

Communique Issued following the Webinar on

Telemedicine & the Future of Healthcare in Nigeria

Legal, Regulatory and Policy Considerations

INTRODUCTION

The Law Firm of Jackson, Etti & Edu, in line with its sector initiative, and expertise in the Health & Pharmaceuticals industry, organised a one day Webinar titled “Telemedicine & the Future of Healthcare in Nigeria; Legal Regulatory & Policy Considerations”.

The event assembled a panel of distinguished stakeholders and leaders in the healthcare industry to discuss the growth and evolution of Telemedicine in Nigeria, it's importance to the future of healthcare in the country, as well as the issues militating against its growth and development, particularly regarding legal, regulatory and policy matters. Participants on the panel included Dr. T. A. B. Sanusi (Registrar of Medical & Dental Council of Nigeria), Dr. Akinoso Olujimi Coker (Chief Medical Director, Lagoon Hospitals), Prof. Mohammed Sambo (Executive Secretary/CEO of the National Health Insurance Scheme), Kashifu Inuwa Abdullahi (Director-General/CEO of NITDA), Dr. Debo Odulana (Founder, Doctora), Mrs. Chinyere Okorochoa (Partner & Sector Head, Health & Pharmaceuticals, Jackson, Etti & Edu), Mr. Asamah Kadiri (Partner, Litigation & Dispute Resolution, Jackson, Etti & Edu) and Mrs. Ngozi Aderibigbe (Partner, Commercial IP & Data Protection, Jackson, Etti & Edu).

The event was constituted into three main parts; an Opening Address delivered by Mrs. Chinyere Okorochoa, Partner & Sector Head Health & Pharmaceuticals at Jackson, Etti & Edu, followed by a panel discussion and contributions by the Panelists, and a Q & A interactive session with participants in the webinar, ably moderated by Mr. Toyosi Odunmbaku (Senior Associate & Deputy Sector Head Health & Pharmaceuticals, Jackson, Etti & Edu).

OPENING ADDRESS

In delivering the Opening Address, Mrs. Okorochoa, set the underlying tone for various discussions on the topic of the day and summarized the core focus of the event. She discussed the current state of the health care system in Nigeria, highlighting the urgent need to develop the telemedicine and telehealth space to address some of the challenges plaguing the sector. She addressed the legal and policy deficit in the healthcare sector, while hinting on possible guidelines for improving the relevant framework to ensure that a sustainable and effective health system is developed.

Mrs. Okorochoa also addressed the elephant in the room, which was the subsisting Covid-19 Pandemic and the role it has played in resuscitating and indeed accelerating conversations around telemedicine. She noted that the lessons learned from the pandemic should not be forgotten but must be used as a springboard to bring about the much-needed change and improvement in the healthcare sector.

HIGHLIGHTS FROM PANEL DISCUSSION

The Panel discussions addressed the topic of the day from various perspectives, with a focus on how Telemedicine and Telehealth have progressed in Nigeria thus far, as well as the intricacies of the practice as it interacts with law and regulation. In the course of the discussions, the following key points were highlighted:

1. **The difference between Telemedicine and Telehealth:** The panel discussions highlighted the difference between Telemedicine and Telehealth and advised that Telemedicine was defined to be the practice of caring for patients remotely, when the provider and patient are not physically present in the same location, through the use of video conferencing tools, while Telehealth was noted to be much broader, incorporating all the ways in which the distribution of health-related services and information, can be achieved via electronic information and telecommunication technologies.
2. **The state of health care in Nigeria remained worrisome!** Despite the efforts of national and international actors to achieve some level of improvement in recent years, the doctor to patient ratio in Nigeria remains 4:1000, access to care continues to be a significant problem, and the state of health infrastructure continues to worsen. The reasons for this were identified to be lack of investment in health care, limitations to health innovation, health care talent migration, low level of employment of human resources for health, and inadequate funding of public healthcare.



3. **The adoption of telemedicine was very low!** The panel noted that the adoption of telemedicine in Nigeria is very low, despite the current global pandemic, which appears to have accelerated its adoption in most jurisdictions. One reason identified for this was that many health care providers were ill-prepared and have struggled to transition their businesses to adopt technology in the delivery of health care services.

4. **Buyer apathy remains a problem for telemedicine service providers:** The panel noted that except for younger tech-savvy patients and few other classes of patients, there was still some level of buyer apathy and suspicion from patients and the public towards telemedicine. This, it was agreed, is caused mostly by lack of education and awareness about telemedicine as a whole and occasional technological concerns.
5. **Challenges in the adoption and practice of Telemedicine.** The Panel agreed that the biggest frustration faced by telemedicine practitioners, especially since telemedicine became prevalent during the global health pandemic, has been poor technology infrastructure ranging from very poor internet connectivity to insufficient telemedicine-support devices, to highly inadequate or highly dysfunctional options for remote payments and deliveries, the technology infrastructure required to enhance the buyer experience, is just not available in the country at the moment.
6. **The need for a deliberate legal framework for telemedicine!** It was noted that the legal framework for healthcare currently in existence, does not provide specifically for telemedicine/Telehealth and is therefore insufficient. It was agreed that there is an urgent need for a legal framework explicitly addressing cross-border service provision through telephonic means, a framework speaking to clinical liability and indemnity of telehealth providers, a legal system for credentialing of practitioners to ensure patient safety, and a governance model to address legal and ethical issues, as well as to incorporate technical and ethical training on telehealth in the training of physicians at rudimentary level, at the very least.



7. **A need for new Policy outlook to Healthcare:** The Panel addressed the need for a new policy approach to healthcare that would integrate telemedicine into the medical value chain by incorporating telemedicine into the overall healthcare system, including into policy frameworks like that of the National Health Insurance Scheme as well as adapting telemedicine into the national drive to ensure universal health cover.

7. **Need for Stakeholders in Healthcare to cooperate and take collective steps in favour of telehealth:** It was noted that there is a need for all stakeholders in the healthcare sector to come together and identify their roles in driving telehealth both for their benefit and for the improvement of the health industry of the nation as a whole. At present, the various stakeholders are acting independently and not collectively, and this would only aid in truncating any progress that can be achieved.
8. **Medical responsibility is not any less in Telemedicine.** The Panel addressed the need to mitigate ethical breaches in the course of delivery of telemedicine services. It was agreed that the duty of care owed by a medical service provider is not watered-down by the mere fact that the service is being provided through telephonic medium.
9. **Data Protection is Key to Telemedicine.** The Panel noted some of the best practices that ought to be adopted in the telemedicine space in Nigeria. It was mentioned that it was imperative for data privacy to be engrained within the telemedicine activities, particularly on health information protection and electronic signatures.

RECOMMENDATIONS

In the light of the contributions by the panelists and the observations made by the participants, the following recommendations were arrived at:

- a. The relevant authorities must immediately take action to create an enabling environment for the practice of telemedicine and telehealth in Nigeria, as this will create the opportunity for the overall improvement and development of the health care delivery system overall.
- b. The technology infrastructure deficit is a major limiter to the efficiency and adoption of telemedicine and must be improved. The relevant authorities must address this, and a collaboration between the public and private sectors may be the answer.
- c. Telemedicine & Telehealth providers should adopt innovative approaches and international best practices in resolving challenges associated with the Nigerian market in deploying their services and in remaining market competitive
- d. There is a need for regulators to be put in place legal and policy documents to advise on telehealth and to fast track the development of the telemedicine practice in Nigeria
- e. There is a need for a legal system for properly credentialing telemedicine and telehealth service providers. This was particularly important, considering the higher standard of care required in telemedical service delivery.
- f. Data protection is a crucial concern in telemedicine service delivery, and there is an urgent need for sector-specific guidance on dealings with patient data over telephonic mediums.

- g. Telemedicine should be incorporated into the general health care value chain rather than operate as a standalone service or as an alternative to general health care and this can be done both on a policy and practical level.

CONCLUSION

The webinar concluded with a collective call to action by all the Panelists. They restated the need for conversations to be substantiated with the attendant action, which can bring about the much-needed positive change in the industry as a whole.

Improving the practice of Telemedicine in Nigeria would require the collaborative effort of the government and key stakeholders in the health sector. On the part of the government, there is an urgent need to commence work towards creating a suitable framework for the practice of telemedicine in Nigeria, through the promulgation of enabling laws and policies that resolve the identified drawbacks.

For stakeholders, it is hoped that in their various capacities, they can employ their best efforts to drive the telemedicine and telehealth industries forward, by driving the conversation to sensitize the public on the benefits, whilst creating avenues for contributing to the growth of telemedicine in their individual and collective capacities. There is also a need for them to liaise with one another and the government to ensure success.

Telemedicine service providers are enjoined to capitalize on the current paradigm shift brought about by the global Covid-19 pandemic and to make the most of it, towards creating new models of practice which not only benefit them but has the potential to positively change the narrative of the healthcare industry in Nigeria in the future.

It is worth restating that telemedicine is the new look of medical service delivery and the active buy-in of every one of us as individuals and service consumers will go a long way in ensuring the success of telemedicine, both through reversing buyer apathy and ensuring person-to-person sensitization.



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