

UNIVERSITI TEKNOLOGI MARA

**ETHICAL AND LEGAL
CONSIDERATIONS IN
REGULATING REMOTE MENTAL
HEALTH SERVICES IN MALAYSIA**

NUR SHAFIQAH BINTI MD ETHUHAR

Dissertation submitted in partial fulfillment
of the requirements for the degree of
**Master of Medical Ethics and Medical
Jurisprudence**

Faculty of Medicine

March 2022

ABSTRACT

In early 2020, the world was hit with an unprecedented pandemic that infected over 2 million and killed nearly 32,000 Malaysians. The pandemic has resulted in a series of movement control orders that enforces nationwide travel restrictions and lockdown on all non-essential economic sectors. While the primary intention of these efforts is to contain the virus from spreading, it inadvertently takes a toll on the mental health of the general population. Coupled with the economic downturn and lack of social interactions Malaysia is now also facing a mental health crisis amidst a pandemic. Adding salt to the injury, many in need of treatment has avoided seeking professional care altogether to avoid contracting the virus. To overcome this issue, the country has utilised information and communication technologies to deliver mental healthcare remotely. However, there are many ethical and legal concerns as there is no clear guidance on how to deliver remote mental healthcare effectively and safely. This dissertation (i) explores the existing guidelines and legislation on telemedicine and remote mental healthcare in Malaysia, (ii) highlights the ethical and legal concerns in the practice and (iii) at the end concludes with recommendations on what is the best approach in regulating the practice.

ACKNOWLEDGEMENT

Firstly, I wish to thank and praise Allah SWT for blessing me with the strength to complete this dissertation successfully.

I express deep sense of gratitude to my supervisor, Dr Muhamad Zaid bin Muuti for encouraging and for his valuable guidance at various stages of my dissertation. Also, to my co-supervisor Dr Mark Tan Kiak Min for his constructive criticism that have contributed immensely on my dissertation.

I wish to express my deepest thanks to my parents and siblings for their endless support and encouragement. Without them, I could not complete this dissertation.

Next, my appreciation goes to my best friends, who have been by my side throughout this journey and provided me with endless emotional support.

TABLE OF CONTENTS

	Page
CONFIRMATION BY PANEL OF EXAMINERS	ii
AUTHOR'S DECLARATION	iii
ABSTRACT	iv
ACKNOWLEDGEMENT	v
TABLE OF CONTENTS	vi
LIST OF STATUTES/LEGISLATION	x
LIST OF ABBREVIATIONS	xi
CHAPTER ONE INTRODUCTION	1
1.1 Background of Study	1
1.1.1 Health and Mental Health	1
1.1.2 COVID-19 Pandemic and Mental Health Crisis	2
1.1.3 Telemedicine & Remote Mental Healthcare	3
1.1.4 Telemedicine evolution in Malaysia	4
1.1.5 Remote Mental Health Services	7
1.2 Problem Statement	9
1.3 Research Questions	12
1.4 Research Objectives	12
1.5 Literature Review	13
1.5.1 Ethical Aspect	13
1.5.2 Legal Aspect	14
1.5.3 Research Gap	16
1.6 Research Methodology	16
1.7 Scope and Limitation of The Research	18
1.8 Significance of Contribution of Research	19
1.9 Chapterisation	20

CHAPTER ONE

INTRODUCTION

1.1 Background of Study

1.1.1 Health and Mental Health

Since the inception of the World Health Organisation (WHO) in 1948, mental health has always been considered as one of the three core components of health (World Health organisation, 2019). The WHO defines health as a “*state of a complete physical, mental, and social well-being and not merely the absence of disease or infirmity*” (World Health Organisation, 2019). WHO further defines mental health as the “*state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community*” (World Health Organisation, 2018). In Malaysia, the Ministry of Health consider individuals with mental health problems as “*an individual whose state of mind makes it difficult for him/her to function optimally; and this can further lead to clinically recognisable disorder such as depression, neuroses and psychoses*” (Ministry of Health, 2020).

In general, there are many types of mental health disorders that manifest with different presentations. Fortunately, it can be categorised based on the combination of symptoms such as abnormal thoughts, perceptions, emotions, behaviour and relationship with others (World Health Organisation, 2019). Perhaps the most widely used categories of mental disorders are included in a manual proposed by the American Psychiatric Association, known as the Diagnostic and Statistical Manual of Mental Disorders (DSM) (American Psychiatric Association, 2021). Schizophrenic disorders, bipolar disorders, anxiety disorders, depressive disorders, substance-related disorders, obsessive-compulsive disorders and eating disorders are some examples of mental health disorders categories highlighted in the DSM. There is a growing call for improvement in mental health services in Malaysia as the numbers of individuals affected by mental health illness in the country is increasing at an alarming rate. In 2015,