial and territorial medical regulatory authorities are able to sign such an MoU due to their respective legislation.

4. What impact has the COVID-19 pandemic had on innovation and choice in Canada's health care sector, and on Canadians' ability to access health care virtually? Have any barriers hindered the adoption of digital solutions in response to the COVID-19 pandemic? Please explain.

Comments from FMRAC: the pandemic has accelerated the use of virtual care across Canada, starting with each province and territory setting up a fee code to allow physicians to bill for telephone and other non-face-to-face encounters with patients. This is decidedly here to stay. However, this kind of care is best kept for those situations where the physician has an established relationship with the patient, as an adjunct to face-to-face care. In an emergency like the pandemic, the rules may change but it is important to remember the requirement for the physician to maintain high standards of care, whether it be in person or done virtually.