



MEDICAL TELECONSULTATIONS – NEW POSSIBILITIES AND LEGAL AND ETHICAL DILEMMAS

Teleporady medyczne – nowe możliwości i dylematy
prawno-etyczne



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Abstract

Introduction and objective: Medical teleconsultations, a necessity during the pandemic due to the existing epidemiological conditions, should now be subjected to a thorough, critical analysis and assessment for their compliance with the principles of medical ethics, patient rights and the doctor's obligation to exercise due care. The aim of this paper was to perform a critical assessment of medical teleconsultations, their regulatory frameworks as well as recommendations of medical self-governing bodies. **Materials and methods:** The current regulations of Article 42 (1) of the Act on the Medical Profession have been subjected to critical analysis in relation to the legal framework for providing medical teleconsultations. These include the Regulation of the Minister of Health on the organisational standard of teleconsultation within primary healthcare, as well as the recommendations of the Presidium of the Supreme Medical Council dated July 24, 2020, regarding the adoption of guidelines for providing telemedical services, pointing to a potential conflict with Article 9 of the Code of Medical Ethics. Therefore, this is a study within the field of law and medical ethics. Thus, the appropriate research methodology comprises legal doctrinal, axiological, and sociological methods. **Results:** Despite three years passing since the outbreak of the pandemic, the legislator has still not specified teleconsultation standards by way of an act. Furthermore, in accordance with Article 9 of the Code of Medical Ethics, the regulation does not specify the communication system. Teleconsultations are being overused today and do not guarantee patient safety, because only during teleconsultation can the doctor decide that it is not a sufficient form and the patient's consent will be difficult to consider informed due to the lack of access to the doctor and the restrictions on regular visits. **Conclusions:** The COVID-related regulation makes teleconsultation a principle rather than an exception within primary health care, which could irreversibly alter the nature of medical advice and deteriorate its quality. The commercialisation of medical services cannot be the sole justification for the changes in the model of providing medical advice.

Streszczenie

Wprowadzenie i cel: Teleporady medyczne – konieczność w okresie pandemii z uwagi na istniejące uwarunkowania epidemiologiczne – powinny być po pandemii poddane krytycznej analizie i ocenie z punktu widzenia zgodności z zasadami etyki lekarskiej i prawami pacjenta oraz obowiązkiem lekarza dotyczącym zachowania należytej staranności. Celem artykułu jest ocena teleporad medycznych, ich podstaw normatywnych i zaleceń organów samorządu lekarskiego. **Materiał i metody:** Krytycznej analizie poddano aktualne regulacje, tj. art. 42 ust. 1 ustawy o zawodzie lekarza, w nawiązaniu do ram prawnych udzielania teleporad medycznych, które dookreślają: rozporządzenie Ministra Zdrowia z dnia 12 sierpnia 2020 r. w sprawie standardu organizacyjnego teleporady w ramach podstawowej opieki zdrowotnej, a także rekomendacje Prezydium Naczelnej Rady Lekarskiej z dnia 24 lipca 2020 r. w sprawie przyjęcia wytycznych dla udzielania świadczeń telemedycznych, wskazując na potencjalny konflikt z art. 9 Kodeksu etyki lekarskiej. Jest to więc praca z zakresu prawa nawiązująca do etyki lekarskiej, stąd właściwą metodą badawczą są metody dogmatycznoprawna, aksjologiczna i socjologiczna. **Wyniki:** Ustawodawca mimo upływu 3 lat od wybuchu pandemii wciąż nie dookreślił standardów teleporad w drodze ustawy i zgodnie z art. 9 Kodeksu etyki lekarskiej rozporządzenie nie określa rzeczy fundamentalnej, jaką jest skonkretyzowanie systemu łączności do przeprowadzania porad. Teleporady są dziś nadużywane, a ponadto nie gwarantują bezpieczeństwa pacjenta, gdyż dopiero w trakcie teleporady lekarz może uznać, że nie jest to forma wystarczająca, a zgodę pacjenta trudno będzie uznać za świadomą z uwagi na brak dostępu do lekarza i limitowanie porad zwykłych. **Wnioski:** Rozporządzenie covidowe czyni z teleporady zasadę, a nie wyjątek w ramach podstawowej opieki zdrowotnej, co w istocie rzeczy może w sposób nieodwracalny zmienić charakter porad medycznych i pogorszyć ich jakość. Komerccjalizacja usług medycznych nie może być jedynym uzasadnieniem dla dokonywanych zmian w modelu świadczenia porad medycznych.

Keywords: telemedicine, medical ethics, patient's rights, medical teleconsultations, patient's informed consent

Słowa kluczowe: telemedycyna, etyka lekarska, prawa pacjenta, teleporady medyczne, świadoma zgoda pacjenta

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Introduction

Medical teleconsultation (MT) is part of telemedicine, which emerged in the 1970s in the United States following the development of novel technologies. Today, in the 21st century, the times of digital revolution and artificial intelligence (AI), it has become a reality. MT is a form of providing healthcare through teleinformatic or communication systems (i.e., remotely), without direct contact with the patient in a medical office setting. The main aspect here is the physical distance between the patient and the place where the healthcare service is provided [1], which has proven to be a significant ethical and legal challenge from the very beginning.

As set out in the World Health Organization (WHO) guidelines, telemedicine is "the provision of health services by health professionals, where distance is a critical factor, using information and communication technologies to exchange valid information for the purposes of diagnosis, treatment and prevention of disease and injury, research and evaluation, and to facilitate the continuing education of health professionals, with the aim of safeguarding the health of individuals and communities".

Telemedicine was initially used in space medicine to help monitor the health status of astronauts, clearly indicating that the distance of the site responsible for healthcare provision is the main determinant in defining teleconsultations. The United States National Aeronautics and Space Administration (NASA) used the expertise and knowledge of many specialists, whose task was to ensure the health safety of spacecraft crews as it was beyond doubt that addressing health issues remotely, without the possibility of direct contact with the patient, was a necessity [2].

The scope of telemedicine applications was expanded in the years that followed, improving technologies for transmitting histopathological findings and X-ray images. Subsequently, robotics was incorporated and intercontinental surgeries started to be performed. The most advanced diagnostic systems also proved helpful – as pointed out by Susskind and Susskind at the Elizabeth Wende Breast Care in New York, the use of algorithms to scan mammograms was found to reduce breast cancer false-negatives by 39%. The IBM's AI system, known as "Watson," is utilised in cancer diagnosis to recommend treatments. Additionally, half of American physicians use the Epocrates application, which serves as a digital database of medication information and enables screening for drug-drug interactions. Another potential application of novel technologies is exemplified by the Medtronic-CareLink network,

through which cardiac patients can send data from their heart assistive devices to their physicians. Each report is equivalent to a personal medical visit [3].

In turn, the doctrine speaks of the category of e-health, which encompasses not only telemedicine, but also medical informatics, information and communication technology in healthcare or health information management. E-health utilises various types of electronic platforms [4], the use of which undoubtedly offers significant opportunities to monitor patients. The European Union has adopted an appropriate action plan to implement an e-health strategy in all Member States.

In terms of treatment standards, medical consultations in the form of MTs are also part of these new 21st century technologies.

Aim

Medical teleconsultations, a characteristic sign of the times, were a necessity during the pandemic due to the existing epidemiological situation and life-threatening circumstances. However, in the post-pandemic period, they should undergo critical analysis and thorough evaluation for compliance with the principles of medical ethics, patient rights, and the physician's obligation to maintain due diligence.

The aim of the research was to identify potential risks associated with instrumental and commercial utilisation of MTs, as well as the decline in their quality, especially when conducted via telephone calls or electronic messaging platforms.

Materials and methods

We assessed the normative framework of medical teleconsultations and confronted it with ethical standards. This evaluation encompassed the provisions of Article 42(1) of the Act on the Medical Profession [5] and the legal framework for providing telemedical consultations, as specified by the Regulation of the Minister of Health of August 12, 2020 on the organisational standard of teleconsultations within primary healthcare [6].

Furthermore, a dogmatic-legal and axiological analysis of the recommendations of the Presidium of the Supreme Medical Council (NRL) dated July 24, 2020, regarding the adoption of guidelines for providing telemedical services [7], in relation to Article 9 of the Code of Medical Ethics (CME), was conducted [8]. In the context of teleconsultations, the position of the Medical Ethics Committee

of the Supreme Medical Council dated February 12, 2023, regarding the commercial online issuing of prescriptions and sick leaves was also discussed [9].

Therefore, this is a study within the field of law and medical ethics, hence the appropriate research methods included dogmatic-legal, axiological, and sociological methods.

Results

The normative framework

The analysis of the normative foundations of MTs leads to the conclusion that Article 42(1) of the Act on the Medical Profession states that a physician assesses the health status of a specific individual after prior personal examination or examination through teleinformatics or communication systems, as well as after analysing the available medical records. It is generally accepted in the doctrine that the concept of assessing health status should be understood as a substantive evaluation of the patient's health condition, regardless of the form of such assessment. This means that both written health certificates and unwritten decisions regarding the health status of an individual fall into this category [10].

The definition of teleconsultation is found in § 2 point 3 of the Regulation on the Organizational Standard of Teleconsultation within Primary Healthcare, which indicates that teleconsultation is a remote delivery of healthcare services using teleinformatics or communication systems. The definition of healthcare service is provided in Article 2 paragraph 1 point 10 of the Act of 15 April 2011 on Medical Activity [11]. The aforementioned provision defines the essence of healthcare services in general terms, first of all indicating the criterion of purpose, which makes it possible to decide, with regard to a given service, whether it has the nature of a healthcare service. Such a service is defined as an activity aimed at preserving, saving, restoring or improving health and other medical activities resulting from the treatment process [12].

The Act, more specifically the aforementioned Article 42(1) of the Act on the Medical Profession, and the Regulation on the Organisational Standard of Teleconsultation within Primary Healthcare, in fact create a new model of healthcare provision. It offers the possibility of examining a patient through telemedicine systems; however, it does not specify the types of these systems and makes no reference to the quality of consultation.

It is therefore acceptable to use a telephone, video calling applications or even electronic messaging when delivering a medical consultation. According to the guidelines of the Presidium of the Supreme Medical Council dated July 24, 2020, regarding the provision of telemedicine services, regular telephones and phone lines, and online consultations (via video, chat, email), using secure Internet connections within secured telemedical platforms, applications, or communication systems, may be used to provide MTs. However, they must comply with conditions for secure connection, identity verification, etc. in terms of the general standards applicable to telecommunications and teleinformatics systems.

Pursuant to Article 32(1) of the Act on the Medical Profession, a physician may conduct an examination or provide other healthcare services, subject to exceptions provided for in the Act, after obtaining the patient's consent [13]. Therefore, patient's informed consent [14, 15], which should also encompass the method of medical consultation, is a prerequisite for conducting an examination.

According to § 3 of the Regulation on the Organisational Standard of Teleconsultation within Primary Healthcare, the patient largely decides on the most convenient form of contact with the physician, which depends on their preferences rather than the decision of the healthcare provider. On the other hand, Article 4 of the Act on the Medical Profession indicates that it is the physician's obligation to practice the profession in accordance with the up-to-date medical knowledge, using available methods and means for preventing, diagnosing, and treating medical conditions, in line with the principles of professional ethics and with due diligence. According to Article 36(1) of the Act on the Medical Profession, a physician is obliged to respect the privacy and personal dignity of the patient when delivering healthcare services. It is inferred from § 3 of the aforementioned regulation that an organisational standard for teleconsultation provided within primary healthcare has been established, which includes informing by the primary healthcare provider at the place of service provision and on the provider's website, and upon patient's request also by phone, about the conditions of providing MTs, taking into account the patient's right to express the desire for personal contact with the appropriate medical personnel during the teleconsultation. Additionally, it also follows from this provision that situations where the patient or their legal representative has not consented to the provision of the service in the form of MT also fall in the category of services delivered through direct contact with the patient. Thus, the patient may not consent to this form of consultation and in such a case, it is an absolute premise to exclude this form. The regulation also indicates that it is only during an ongoing teleconsultation that the doctor, based on the subjective examination and after assessing the available medical documentation of the patient, including that delivered through the teleinformatics system, provides healthcare services, which encompasses determining whether MT is a sufficient means for a given health problem, or informs the patient of the necessity of providing healthcare services through direct contact if the nature of the health problem prevents the delivery of healthcare services in the form of a teleconsultation (§ 3 point 7 of the Regulation). It follows indirectly from these regulations that no notice of the patient's problem is taken during the registration for an appointment. It is only during teleconsultation that the doctor can assess, after prior examination of the patient through communication systems, that this form of healthcare is not sufficient to resolve the patient's problem, and a regular in-person consultation is needed.

Ethical standards of medical teleconsultations

The solutions adopted within the analysed regulation are new, but not necessarily innovative. Based on 20 years of experience from leading international organisations and professional associations in the USA, it is possible to define a certain ethical standard for telemedicine.

The World Medical Association (WMA) and the American Medical Association (AMA) have emphasised that the patient-physician relationships in telemedicine should resemble those in a direct face-to-face care setting. Maintaining the quality of care, obtaining patient's informed consent, ensuring privacy (confidentiality), and safety are of paramount importance. The patient-physician relationship must be based on mutual trust and respect. Therefore, it is essential that the physician and the patient are able to reliably identify each other when using telemedicine. In case of consultation between two or more professionals within or between different jurisdictions, the primary physician remains responsible for the care and coordination of the patient with the distant medical team. The patient-physician relationship should be based on a personal examination and sufficient knowledge of the patient's medical history. MT should be utilised primarily in situations in which a physician cannot be physically present within a safe and acceptable time period; it could also be used in the management of chronic conditions or follow-up after initial treatment if it has been proven to be safe and effective. Associations warn against potential conflicts of interest that may jeopardize patient care and trust due to commercialisation and cost-cutting measures. Telemedicine should not be viewed as an equivalent of face-to-face healthcare and should not be introduced solely to cut costs or as a perverse incentive to over-service and increase doctors' earnings [16, 17]. Until 2019, AMA significantly incorporated telemedicine into its Code of Ethics, once again emphasising that the ethical duties of doctors do not change during teleconsultations. Appropriate quality of care (including examinations) should be a standard. This relationship may change when care is delivered in a remote, technology-assisted manner. However, mere replacement of traditional face-to-face consultations with telephone conversations is not sufficient to set current teleconsultation standards. Telehealth, as indicated, is a concept, an idea that primarily determines a change in the relationship with a patient. New information technologies contribute to the virtualisation of patients and healthcare, changing the value of touch and physical presence, and focusing on measurements and quantifications, with clinicians likely to be perceived more like machines [18], and certainly requiring a new generation of computer programmes or even artificial intelligence.

Still, the basic principles of providing healthcare remain the same, and according to Article 9 of the Code of Medical Ethics, a physician is obligated to initiate treatment only after prior examination of the patient. Situations where medical advice can only be provided remotely are an exception. This means that, as a rule, the Code of Medical Ethics does not foresee the possibility of examining patients using teleinformatics systems.

The position that there is a conflict between these regulations, specifically Article 9 of the Code of Medical Ethics and Article 42(1) of the Act on the Medical Profession, is indeed accurate. The second sentence of Article 9 of the Code of Medical Ethics states that medical advice can be provided remotely in exceptional cases, but the principle is to personally examine the patient [19]. Therefore, the doctor's obligation to examine the patient is an established principle of the Code of Ethics, with treatment

initiation without prior patient examination considered unacceptable [20].

As pointed out in the doctrine, from a medical standpoint, there is a conflict between the possibilities expressed in the amended provisions of the Act on the Medical Profession and the provisions of the Code of Ethics. This conflict should be resolved as any interpretation of one of these provisions of the Code of Ethics is extremely important for the legal and ethical responsibility of doctors [2]. Furthermore, as indicated by the Medical Ethics Committee in its position on the commercial online issuance of prescriptions and sick leave certificates dated February 12, 2023, the catalogue of duties of a doctor and patient rights remains unchanged regardless of the method of delivering medical advice, with the principles for providing MTs using telemedical technologies and in-person consultations being generally the same [9]. The principles of professional, civil, and criminal liability for telemedical services are also the same as for other services, with patients entitled to all patient rights.

Consideration may be given to whether the doctor's catalogue of duties remains unchanged when holding consultations via communication systems. Given the constraints associated with such forms of patient interaction, it appears that physicians should broaden the scope of their informational duties, in part to mitigate the risk of legal violation. They should dutifully inform patients on the limitations associated with remote healthcare, particularly regarding potential communication challenges and technical deficiencies that may impede the proper delivery of telemedical services. It is essential that both the patient and the physician are aware of the inherent limitations of MTs so that the latter one has a genuine opportunity to choose between in-person and remote consultations. At the same time, physicians should appreciate the expanded scope of responsibilities and risks associated with delivering advice of appropriate quality.

Discussion

Telemedicine as a novel approach to patient care and interaction

MTs represent a mode of healthcare provision that alters the traditional patient examination process. Physicians need to assess whether the utilisation of novel technologies allows for obtaining a comprehensive clinical picture of the patient. Consequently, there has been a shift in the perception of patients and care – physicians need to take a different approach to assessing the value of touch and physicality and to focus on measurements and quantification [21]. This necessitates a different approach towards the patient, and foremost, an awareness of potential communication errors.

The debate surrounding teleconsultations touches upon an exceptionally important aspect of the patient-doctor relationship. Treatment is a complex process in which the human factor plays a pivotal role. Personal contact and direct examination of the patient by the physician contribute to trust and are imperative conditions for establishing this trust. This implies that the personal examination of the patient is of significantly greater importance

than merely collecting medical history. It helps establish a specific relationship built on trust. Treatment largely takes place on a non-verbal level as well, where appropriate gestures, facial expressions, and eye contact hold significance. As pointed out by Rużyłło, understanding the underlying disease as well as the personality and living conditions of the patient is intended to help better assess the illness and its treatment options, as well as deepen the patient's trust in the physician and foster mutual, personal sensitivity [22]. A question should be therefore asked on how to build this trust in this new, virtual reality and whether we are faced with the risk of dehumanising the patient-physician relationship.

However, considering the professionalism required in providing medical advice and the necessity for the physician to exercise due diligence, in-person consultations should be a standard, with video consultations used only in special cases, and telephone consultations being reserved for exceptional circumstances. The use of video conferencing, while not perfect, allows for collecting medical history and an attempt at physical examination similar to conventional methods (physical appearance, behaviour, dyspnoea, blood pressure, presence of oedema, skin lesions, scars, wounds, ulcers, etc.). Although not identical to conventional examination and assessment methods, it proves to be sufficient in many cases [23].

From a medical standpoint, telephone conversations represent a somewhat superficial method of contact. It is rather a prescription consultation and may unfortunately give rise to many medical and communication errors, which are difficult to avoid if the patient and the doctor do not even see each other. Meanwhile, patients should be aware of the importance of the information they provide. Experience has shown that some patients reported outdated data on their body weight during anaesthesia preoperative history collection. Only face-to-face conversations allow for accurate qualification for procedures under general anaesthesia [2]. This is just one example of potential misunderstandings and difficulties associated with MTs.

In this case, attention must also be drawn to the issue of providing care of appropriate quality and technology tailored to the needs of, e.g., disabled or elderly individuals, such as those with cognitive impairments [24]. At the same time, it is the role of legislators to counteract digital exclusion, particularly for elderly individuals who may lack both appropriate technical equipment and knowledge of how video conferencing systems operate. We can only speculate that the mandatory implementation of video teleconsultations could potentially lead to the exclusion of many individuals, especially considering that primary healthcare facilities may not be adequately equipped to provide patients with the necessary technical support and instructions. Hence, legislators permit the simplest solution in the form of telephone conversations, although it is the least optimal for the diagnostic and therapeutic processes.

The period leading up to the outbreak of the pandemic allowed primary healthcare units to prepare for the professional provision of MTs. Therefore, the position taken by the Supreme Medical Council on July 24, 2020, regard-

ing the adoption of guidelines for providing telemedical services, which allow for MTs using regular telephones and phone lines, seems even more controversial. This approach should now be revised in the post-pandemic period.

Teleconsultations – patient safety risks

MTs may also pose risks to patient safety. The ethical guidelines issued by the UK General Medical Council [25] recommend that healthcare practitioners should prioritise patient safety, protect those particularly vulnerable, ensure that patients understand how remote consultations work, obtain their informed consent, conduct appropriate clinical assessments, provide patients with all available options, and organise care. Physicians should always consider whether remote consultation is appropriate, ensure that patients receive (and understand) all necessary information, and enable them to make decisions [26].

Patients should have access to information about the conditions for providing MTs and the opportunity to express their preference for personal contact, as set out in the Regulation. However, it seems that such information should be provided mandatorily, for example, during telephone registration, rather than only upon the patient's request. However, the question arises as to how effective the patient's objection actually is. If, for pragmatic reasons, limits on in-person consultations are introduced, it is obvious that the patient may be left with no choice. Similarly, if the patient faces difficulties in traveling to the clinic due to distance or place of residence, and, for example, the limit on doctor home visits for a given day has been reached, these circumstances can certainly compromise the patient's freedom of choice and make their decision-making illusive.

Key issues include whether we are truly dealing with patient's informed consent in such a situation, given that the consent itself is questionable, and the fact that patients have little choice in terms of the form of medical advice or acceptance of these terms, especially when it is only during the teleconsultation that the doctor provides information. Therefore, it is not only the issue of freedom of choice that is important but also the stage at which patients are informed about their rights.

The current regulatory framework considers MTs as the primary form of healthcare advice, with few exceptions. While MTs were a necessary solution during the pandemic, it is now worth considering whether they are being over-used and whether they should indeed be the primary form of medical advice since it is only during the teleconsultation that the doctor can determine whether this form is sufficient, and obtaining informed consent from the patient can be challenging due to the lack of access to the doctor and the limitation on regular consultations.

Prescription consultation

The so-called prescription consultation is another issue related to telemedicine. Remote consultations and prescribing medications can potentially pose a threat to patient safety due to issues such as increased attempts

to access medications that may cause serious harm and the necessity of ensuring continuous monitoring of the health of chronically ill individuals [9]. According to Article 42(2) of the Act on the Medical Profession, a physician may issue a prescription necessary for the continuation of treatment and prescribe medical devices as a continuation of their provision if justified by the patient's health condition, as reflected in the medical documentation, without examining the patient. In accordance with Article 15b(2) of the Act on the Professions of Nurse and Midwife [27], a nurse and midwife, as referred to in Article 15a(1), may issue a prescription necessary for the continuation of treatment, as well as prescribe medical devices or issue orders for their provision as a continuation of such provision without examining the patient if justified by the patient's health condition, as reflected in the medical documentation. In both cases, deviation from the requirement of a personal examination of the patient is allowed if justified by the patient's documented health status. It appears that the legislator has placed particular emphasis on the ability to issue prescriptions without the necessity of direct patient contact, solely based on documented health conditions. The Commission of Medical Ethics of the Supreme Medical Council highlights the risks associated with the misuse of MTs for obtaining uncontrolled access to medications [9]. It was emphasised that medical criteria rather than personal preferences or commercial interests are determinants of the feasibility of MTs. Commercial online issuance of sick leave notes and prescriptions upon request is a misinterpretation of the principles of telemedicine. The Commission, in its statement dated February 12, 2023, regarding the commercial online issuance of prescriptions and sick leave certificates, after a detailed analysis of many examples of paid services offered on the Internet for issuing prescriptions and sick leave certificates, critically assessed the access to sick leave notes or prescriptions solely upon completing a short questionnaire that does not meet the criteria of a subjective examination and suggests symptoms to the patient, who receives the document after payment. In such cases, the patient has no contact with the physician, and the offers for issuing prescriptions and sick leave certificates serve solely for their commercial sale. They also show characteristics of advertising and may, for example, offer special discounts for completing a questionnaire. The procedure is very brief (3–5 minutes), suggesting a lack of due diligence, especially when the patient has not been previously examined and treated by the physician issuing the prescription or sick leave certificate upon request. Physicians issuing prescriptions and sick leave certificates in the described manner expose themselves to professional liability due to violations of, among others, Article 8 of the Code of Medical Ethics (regarding the failure to exercise due diligence and dedicate appropriate time to the patient), Article 9 of the Code of Medical Ethics (regarding the exceptions for when consultations can be provided remotely), Article 10 of the Code of Medical Ethics (concerning exceeding professional competencies when issuing certificates outside their medical specialisation), Article 11 of the Code of Medical Ethics (regarding the lack of attention to the appropriate quality of patient care), and Article 40 of the Code of Medical Ethics (regarding issuing certificates without a personal examination or appropriate documentation).

As a result, the legislator introduced changes and restrictions in this area, limited only to prescribing certain categories of medications. The Regulation of the Minister of Health of July 12, 2023, amended the Regulation of the Minister of Health of September 11, 2006, regarding narcotic drugs, psychotropic substances, category 1 precursors, and preparations containing these drugs or substances [28]. According to these changes, a prescription, as mentioned in Article 42(2) of Act on the Medical Profession, for a preparation containing a narcotic drug classified in Group I-N or II-N, a psychotropic substance from Group II-P, III-P, or IV-P, or a Category 1 precursor may be issued if no more than 3 months have elapsed since the patient's last examination [29].

It appears that prescription consultation should not be limited to mere documentation analysis or conducted mechanically, sometimes by unqualified personnel, for commercial reasons or to cut costs. Each decision to continue treatment and implement treatment plan should be consulted with a physician familiar with the patient or a specialist who can assess the situation. Prescription advice provided to chronically ill patients in the absence of periodic medical consultations and direct contact should be considered excessively far-reaching from the perspective of both time and experience, especially in situations where chronically ill individuals, who are on burdensome treatment regimens, have not attended in-person medical appointments for up to 2 years, and their treatment relies solely on pharmacotherapy.

Conclusions

The regulation establishing the legal framework for medical teleconsultations introduced during the COVID-19 period makes MTs a principle rather than an exception within primary healthcare, which can fundamentally alter the nature of medical advice and carries the risk of irreversible deterioration of its quality. While it may seem that the advancement of telemedicine warrants the application of new technologies in the provision of healthcare services, including medical consultations, it is necessary to introduce legal guarantees for the proper quality of MTs to eliminate conflict between these regulations and Article 9 of the Code of Medical Ethics. The current regulatory solutions allow for a rather provisional formula for MTs, including examinations conducted through electronic communicators or over the phone. However, creating a professional teleconsultation system is still a long way off, primarily due to economic reasons and cost-cutting measures.

MTs provided without ensuring quality standards can compromise the crucial personal relationships in medical care. They can also lead to increased patient isolation, ignoring changes in relationships, and adoption of technology for the sake of cost savings or profit maximisation, rather than health protection [30]. They may even result in medical errors and physician's liability. MTs can be extremely useful in monitoring the condition of already diagnosed patients, implementing established treatment plans, or in preventive care. However, it should be a conscious choice of the patient rather than one forced by limitations. In the case of diagnostic consultations, traditional in-person appointments should be a standard.

Similarly, online consultations should not be reduced to prescription visits aimed at accessing medications. Commercialisation of medical services cannot be the sole justification for introducing changes in the model of providing healthcare consultations.

De lege ferenda, it is the legislator who should therefore clearly define, within the framework of the Act on the Medical Profession, the quality standard of teleconsultation, regulating the simplest form, which is a telephone call, as an exception or even limiting it to saving life or health. When defining the quality of MTs, the experience of global medical associations should be utilised at least. These associations emphasise that healthcare professionals must prioritise patient safety, protect particularly vulnerable patients, ensure that patients understand how remote consultations work, obtain their informed consent, conduct an appropriate clinical assessment, and provide them with all available options in order to avoid medical errors. However, despite three years passing since the outbreak of the pandemic, the legislator has not yet specified the quality standards for teleconsultations, formulating only general frameworks for their provision.

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