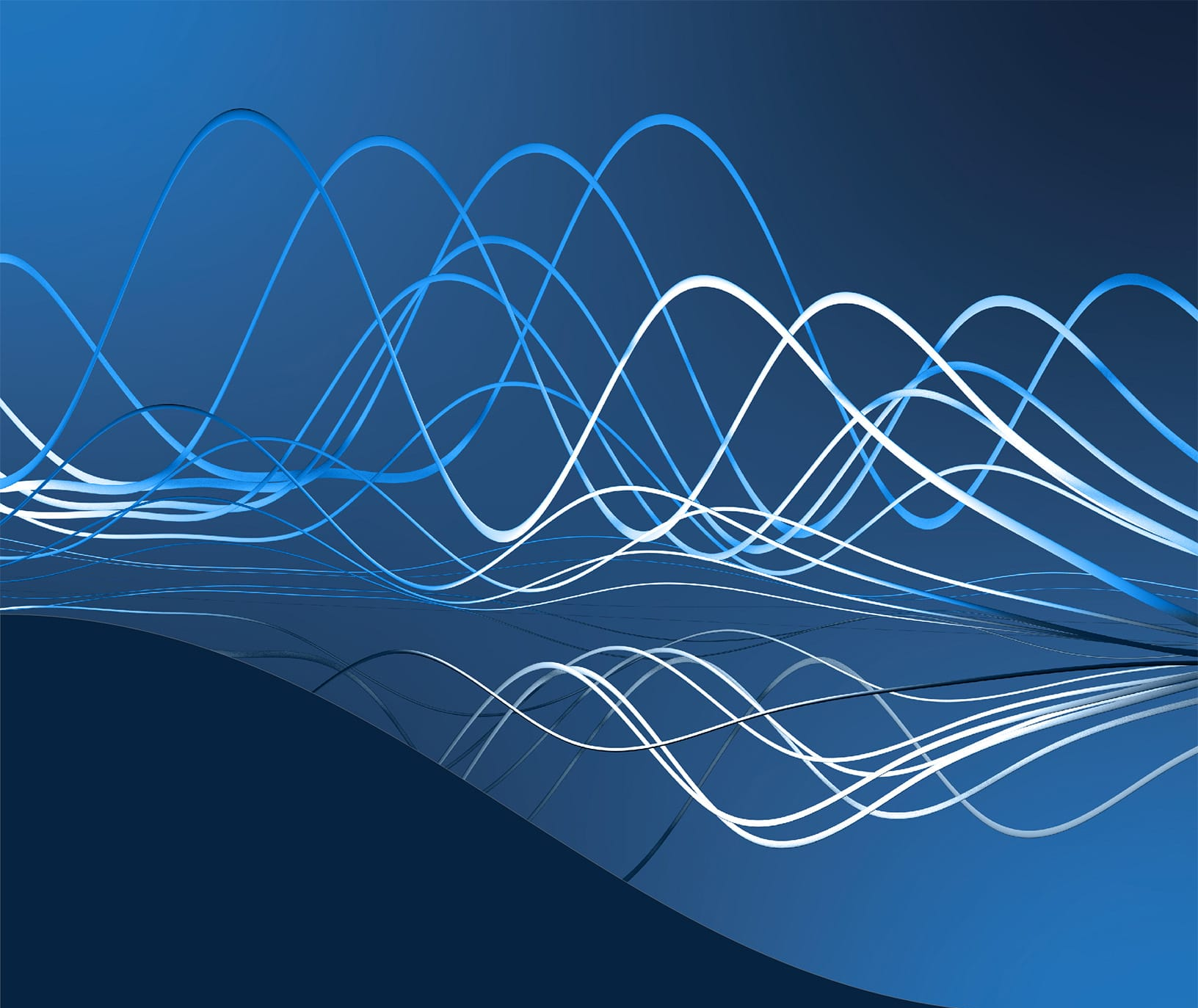




SPAIN

Telehealth around the world

Introduction



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 comparison 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.

The guide is an intuitive tool that streamlines cross-jurisdictional comparisons, with the option to download tailored PDFs of the information you need.

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Telehealth availability

Telehealth (or ‘telemedicine’) is generally permitted in Spain as there are no specific limitations or prohibitions regarding telehealth under Spanish law.

However, it should be noted that in Spain, health competences are transferred to the 17 different self-governing regions. Hence, each regional healthcare authority has the autonomy to allow, plan, or limit their healthcare system, including the types of services they offer such as telehealth.

Furthermore, the professional code of the Doctors and Dentists Bar Association limits teledentistry to patient orientation (during medical revisions) and second opinions, and only as long as it is clear that mutual identification and privacy is ensured.

Telehealth regulation

Spain does not have a national telehealth policy or strategy, except for the Royal Decree 81/2014 (transposing Directive 2011/24/UE) on the application of patients’ rights in cross-border healthcare which provides rules for facilitating the access to safe and high-quality healthcare between countries (including telemedicine) and promoting cooperation on healthcare within Member States.

Healthcare fields

In general terms the fields of healthcare in which telehealth services are available in Spain include remote medical assistance (remote patient monitoring and second opinion) in medical specialties as psychology, dermatology, pediatrics, gynecology, oncology, dentistry, allergology, cardiology, ophthalmology, laboratories, and radiology. These services are in most of the cases offered by health insurance companies which use their own proprietary platforms (these platforms are developed by third parties, being the insurance companies or licensees).

Telehealth costs

In principle, public assistance could also cover telehealth services, however, each autonomous region of Spain is entitled to organise this as it sees appropriate. Telehealth services provided to the public assistance would have the same conditions that face-to-face services have, in terms of free of charge, subsidised or reimbursed.

Withstanding the above, some private health insurance companies are currently offering in Spain telehealth services.

Privacy and data protection

Telehealth services must be carried out in compliance with the current legislation on personal data protection. In particular, personal data processing is subject to fulfil with the obligations stated in the GDPR 2016/679. On a national level, Spanish Data Protection Act 3/2018 also applies.

Cross-border data transfer

According to the GDPR 2016/679, data concerning health are considered a special category of data. Therefore, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk (i.e., pseudonymisation and encryption of personal data).

In connection with international data transfers, as a consequence of the Schrems II judgment, data transfers to third countries (outside the EEA) under SCCs, will only be valid if the data exporter can verify on a case by case basis (by means of a risk assessment analysing the law of the recipient territory and circumstances of the transfer), that the it can be provided a level of protection of personal data which does not undermine the level of protection guaranteed to data subjects under EU law including the GDPR.

Data security obligations

No competent healthcare authority has published a code of conduct on a national basis. However, the Spanish Medical Association envisages telehealth in its Code of Ethics in the following terms:

- Where the clinical practice through consultation exclusively by letter, telephone, radio, newspapers or the internet, is contrary to ethical standards. The correct practice inevitably involves personal and direct contact between doctor and patient.
- In the event of a second opinion and medical check-ups, the use of email or other means of virtual communication and telehealth are allowed, whenever clear mutual identification and privacy are ensured.
- Patient guidance systems through telehealth or telephone consultation are consistent with medical ethics when used exclusively to help decision-making.

Furthermore, given the exceptional health emergency resulting from the COVID-19 pandemic, the Central Deontology Commission of the General Council of Official Medical Associations has published a document titled "Telemedicine in the Medical Act", which states, among other things, that in certain circumstances, such as the

current COVID-19 pandemic, medical e-consultation may substitute for and sometimes complete the face-to-face medical act if face-to-face is not possible.

Therefore, the use of telematic means will comply with Medical Deontology, provided that there is consent by the patient, it is adapted to the deontological precepts applicable to the doctor-patient relationship, and the rights and safety of the patient is considered.

Anticipated reforms

It does not seem that a specific Spanish regulatory framework for telehealth is being developed. Nevertheless, there are some long-term projects and objectives programmed that will affect telemedicine, such as the Spanish Digital Strategy Plan to 2025, by the Ministry of Economy and Artificial Intelligence which aims to include telemedicine as a resource to improve the efficiency of the Spanish National Healthcare System.

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