

Telemedicine – Your Rights as a Patient

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I. Introduction

1 Have you ever felt a persistent itch down under and feared the worst? Thankfully, one can now easily seek help via an online video consultation with a doctor, also commonly known as a telemedicine consultation (“tele-consult”).¹ But what if after taking the medication prescribed, your discomfort persisted? Worst still, you found out from another specialist that the telemedicine doctor had incorrectly diagnosed you. What a waste of time and expenses! Could you sue the telemedicine company or the doctor?

2 For those who are keen to try out a tele-consult, this article will guide you on some practical information you should be aware of, and the possible courses of actions you can take in the event of being misdiagnosed.

II. Discussion

A. *Practical information to know before seeking telemedicine services*

(1) *Only seek tele-consults from qualified doctors*

3 Telemedicine services in Singapore can only be provided by Singapore Medical Council (SMC) registered medical doctors, regardless of whether the provider is based in Singapore or overseas.² To check whether your tele-consult doctor is registered, you may visit the SMC healthcare professionals registry on the Internet.³ This simple step can help you determine if the doctor is a qualified healthcare professional capable of providing credible medical advice.

(2) *Understand that not all medical conditions are suitable for tele-consults*

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¹ Tan Sze Wee, “Introduction to Telemedicine”, Singapore Medical Association website <<https://www.sma.org.sg/UploadedImg/files/Tan%20Sze%20Wee%20-%20Intro%20to%20Telemedicine.pdf>> (accessed 20 Sep 2021).

² Bernard Lui, “Singapore’s Telehealth Expansion: Considerations for Providers”, Lexology website <<https://www.lexology.com/library/detail.aspx?g=b9502a5b-6014-428e-a514-fac08ab6e529>> (accessed 20 Sep 2021).

³ Ministry of Health website <<https://www.moh.gov.sg/hpp/all-healthcare-professionals/healthcare-professionals-search>> (accessed 9 Oct 2021).

4 Telemedicine has its limitations as doctors can only perform inspections over a video link.⁴ Without a physical examination, certain symptoms such as organ enlargement, abnormal breath sounds, and tenderness will not be detectable.⁵ Thus, if your symptoms are severe and/or require a thorough medical examination, it is always advisable to visit a clinic physically to rule out any severe illnesses.

5 Generally, tele-consults are more suitable for patients who fall within these categories:⁶

- Those with mild symptoms (i.e. cough, runny-nose);
- Follow up of chronic illnesses that can be monitored at home (i.e. reviewing of blood pressure);
- Post-discharge follow-ups (i.e. wound recovery); and
- General medical advice (i.e. concerns about medication side-effects).

(3) *Know that your tele-consult doctors are expected to provide a similar standard of care as in-person medical care*

6 Generally, the standard of care delivered through a tele-consult must not be lower than in-person medical care.⁷ This standard of care is determined by factors such as:

- The type of medical condition you have;
- The purpose of seeing the doctor; and
- Whether the care your medical needs can be met by the doctor.

7 Additionally, all doctors must abide by the Ethical Codes and Ethical Guidelines (ECEG),⁸ and National Telemedicine Guidelines (NTG)⁹ when providing telemedicine services. These guidelines require that your tele-consult doctor to be: (a) properly trained in the use of telemedicine platforms, (b) have acquired sufficient patient information to make an informed diagnosis, and (c) clearly conveyed to patients the

⁴ Desmond Lai, “Understand when telemedicine works and when it doesn’t” <<https://www.todayonline.com/commentary/understand-when-telemedicine-works-and-when-it-doesnt>> (accessed 9 Oct 2021).

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Ministry of Health website <[https://www.moh.gov.sg/docs/librariesprovider5/licensing-terms-and-conditions/national-telemedicine-guidelines-for-singapore-\(dated-30-jan-2015\).pdf](https://www.moh.gov.sg/docs/librariesprovider5/licensing-terms-and-conditions/national-telemedicine-guidelines-for-singapore-(dated-30-jan-2015).pdf)> (accessed 9 Oct 2021).

⁸ Singapore Medical Council website [https://www.healthprofessionals.gov.sg/smc/guidelines/smc-ethical-code-and-ethical-guidelines-\(2002-and-2016-editions\)-and-handbook-on-medical-ethics-\(2016-edition\)](https://www.healthprofessionals.gov.sg/smc/guidelines/smc-ethical-code-and-ethical-guidelines-(2002-and-2016-editions)-and-handbook-on-medical-ethics-(2016-edition)) (accessed 9 Oct 2021).

⁹ *Supra* n 7.

nature of remote telemedicine services and its limitations.¹⁰ A comprehensive version of the guidelines can be publicly accessed online.¹¹

8 Simply put, your doctor should inform you of the limitations of telemedicine services at the start of the consultation.¹² Thus, for example, if your doctor *suspects* that you have contracted a sexually transmitted disease (STD), but is unable to confirm this virtually, he should also advise you to follow-up with in-person medical tests for confirmation. Failure to do so may be a breach of the acceptable standard of care, and the doctor could be liable for medical negligence.

B. *What can I do if the tele-consult doctor misdiagnoses me?*

9 It is recommended that you first submit a written complaint with the SMC.¹³ The SMC is responsible for the regulation of the conduct of doctors in Singapore. A preliminary investigation will then be conducted by the Complaints Committee (CC), which comprises of doctors and lay persons.¹⁴

10 Following the preliminary inquiry, the CC will then decide if the case should be dismissed, or if disciplinary action against the doctor should be taken. Additionally, the CC may recommend the following actions:¹⁵

- Mediation before the Singapore Mediation Centre (SMC);
- Formal inquiry for disciplinary action against the doctor;
- Health inquiry to investigate the doctor's physical or mental fitness to practice.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Supra* n 4.

¹³ Ministry of Health website <<https://www.healthprofessionals.gov.sg/smc/information-for-public-patients/submitting-a-complaint>> (accessed 9 Oct 2021).

¹⁴ Ministry of Health website <[https://www.healthprofessionals.gov.sg/docs/librariesprovider2/downloads-forms/instructions-info-on-submitting-a-complaint-\(as-of-5-oct-2018\)3f403ecd1c154240b70456001b957490.pdf](https://www.healthprofessionals.gov.sg/docs/librariesprovider2/downloads-forms/instructions-info-on-submitting-a-complaint-(as-of-5-oct-2018)3f403ecd1c154240b70456001b957490.pdf)> (accessed 9 Oct 2021).

¹⁵ *Ibid.*

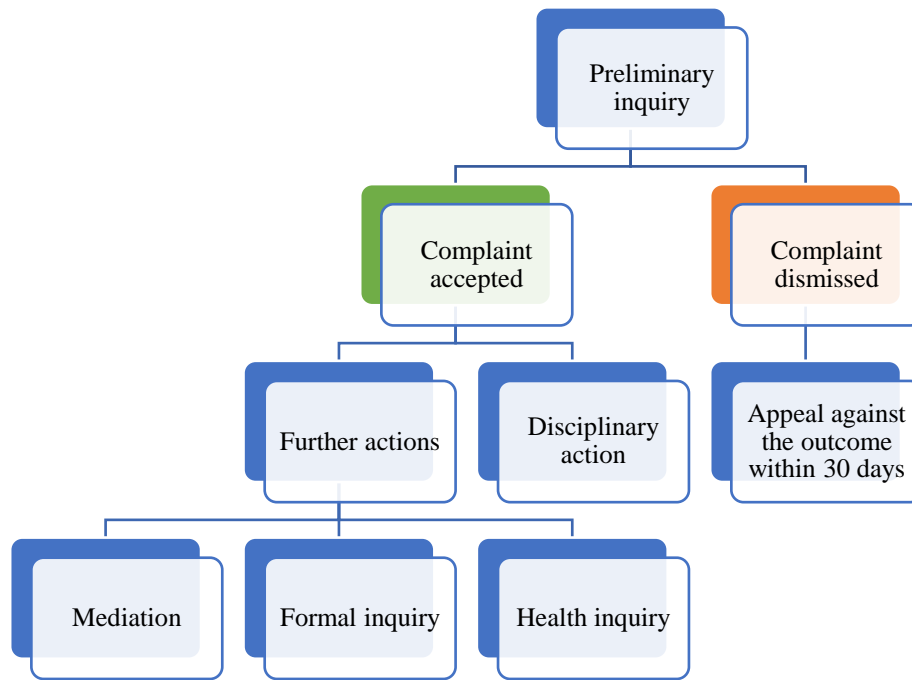


Figure 1.1 General flow of a SMC complaint¹⁶

11 Depending on the complexity of the case, the investigations will take around 9 months to one year for completion.¹⁷ As this is a lengthy process, you should not wait for the investigation report before pursuing alternative forms of actions and medical treatment.¹⁸

C. Can I also sue the doctor or the telemedicine company?

12 Yes, in addition to submitting a SMC complaint, you can also file a lawsuit. However before doing so, you should seek legal advice to help you make an informed choice. This is especially so since there has yet to be a published case involving telemedicine malpractice in Singapore. Some relevant factors to consider are:

¹⁶ Ministry of Health website <[https://www.healthprofessionals.gov.sg/docs/librariesprovider2/downloads-forms/instructions-info-on-submitting-a-complaint-\(as-of-5-oct-2018\)3f403ecd1c154240b70456001b957490.pdf](https://www.healthprofessionals.gov.sg/docs/librariesprovider2/downloads-forms/instructions-info-on-submitting-a-complaint-(as-of-5-oct-2018)3f403ecd1c154240b70456001b957490.pdf)> (accessed 9 Oct 2021).

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Factors to consider before commencing a civil lawsuit	
(+)	(-)
<ul style="list-style-type: none"> • Obtaining financial compensation for losses caused by medical negligence • Holding the doctor accountable for his actions • Deterrence against similar cases from happening 	<ul style="list-style-type: none"> • Costly • Time-consuming • Psychologically draining • Loss of privacy from unwanted media attention

13 If you decide to file a lawsuit, you should note the narrow time-frame given. The limitation period for personal injury claims is 3 years from the date of the negligent conduct, or 3 years from when one has the knowledge required for bringing an action.¹⁹

14 Additionally, one should note that lawsuits against *overseas* telemedicine providers would be a lengthy process. This is because the Singapore court will first have to assess: (a) whether it has the right to hear the claim on Singapore’s connection to the dispute, and (b) whether it would be fair to hear the claim in Singapore.²⁰ If it does not, the lawsuit would take place overseas instead – causing further unnecessary financial costs and stress.

D. Are there any alternatives to litigation?

15 Mediation is highly recommended as it is a more cost-efficient alternative to pursuing a lawsuit.²¹ These services are provided by the Ministry of Health Holdings (MOHH) Mediation Unit, the Singapore Mediation Centre, and various private mediation companies.

¹⁹ Limitation Act (Cap 163) s 24(A).

²⁰ Bird&Bird ATMD website <<https://www.twobirds.com/~media/pdfs/bird--bird-atmd-lsh-update--regulating-telehealth-in-singapore--feb-2018.pdf?la=en&hash=F635D1CF5B49194712ABF9DC6A641D17B817C342>> (accessed 20 Sep 2021).

²¹ Kumaralingam Amirthalingam, “Medical dispute resolution, patient safety and the doctor-patient relationship” Singapore Medical Journal 2017; 58(12): 681-684.

- 16 Additionally, one could also consider out-of-court settlements with the doctor and/or telemedicine company. This could resolve the issue faster and help minimise legal fees incurred by both sides.

III. Conclusion

- 17 As tele-consults become more common in Singapore, it is likely that you will experience one sooner or later. You should note that the standard of care provided by the tele-consult doctor must be comparable to a non-telemedicine consultation. Failure to do so may result in medical negligence. However, given the practical constraints in carrying out virtual medical assessments, not all medical conditions are suitable for tele-consults. In such cases, your doctor should refer you for a physical consultation instead.
- 18 If you have been misdiagnosed, you should first file a complaint with the SMC. Concurrently, you could consider seeking legal recourse against the doctor and/or the telemedicine provider. However, it is important to first weigh the pros and cons of pursuing a civil lawsuit. Alternatively, it is highly recommended to consider other methods of dispute resolution, such as mediation, or an out-of-court settlement.