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Remote Provision of Healthcare Services in Turkey

Abstract: The Ministry of Health published the draft Regulation on Remote Provision of Healthcare Services regulating the telemedicine activities.

The telemedicine is one of the areas that is not clearly regulated under Turkish law. Within the scope of existing legal framework, the Medical Deontology Bylaw and Ethical Principles for Physicians prohibit remote examination, diagnosis and treatment of patients.

During the COVID-19 pandemic, the legal gap on telemedicine became a more serious issue as especially private hospitals started to provide online healthcare services to their patients that cannot physically come to the healthcare centres due to COVID-19 risk. The fact that the number of hospitals providing telemedicine services increased also attracted the Ministry of Health's (the "MoH") attention. Accordingly, the MoH published the highly anticipated draft Regulation on Remote Provision of Healthcare Services (the "draft Regulation") and shared it with the stakeholders via the Turkish Industrialists' and Businessmen's Association (the "TUSIAD") to receive their feedback. The basis of the draft Regulation is shown as Articles 9 and 11 of the Fundamental Law on Healthcare Services No. 3359 and Article 508 of the Presidential Decree No. 1 on the Presidential Organization which allowing MoH to publish regulations within the scope of its authority.

Within the scope of the draft Regulation, a remote healthcare information system infrastructure will be developed or authorized by the MoH and

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healthcare centres will use healthcare information system to enable written, voice or video communication. The developed remote healthcare information system infrastructure shall be registered to the MoH's database.

In accordance with the draft Regulation, the healthcare centres that would like to provide remote healthcare services shall obtain authorization by applying to General Directorate of Healthcare Services (the "General Directorate") with the required documents. Once the General Directorate complete its assessment, the submitted documents will be sent to the MoH along with the General Directorate's report for the preparation of authorization certificate. The MoH shall issue an authorization certificate in case the healthcare centre's information system is registered at the MoH's database, and its application found appropriate by the General Directorate. In addition, for healthcare centres affiliated to the MoH, the MoH may issue a remote healthcare service authorization certificate ex officio.

As regards to scope of the provision of remote healthcare services, numerous activities may be conducted remotely including examination, consultation, prescription, follow-up of parameters such as blood sugar and blood pressure, provision of services supporting healthy life and psychosocial health, conducting invasive and surgical operations upon receiving approval from the MoH, protection of people's health during endemic and epidemic outbreaks, monitoring health status of elderly and high-risk groups and people requesting monitoring of their health data via wearable technologies. Also, the healthcare

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centres that authorized for international healthcare tourism may also provide remote healthcare services internationally.

Before the provision of remote healthcare services, the physician shall inform the patient on his/her expertise, the scope of the service, the differences between remote and applied healthcare services and data protection related matters. Within this framework, the healthcare centres shall be responsible for protection of patient privacy and health data. Accordingly, the transactions and activities regarding remote healthcare services are stored and sent to the MoH's database by the healthcare centres.

The draft Regulation also provides guidance on the cases where there is no applicable provision in the draft Regulation. In this regard, the provisions of the legislation on the protection of patients' rights and personal health data and the provisions of the legislation to which the health facility and the health professional are subject shall be applied in such cases.

The publication and the entry into force of this Regulation will lead to a starting of a new era in digitalization of healthcare services industry in Turkey. There are also criticisms on the fact that the draft is prepared as a regulation prepared by the MoH instead of a Law prepared by the parliament, contradicting with the principle that constitutional rights such as right to live and healthy living right can only be limited by law. There are also some concerns about the implementation of this Regulation as there are deficiencies in the Regulation on how to standardize the technical infrastructure required for provision of



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remote healthcare and the training to be provided to staff in healthcare centres providing services at different care levels. Nevertheless, it is undisputable that healthcare services will become more accessible for which is a very important step for improvement of public health overall.