DOI: https://doi.org/10.67203/abulj.2025.0e3b5txq

VOL. 43 (2), 2025: 113 –135

ISSN: 3043-6958

AHMADU BELLO UNIVERSITY LAW JOURNAL

FACULTY OF LAW

AHMADU BELLO UNIVERSITY, ZARIA - NIGERIA.

website: https://abulj.org.ng | e-mail: abulj@abu.edu.ng

ASSESSING THE LEGAL PROVISIONS FOR TELEMEDICINE IN NIGERIA: CHALLENGES AND OPPORTUNITIES.

OKUNTADE OLAYEMI ELIZABETH AICMC*

IFEOLUWAYIMIKA BAMIDELE**

BISOLA AKINLEYE ESQ***

Abstract

This article analyses the legal and institutional systems determining telemedicine in Nigeria and determines potential areas of implementation of the system along with its obstacles. It explores how the existing legislation is supporting the distant provision of healthcare services, including the realms of patient confidentiality, provider licensure, medical malpractice, and technological integration. This is a doctrinal research that examines the constitutional provisions, specific acts to the sector like the Medical and Dental Practitioners Act, the Nigerian Data Protection Act 2023, the National Health Act 2014, and the Evidence Act 2011. Results indicate that there is high regulatory fragmentation and the absence of telemedicine-specific legislation, which results in no homogeneity of data protection, ambiguity of professional standards, and issues of licensure Nevertheless, telemedicine is one of the most effective mechanisms of enhancing access to healthcare, especially in underserved areas. This article comes up with the conclusion that Nigeria has to introduce the specific legislation to fill in the gaps that can be observed in the legislation, and also create unified regulatory framework

* College of Law, Afe Babalola University, Ado-Ekiti, Nigeria okuolayemi@gmail.com

** Reader and Head, Department of Private and Business Law, College of Law, Afe Babalola University, Ado-Ekiti, Nigeria, Solicitor and Advocate of the Supreme Court of Nigeria ifeoluwayimikab@abuad.edu.ng

*** Lecturer II, Afe Babalola University, Ado-Ekiti, Nigeria akinleyeai@abuad.edu.ng

which will guarantee that direct telemedicine services are delivered with the care of ethics, security, and efficiency.

Keywords: Legal Framework, Regulatory Challenges, Patient Data Privacy, Cross-Border Telemedicine.

1.1 Introduction

This article aims at assessing the legal provisions for telemedicine in Nigeria thereby identifying its challenges and opportunities. This article reviews existing legal frameworks surrounding telemedicine in Nigeria with an analysis of potential benefits and drawbacks. Nigeria lacks specific laws regulating telemedicine, although multiple laws protect both medical practitioners and patients in telemedicine situations. This study analyzes both legal obstacles and implications that affect telemedicine practice in Nigeria. Telemedicine, according to the World Health Organization describes health service delivery activities enabled by distance through professional use of information and communication technologies to exchange valid health information for disease treatment and prevention purposes, together with research evaluation and health care provider continuing health advancement.[1]

Health services, together with health-related information, can be distributed using electronic telecommunication and information technologies under the term telehealth or telemedicine.[2] Telemedicine experienced a major acceleration due to the COVID-19 pandemic together with technological progress, resulting in widespread access[3]. The adoption of telemedicine has reshaped global healthcare systems and has brought forth legal uncertainties regarding its practice in Nigeria.

[1] OM Atoyebi, 'Medical Law: Telecommunications and Media Law' (June 10, 2024) <https://omaplex.com.ng/telemedicine-practice-in-nigeria-vis-a-vis-its-implications-for-data-security/>accessed 28 January 2025

[2] Telehealth, (30 January, 2025), <https://en.wikipedia.org/wiki/Telehealth> accessed 2 February, 2025.

[3] S Julia, 'The State of Telehealth Before and After the Covid-19 Pandemic, Primary Care', (April 25, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9035352/> accessed 2 February, 2025.

This research investigates how telemedicine legislation works in Nigeria to identify associated difficulties with its implementation.

Telemedicine services managed by telepowered systems operate as key agents to reshape healthcare since they resolve limitations regarding timeframes and geographic distances. Telemedicine remains implemented in Nigeria despite an ongoing development process for its governing regulations. The protection of telehealth in Nigeria suffers because the nation does not have proper laws to handle its unique healthcare issues. This article analyzes the legal barriers to telemedicine practice in Nigeria while offering medical practitioners professional advice. This article also urges both stakeholders and institutional support for telemedicine legislation to ensure appropriate implementation of telemedicine.[4]

1.2 An Evaluation of the Historical Impact of Telemedicine in Nigeria

Telemedicine derives its name from two words that combine 'tele,' which means distance in Greek, with the Latin word 'mederi,' which signifies healing. Time magazine described it as 'healing by wire.' People who reside in rural areas across the world encounter problems obtaining adequate medical treatments mainly because doctors primarily work in populated areas. The distance between remote healthcare areas and medical services becomes less significant through telemedicine infrastructure.

Telemedicine refers to health service delivery through the combination of electronic communications and information technologies. The medical sector recognizes this practice as telehealth. Telemedicine experienced rapid adoption after COVID-19 struck and modern technology advanced during recent times. Telemedicine stands as a healthcare provision method, according to the World Health Organization, because it delivers medical services at a distance through

[4] 'Navigating Legal Challenges in Nigeria's Evolving Telemedicine', (November 29, 2023), <https://trustedadvisorslaw.com/navigating-legal-challenges-in-nigerias-evolving-telemedicine-landscape/>accessed 2 February, 2025.

information and communication technologies.[5] Through this method, vital information links up key diagnostic elements along with therapeutic care and disease prevention information and educational efforts for healthcare staff to advance community and individual health outcomes.[6]

One of the first documented telemedicine cases originated in the early 20th century, where electrocardiograph data transmission occurred through telephone lines. This historical development occurred between the mid- to late 19th century. The modern development of telemedicine emerged during the 1960s through operations conducted by the 'military' and 'space technology' sectors while people took advantage of convenient commercial equipment. Telemedicine began its history through psychiatric institute specialists using television calls to speak with state mental hospital general practitioners, while major teaching hospital specialists provided medical expertise to airport medical centers. The recent technological developments paired with a rising use of technology contributed to telemedicine evolution, which established novel health care service and delivery possibilities.[7]

The decrease in ICT prices, together with the notion of viewing them from a different perspective, led to growing interest in telemedicine usage. Internet use by common people both boosted computer technology development and expanded telemedicine through web application development and multimedia applications. The advancement in technology has enabled the creation and growth of telemedicine applications currently used throughout the world.[8]

---

[5] World Health Organization, *A Health Telematics Policy in Support of WHO's Health-for-All Strategy for Global Health Development* (Geneva: WHO, 1988), p 10.
[6] ibid.
[7] EE Ngozi, '*An Appraisal for the Legal Framework of Telemedicine in Nigeria'* (August 2024) <https://www.researchgate.net/publication/383415453_AN_APPRAISAL_OF_THE_LEGAL_FRAMEWORK_FOR_TELEMEDICINE_IN_NIGERIA>accessed 3 February 2025.
[8] ibid.

Over a period exceeding one century, telemedicine has continued to exist despite its recent appearance in the remote healthcare services field. Telemedicine originated in parallel with social development together with progress in communication and information technologies throughout history. Since 2007, Namada and the Federal Ministry of Health have launched an innovative project as the starting point of telemedicine service delivery in Nigeria. Through technological means, this project targeted bridging healthcare differences between cities and rural areas by establishing distant medical consultation capabilities. This initiative included both hospital facilities and six federal medical centers across Nigeria, as well as mobile units with satellite receivers to increase accessibility of services.[9]

The purpose of telemedicine does not involve eliminating existing healthcare delivery systems. This technology serves to support existing medical systems for boosting healthcare service delivery, especially when serving remote population centers. When compared to conventional healthcare services, patients must visit facilities for in-person meetings while documentation is stored on paper, and physical tests require full institutional presence. Telemedicine became a practical treatment method for patients during the COVID-19 pandemic because hospitals restricted patient in-person visits through the distribution of mobile units from the National Space Research and Development Agency (NASRDA). Nigerian telemedicine services now embrace a variety of medical practices that consist of tele radiology, tele dermatology, tele psychiatry, tele surgery, tele urology, and teleconsultation.[10]

[9] CU Kingsley and Egbokare Franscisca, 'Prospects and Challenges of Telemedicine in Nigeria' *Journal of Medicine and Biomedical Sciences*, (November 2012) <https://www.researchgate.net/publication/272877000_Prospects_and_challenges_of_telemedicine_in_Nigeria EE>accessed 3 February 2025.

[10]Tamilore Labisi, 'The Legal Framework of Telemedicine in Nigeria' (June, 2021) <https://www.researchgate.net/publication/353664869_THE_LEGAL_FRAMEWORK_OF_TELEMEDICINE_IN_NIGERIA>accessed 3 February 2025.

1.3 Nigerian Legal Frameworks for Telemedicine

Telemedicine lacks a dedicated law in Nigeria, though multiple existing statutes implement rules that apply to telemedicine with provisions for licensing consent besides data protection requirements and privacy regulations and insurance coverage standards and specific ethical principles telemedicine practitioners need to adhere to.[11] Every telemedicine practitioner practicing in Nigeria must possess qualifications and acquire the needed licenses and registrations as specified by the Medical and Dental Practitioners Act (MDPA) and Pharmacists Council of Nigeria (PCN) Act for conducting this medical practice.[12] Telemedicine practitioners need to gain regulatory qualifications from the Medical and Dental Practitioners Act (MDPA) together with the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), the Code of Medical Ethics in Nigeria 2008, the Nigerian Data Protection Act (NDPA) 2023, the National Health Act (NHA) 2014, and the Evidence Act 2011.[13]

1.3.1 Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended)

Section 37 of the Constitution of the Federal Republic of Nigeria guarantees through protective measures the privacy rights of citizens alongside their respective homes and correspondence, as well as telephone conversations and telegraphic communications.[14] In this section, telemedicine practitioners must

[11] Adegoke Adedoyin and Oluwaseyi Adebayo, 'Telemedicine Revolution: Legal Implications and Regulatory Compliance for Healthcare Providers in Nigeria', *SimmonsCooper Partners* (May 15, 2024), <https://www.mondaq.com/nigeria/healthcare/1464228/telemedicine-revolution-legal-implications-and-regulatory-compliance-for-healthcare-providers-in-nigeria>accessed 3 February 2025.

[12] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004; Pharmacists Council of Nigeria Act, Cap P17, Laws of the Federation of Nigeria 2004.

[13] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004; Constitution of the Federal Republic of Nigeria 1999 (as amended); Code of Medical Ethics in Nigeria, 2008, (MDCN); Nigeria Data Protection Act 2023; National Health Act 2014; Evidence Act, Cap E14, Laws of the Federation of Nigeria 2011.

[14] Constitution of the Federal Republic of Nigeria 1999 (as amended), s37.

preserve absolute patient medical record confidentiality together with patient data protection and defense of their clinical information. Patient information confidentiality requirements for medical practitioners are set out in Rule 8(B) of the Medical and Dental Council of Nigeria (MDCN) Code of Medical Ethics 2008.[15]

The welfare responsibilities of the Nigerian government toward its citizens require healthcare service accessibility under the Federal Republic of Nigeria's Constitution. Expansions of telemedicine services throughout the healthcare system reinforce the constitutional requirement for expanded health accessibility for people living in distant areas. Telemedicine implementation in healthcare facilities supports the constitutional requirement for laws that benefit public health and well-being, according to the Constitution of the Federal Republic of Nigeria.

Section 37 of the Constitution of the Federal Republic of Nigeria establishes privacy together with confidentiality as fundamental principles essential to telemedicine practice.[16] The Constitution of the Federal Republic of Nigeria presents telemedicine-related provisions about healthcare rights that guarantee human life and personal dignity.[17] Every patient possesses the right to medical record protection, so telemedicine operations must respect federal constitutional standards.[18]

1.3.2 Medical and Dental Practitioners Act (MDPA) 2004

The Medical and Dental Practitioners Act controls medical practitioner registration and licensure by creating the Medical and Dental Council of Nigeria (MDCN) for establishing professional standards in medicine and dentistry.[19]

[15] Medical and Dental Council of Nigeria, Code of Medical Ethics 2008, Rule 8(B).
[16] Constitution of the Federal Republic of Nigeria 1999 (as amended), s37.
[17] Constitution of the Federal Republic of Nigeria 1999 (as amended), s34.
[18] Constitution of the Federal Republic of Nigeria 1999 (as amended), s37.
[19] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004.

Under section 15(3)(a) of the MDPA, the council maintains authority to establish disciplinary actions when medical and dental practitioners show professional misconduct.[20]

Telemedicine providers must follow ethical and professional practice guidelines that the MDPA establishes for medical professionals. The standards stress medical practitioners upholding both high competence levels and ethical standards because telemedicine requires particular attention to care quality assessment.[21]

Sections 8 and 9 of the MDPA provide that medical practitioners need legal authorizations in the form of registration, approval of courses, qualifications, and institutions to operate telemedicine services.[22] Through the MDPA, healthcare clients find protection because it establishes specific rules, allowing only properly trained medical staff to dispense telemedicine services. The MDPA functions as a key legal tool that guides telemedicine practice in Nigeria by developing a system for secure medical services.[23]

1.3.3 Code of Medical Ethics in Nigeria (2008)

Telemedicine stands as a vital tool for health service enhancement because the Medical and Dental Council of Nigeria's Code of Medical Ethics 2008 supports its role.[24] The Code establishes telemedicine requirements and operations within its Rule 22 and outlines its specific application conditions.[25] The highest ethical standards must be maintained throughout telehealth services because they ensure

[20] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004, s15 (3) (a).
[21] Code of Medical Ethics in Nigeria 2008, Rules 4, 25.
[22] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004, ss 8, 9.
[23] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004.
[24] Stren & Blan Partners, 'Navigating the Regulatory Landscape of Telemedicine in Nigeria' (June 26, 2023) <https://strenandblan.com/the-legal-landscape-of-telemedicine-managing-regulatory-compliance-and-liability-risks/>accessed 3 February 2025.
[25] Code of Medical Ethics in Nigeria 2008, Rule 22.

both patient safety and confidentiality in these services.[26] The Code establishes patient welfare as a primary requirement for medical practitioners by extending it to their telemedicine activities, and medical practitioners must guarantee that virtual healthcare methods maintain standard medical quality levels during patient treatment.[27]

Patient consent must include complete knowledge about receiving healthcare services via telemedicine since this core principle exists in the Code.[28] Health practitioners need to protect patient data by adopting guidelines that ensure secure telemedicine information transmission; the Code specifically addresses concerns about meeting these confidentiality standards.[29] Healthcare providers need to uphold ethical guidelines because they build patient-trust relationships, especially during digital communication, which makes privacy concerns more pronounced. The Code of Medical Ethics acts as a key guidance tool for proper ethical telemedicine practices in Nigeria.[30]

1.3.4 The Nigeria Data Protection Act (NDPA) 2023

Through its essential role, the Nigeria Data Protection Act ensures security while ensuring proper handling of telemedicine patient data with a focus on transparency and accountability and protection of privacy.[31] Academy providers must follow the Act to show their dedication to using technology ethically and responsibly in healthcare because this strengthens trust while ensuring security and advancing responsible medical progress.[32] The Nigerian medical industry

[26] AJ Keenan and George Tsourtos and Jennifer Tieman, 'The Value of Applying Ethical Principles in Telehealth Practices: Systematic Review', *Journal of Medical Internet Research* (March 30, 2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8044738>accessed 3 February 2025.
[27] Code of Medical Ethics in Nigeria 2008, Rule 22 (a).
[28] ibid, Rule 19.
[29] ibid, Rule 19 (A) (B).
[30] Code of Medical Ethics in Nigeria 2008.
[31] Nigeria Data Protection Act, 2023, ss 24, 25.
[32] ibid, s29.

maintains specific obligations that guide their management of patient healthcare data.[33]

Patient information maintained full security and confidentiality through the implementation of the 2019 Nigerian Data Protection Regulations along with the 2023 NDPA.[34] Through these laws, the framework ensures data privacy protection, which safeguards privacy grounds while maintaining the safety of information handling.[35] Telemedicine practitioners must adopt strict data protection procedures because the Nigeria Data Protection Act requires such measures when patients share their medical records through digital platforms.[36] The practitioner needs to obtain patient concurrence before applying the information to its designated functions.[37] The Nigeria Data Protection Act functions as a fundamental component to create secure telemedicine environments by maintaining patient data privacy along with their right to privacy.[38]

1.3.5 The National Health Act (NHA) 2014

Nigeria relies on the National Health Act to provide legal regulations that direct telemedicine operations.[39] One main goal of the National Health Act is to enable every Nigerian person to obtain high-quality healthcare services. Pursuant to section 25 of the National Health Act, all health establishments are obligated to keep patients health records.[40] Under section 26 of the National Health Act, any information relating to the user or patient such as information as regards to his health status, treatment or even staying in the health establishment is

[33] ibid, s30.
[34] Nigeria Data Protection Regulation 2019; Nigeria Data Protection Act 2023.
[35] Nigeria Data Protection Act, 2023, ss 24, 29, 39.
[36] ibid, ss 29, 30.
[37] ibid, s26.
[38] Stren & Blan Partners, 'Navigating the Regulatory Landscape of Telemedicine in Nigeria' (June 26, 2023) <https://strenandblan.com/the-legal-landscape-of-telemedicine-managing-regulatory-compliance-and-liability-risks/>accessed 3 February 2025.
[39] National Health Act, 2014, (Act No.8 of 2014) ss 1, 2.
[40] ibid, s 25.

confidential.[41] Section 29 of the National Health Act makes emphasis on the protection of health records for all health establishments or medical institutions.[42] Medical institutions, together with their staff, become vulnerable to two years or less imprisonment and a potential fine of ₦250,000 (two hundred and fifty thousand naira only) for noncompliance.[43] Telemedicine practitioners need to establish security protocols to stop unauthorized entities from accessing patient health records.

Though the National Health Act does not talk specifically about telemedicine, it underlines the essence of healthcare services to every Nigerian. Increased patient access to medical care occurs through technological adoption, which enables distant delivery of healthcare.[44] Through the Act, healthcare providers can combine contemporary and conventional wellness approaches to make telemedicine integrate with current medical infrastructures.[45]

Health facilities require specific guidelines according to the National Health Act, which mandates professional requirements for healthcare personnel working there.[46] Medical professionals deliver telemedicine services under proper training requirements. The established rules serve crucial functions to generate safe and effective telemedicine practices that boost the accessibility of quality healthcare in Nigeria.[47]

1.3.6 Evidence Act 2011

The Evidence Act 2011 creates important legal conditions that impact telemedicine operations in Nigeria, particularly for instituting electronic medical

[41] ibid, s 26.
[42] ibid, s 29(1).
[43] ibid, s 29(2) (j) (ii).
[44] ibid, s 1(1) (e), 2.
[45] ibid, s 13(1) (a).
[46] ibid, s 13(1).
[47] ibid, s 1(1) (e).

records as court evidence.[48] Section 84(1) of the Evidence Act permits the admission of electronic evidence that forms part of telemedicine systems when it comes to court proceedings.[49] Medical records created during teleconsultations serve as court evidence where they meet any specific requirements and clarify the exact circumstances under which they are admissible, such as device operation, storage and certification procedures within section 84 of the Evidence Act 2011.[50] This legal protocol guarantees safety of patients and healthcare practitioners as there is now an authenticated way to conduct teleconsultations under section 84(4) of the Evidence Act 2011 on certification and authentication of electronic records by a person in operation of the device.[51]

The framework provides rules for sustaining electronic record confidentiality and privacy, and it enables authentication procedures for electronic evidence. Under the Evidence Act, authorities must verify identity information of teleconsultation participants, as this trust-building process establishes confidence. Telemedicine finds legitimacy under the Evidence Act in Nigeria since the law accepts electronic communications as court evidence.

1.4 Legal Challenges Surrounding Telemedicine in Nigeria

1.4.1 Legal Uncertainty in Telemedicine: Telemedicine providers, along with users, face difficulties in understanding their rights because there are no clear laws that address this medical practice in Nigeria. Telemedicine providers should understand the current legal requirements of their industry by studying the laws and consulting legal experts who specialize in them. The absence of dedicated telemedicine regulations makes it hard for providers to understand appropriate

[48] Evidence Act, Cap E14, Laws of the Federation of Nigeria 2011, s 84.
[49] ibid, s 84(1).
[50] ibid, s 84(2) (3) (4) (5).
[51] ibid, s 84(4).

patient data protection methods and for patients to understand data security protocols during telemedicine sessions.[52]

Fully embracing telemedicine services appears challenging because these uncertainties discourage both healthcare providers and patients from participating completely. Current laws in Nigeria are applied differently throughout the country, which creates uncertainties and confusion for telemedicine providers when they want to deliver their services. Differing interpretations of federal laws create an obstacle for healthcare providers who need to understand the legal consequences of their telemedicine activities, thus deterring the adoption and expansion of remote medical practices across the country.

1.4.2 Data Privacy and Security: Telemedicine faces legal hurdles in Nigeria because no proper system exists to protect patients' health records from unauthorized access. The protection of data through Nigerian laws remains in the development phase with undefined applications toward telemedicine practices. Despite its creation in 2023, the NDPA provides basic rules for data protection, yet it remains unclear if those rules apply to telemedicine services. Online consultations with healthcare providers require patients to reveal both their medical history and personal identification information to medical providers.[53]

Considerable doubts emerge about the methods used to gather data along with its storage and protection safeguards. Laws that specifically protect data privacy demonstrate essential requirements for safe patient information access. Lack of proper security measures by healthcare providers creates the possibility that sensitive data might be hacked and misused, which ultimately results in

[52] HH Shannon and AF Cathy and LF Susan, 'Privacy and Security Risks Factors Related to Telehealth Services-A Systematic Review', *Online Research Journal Perspectives in Health Information Management*, (January 10, 2023) <https://pmc.ncbi.nlm.nih.gov/articles/PMC9860467>accessed 4 February 2025.
[53] AT Rayhan and BH Pamela, 'Patient Confidentiality' (January 23, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK519540>accessed 4 February 2025.

confidentiality breaches.[54] Patients will avoid telemedicine services when they doubt their information security.[55]

Nigeria's telemedicine sector faces resistance from patients because of untrustworthy practices, which slows down its development. Telemedicine needs specific data security legislation to maintain patient-provider comfort with their medical interactions. Every telemedicine provider needs to get valid patient consent for the protection of patient data through strict privacy rules that prevent unauthorized access or disclosure.

1.4.3 Licensing and Registration Difficulties: The implementation of licensing and regulatory requirements poses substantial barriers to the development of telemedicine in Nigerian medical practice. Equitable regulation proves challenging because current rules came into existence for conventional in-person healthcare delivery methods that fail adequately to address telemedicine requirements.[56] Healthcare providers attempting telemedicine service delivery frequently encounter licensing and certification mysteries when starting up their operations. His complexity of procuring necessary licenses affects service providers' desire to start using telemedicine practices.[57]

The different states of Nigeria have varying regulations for licensing, which cause challenges during approval processes. Healthcare providers must overcome regulatory hurdles when they aim to deliver services across multiple regions because different medical practices exist throughout the country. The challenges

[54] HS Adil and others, 'Healthcare Data Breaches: Insights and Implications' (May 13, 2020) 8(2) *Healthcare (Basel)*.
[55] Taye Awofiranye, 'Navigating Legal Challenges in Nigeria's Evolving Telemedicine Landscape' (November 29, 2023) <https://trustedadvisorslaw.com/navigating-legal-challenges-in-nigerias-evolving>accessed 4 February 2025.
[56] GF Barry, 'Regulatory, Legal, and Ethical Considerations of Telemedicine' (July 7, 2020) 15(3) *Sleep Med Clin* p 409.
[57] Taye Awofiranye, 'Navigating Legal Challenges in Nigeria's Evolving Telemedicine Landscape' (November 29, 2023) <https://trustedadvisorslaw.com/navigating-legal-challenges-in-nigerias-evolving>accessed 4 February 2025.

with licensing and registration increase the time needed to introduce telemedicine, thus reducing patient access to remote healthcare services.

1.4.4 Medical Negligence: Medical negligence represents a major legal concern about telemedicine practice in Nigeria. Nicholas offers a definition of medical negligence as the act of health providers who do not meet their professional standards and create adverse consequences for patients.[58] The delivery of teleconsultations through telemedicine encounters allows medical negligence to occur through incorrect diagnoses of patients' conditions. The communication methods, which are based on technology, present complex challenges during medical negligence occurrences in telemedicine practice.[59] Healthcare providers face increased risks of miscommunication when they cannot perform sufficient physical examinations on patients. Healthcare offers minimal direction about treating telemedicine patients, which results in inconsistent care delivery.

Telemedicine patients face obstacles to demonstrating negligence because medical records become harder to document since there is no physical examination. It creates an adverse setting that complicates the search for justice for patients and complicates the defense process for providers. The successful practice of telemedicine depends on solving medical negligence problems because it safeguards patients' safety and strengthens their belief in remote healthcare delivery systems.

1.5 Legal Authority Challenges

Healthcare providers encounter complicated legal situations while offering services to patients between different regions and across international borders.[60]

[58] A Nicholas, *Law and Ethics in Medical Practice* (Lagos: MedicoLegal Publishers, 2012) p 87.
[59] Spangenberg Shibley and Liber LLP, 'Telemedicine and Medical Malpractice: Emerging Issues' (June 11, 2024), <https://www.spanglaw.com/blog/2024/june/telemedicine-and-medical-malpractice-emerging-is>accessed 4 February 2025.
[60] MM Ali, 'Factors Influencing Healthcare Service Quality' (July 26, 2014) 3(2) *International Journal of Health Policy and Management* 77.

A major obstacle exists when healthcare providers require certification for delivering their services in patients' home states. Consultation between doctors across different states creates legal uncertainty because physicians must follow licensing rules from their patients' states. Overseeing medical laws faces challenges because each state in Nigeria sets individuals different standards for medical procedures and malpractice. Without standard regulatory practices, providers and patients experience uncertainty when dealing with telemedicine service distribution.[61] The successful implementation and safe practice of telemedicine in Nigeria requires resolving its present legal authority challenges.

1.5.1 Standard of Care: Telemedicine standards of care represent a fundamental legal issue for telemedicine implementation in Nigeria. The clear standard of care exists in traditional healthcare practices, but telemedicine creates difficulties because of remote consultative interactions.[62] Current telemedicine standards usually diverge from face-to-face healthcare methods. Providers using telemedicine must operate under different practitioner abilities, especially when conducting physical assessments, thus affecting diagnosis methods and treatment protocols. Healthcare providers face doubts about their ability to maintain acceptable care levels since physical examinations remain restricted for some patients.

The standard of care faces challenges because different regions adopt diverse application methods of medical practice standards. Healthcare providers deal with uncertainty because states implement varied expectations and impose regulations about medical practice. Telemedicine consultations without achieving the standard of care can trigger legal actions that may involve medical negligence

[61] Aarti Pandya, Morgan Waller and MP Jay, 'The Regulatory Environment of Telemedicine after Covid-19', (July 13, 2022) 10(10) *J Allergy Clin Immunol Pract* 2500.
[62] Tomáš Holčapek, Martin Šolc, Petr Šustek, 'Telemedicine and the Standard of Care: A Call for a New Approach?' (May 2023) *Frontiers in Public Health* <https://www.researchgate.net/publication/370951933_Telemedicine_and_the_standard_of_care_a_call_for_a_new_approach>accessed 4 February 2025.

claims against providers. The protection of Nigerian patients and healthcare providers requires telemedicine to adopt clear and constant practice standards.

1.5.2 Reimbursement and Insurance: Telemedicine operations in Nigeria face substantial obstacles from insurance coverage reimbursement systems. The present problem stems from the absence of standard payment procedures for telemedicine services. The lack of insurance coverage during telemedicine consultations creates confusion for both patients and doctors in service spaces.[63] The payment rules of insurance providers specifically exempt telemedicine from their medical service coverage. Patients need to cover their medical costs independently because insurance does not provide coverage in such cases, and this presents difficulties mainly for people with restricted financial resources.

Doctors hesitate to provide telemedicine services when payment assurance is uncertain, thus decreasing the availability of these services. Telemedicine faces barriers in the Nigerian insurance system because it is not yet prepared to process such services. Right billing codes require development, and insurance plans need telemedicine coverage, while payment rates for remote consultation services should be established. Successful reimbursement and insurance arrangements must be established to develop telemedicine in Nigeria because they serve both patients and doctors.[64]

1.5.3 Data Protection, Privacy and Confidentiality: Telemedicine being digital in nature depicts a great amount of sensitive patient health information being managed thus the protection of data, privacy and confidentiality emerges as important legal concerns in Nigeria.[65] Initiated in the context of healthcare by the

[63] CH Gowtham, 'Telemedicine vs. In-Person Visits: Which is better?' (October 4, 2024), <https://continentalhospitals.com/blog/telemedicine-vs-in-person-visits-which-is-better>accessed 4 February 2025.
[64] Taye Awofiranye, 'Navigating Legal Challenges in Nigeria's Evolving Telemedicine Landscape' (November 29, 2023) <https://trustedadvisorslaw.com/navigating-legal-challenges-in-nigerias-evolving>accessed 4 February 2025.
[65] Nigeria Data Protection Act, 2023, s 30.

NDPA, the framework defining how to protect individuals by protecting their personal data is still not that well-defined and that strongly implemented when applied to the circumstances of health data in telemedicine.[66] The telemedicine companies must be lawfully required to discourage illegal access, data loss, or misuse of the patient records, particularly, with the widespread use of various digital networks, including cloud systems, which are based outside the country.[67] This demands strong technical and organization protection such as encryption, anonymization, and access control systems.

Nevertheless, a legal grey zone still exists regarding the responsibility in cases of third-party online providers used in the process of care and patient privacy in a home setting during a virtual visit.[68] When a patient does not control the physical environment, the provider with the help of their acute care facilities, including clinical expertise, is not in the best position to ensure that the physical surroundings may not lead to disclosure of information.[69] Further, there should be stronger legal advice on the consent of patients whose information is to be shared (mainly in cases of research), how long such information may be kept and at what point they have to be destroyed with or without their consent.[70] Lack of a more thorough and specific regulation framework also means that telemedicine providers operate at risks of legal actions, and it can compromise health care trust that patients show towards online healthcare services.

1.5.4 Prescriptive Practice and Dispensing Medications: Telemedicine governance of the remote prescription process and dispensing of drugs in Nigeria is not properly developed, which significantly threatens the safety of patients and their legal responsibility.[71] Current legislation bases in face-to-face consultation,

[66] ibid, s 29.
[67] Nigeria Data Protection Act, 2023, ss 41, 43.
[68] ibid, ss 24(3), 29(1).
[69] ibid, s 30.
[70] ibid, ss 25(1), 26.
[71] National Health Act, 2014, ss 1(1) (a), 13(1) (c).

which makes it challenging to discuss the concerns related to identification of the patient, prescription without the actual examination process, and control of a patient reaction manipulating through the distance.[72]

Emerging legal provisions about what drugs can be prescribed using telemedicine, especially the distinction between over-the-counter, prescription-only, and controlled drugs, and in what clinical conditions a particular drug prescribing is permissible, are urgently needed. Moreover, legal consideration needs to focus on procedures of securely transmitting prescriptions and controlling the area of tele pharmacy services, such as the scope of responsibility of remote pharmacists. Without an adequately established framework, telemedicine suppliers are exposed to the increased risks of medication complications, illegal drug use, and liability, which in the long run adversely affect the population and trust.

1.6 Legal Opportunities for Telemedicine in Nigeria

1.6.1 Increased Access to Healthcare: The healthcare delivery network of providers achieves better connection to patients located in remote regions through telemedicine.[73] The areas with insufficient healthcare facilities produce major health inequality problems throughout these locations. Through video call and messaging services in telemedicine, patients acquire medical guidance and diagnostic assistance together with prescription medications while remaining beyond distant healthcare facilities. The healthcare demands of Nigeria immensely benefit from telemedicine since transportation lacks efficiency.

[72] Code of Medical Ethics in Nigeria 2008, Rule 6(b), 9.
[73] AO Ismail and others, 'Role of Telemedicine in Increasing Healthcare Access in Nigeria: Challenges and Effective Adoption' (September 29, 2024) *Comprehensive Health and Biomedical Studies*, <https://brieflands.com/articles/chbs-153991>accessed 4 February 2025.

Telemedicine enables patients to receive instant care for their minor medical issues and chronic disease follow-ups, which leads to enhanced medical results.[74]

1.6.2 Cost-Effectiveness: The cost of healthcare management poses considerable stress on families who earn less than enough to meet their expenses.[75] Patients face various expenditures from their establishments to their healthcare center visits, such as travel expenses and work time absences, along with potential accommodation costs. The expenses associated with patient healthcare have become more affordable since telemedicine delivers care directly to patients' home environments. The system provides major advantages to patients needing frequent checkups and chronic disease management because it cuts down on regular office visits. Healthcare providers maintain reduced costs for patient fees through their decreased need for physical office operations.[76]

1.6.3 Improved Healthcare Efficiency: Telemedicine enables healthcare organizations to optimize their service delivery. The regular in-person visit system forces patients to endure long waiting periods that leave them dissatisfied. Doctors who use telemedicine services handle their appointments better, allowing them to treat more patients throughout shorter periods. The system's efficiency enables patients to obtain faster consultation services and aftercare support, thus decreasing the health facility patient backlogs. Telemedicine serves its purpose best during disease outbreak peaks since it reduces essential physical interactions between healthcare providers and patients.

[74] 'The Rise of Telemedicine in Nigeria: Trends, Benefits and Challenges' (March 15, 2024) <https://cloudclinic.ng/the-rise-of-telemedicine-in-nigeria-trends-benefits-and-challenges>accessed 4 February 2025.
[75] AG Alison and others, 'Out-of-Pocket Financial Burden for Low-Income Families with Children: Socioeconomic Disparities and Effects of Insurance' (December 2005) *Health Services Research* <https://pmc.ncbi.nlm.nih.gov/articles/PMC1361224>accessed 4 February 2025.
[76] 'Telemedicine in Nigeria and how NGOs can Leverage it to Extend Healthcare Access', <https://healthconnect247.com/2024/06/19/telemedicine-in-nigeria-and-how-ngos-can-leverage-it-to-extend-healthcare-access>accessed 4 February 2025.

1.6.4 Chronic Disease Management: A large number of Nigerians continue to fight multiple chronic health conditions, including diabetes and hypertension, together with respiratory diseases. Telemedicine operates as an ongoing system to monitor and handle these medical conditions. Through the telemedicine system, patients can provide updates about their health condition as well as forward test results and report medical concerns to their doctors from any location. Through continuous conversation, doctors obtain better knowledge of treatment changes and deliver enhanced support to patients, managing their health better. The practice of scheduled health updates between patients and medical professionals generates improved healthcare results along with better treatment compliance.

1.6.5 Integration with Mobile Technology: The abundant mobile phone usage throughout Nigeria creates a distinct chance to implement telemedicine services.[77] The current phone usage for communication and social media makes healthcare services easily accessible through this platform. Mobile health apps create a platform that enables both medical consultations and automatic medicine reminders and health information education. Hospital patients gain effortless access to healthcare services during all times of need, which promotes active health management.

1.6.6 Education and Awareness: The educational capabilities of telemedicine extend beyond consulting appointments to provide patients with knowledge. Through telemedicine platforms, healthcare providers deliver webinars and share healthcare-related videos and establish chat groups to support educational learning of health topics.[78] Such benefits enable people to develop knowledge

[77] DO Hugo and others, 'Digital Health Utilisation in Nigeria; A Scoping Review' (May 2024) <https://www.researchgate.net/publication/380900592_Digital_Health_Utilisation_in_Nigeria_A_Scoping_Review>accessed 4 February 2025.

[78] Abid Haleem and others, 'Telemedicine for Healthcare: Capabilities, Features, Barriers and Applications' (July 24, 2021) *Sensors International* (<https://pmc.ncbi.nlm.nih.gov/articles/PMC8590973>accessed 4 February 2025.

related to widespread diseases and protective steps together with balanced life decisions. The public education enabled by telemedicine provides people the tools to actively manage their health, resulting in an educated populace that achieves better health.

1.7 Conclusion

Telemedicine has become a revolutionary instrument in the expanded healthcare system in Nigeria, providing a means of addressing medical accessibility, cost-effectiveness, and other long-standing issues. Notwithstanding these opportunities, the current legal and regulatory framework is not fully developed, and this prevents coverage of some essential areas of telemedicine. The absence of a specific telemedicine law implies that the stakeholders should refer to scattered information in different legislations, including the Medical and Dental Practitioners Act, the National Health Act, and Nigeria Data Protection Act, among others, and none of them provides a unified or incorporated body of rules. The result is law confusion regarding practitioner licensure, the scope of distant testing, standard of care, and patient information protection domains that are crucial to the safe and efficient delivery of virtual care.

Jurisdictional doubt, insufficient security on data safety of remote communication, and failure to have clear prescription guidelines of the medications used in virtual consultation entangling the entire process of integrating telemedicine in the healthcare system of Nigeria further complicate the need to integrate telemedicine in the Nigerian healthcare system. Such loopholes not only weaken the accountability of care providers, but they also jeopardise patient confidence as well as leave both sides at a high legal vulnerability. However, these pitfalls are juxtaposed by great opportunities: Nigeria has experienced an internet boom that is exposing more of its citizens to the digital world, mobile phones are proliferating, and telemedicine has proven

itself during the COVID-19 outbreak, among others, all indicating the high likelihood that it will be a sustainable program.

In order to fulfil the full potential, it is critical that telemedicine should be introduced to the framework of the single and binding legislature, taking the particularities of virtual care into consideration. There must be a separate law that identifies licensure standards, authoritative protocols on remote prescription, scope of practitioner liability, and patient consent, which are consenting, informed, and documented in digital environments appropriately. It should also establish provisions on accreditation of telemedicine platforms and regulation of third-party service providers as it relates to hosting of data and cross-border consulting. Moreover, any such framework should strengthen the ethical requirements, particularly involving data privacy, by ensuring that the Nigeria Data Protection Act 2023 makes allowances that enable the concurrence of operating conditions of healthcare.

Finally, regulatory reform is supposed not only to restore legal clarity and establish institutional cooperation but also contribute to new educational programs on health literacy in relation to digital health and ensure a safe and trusted environment where telemedicine can work out. Improving accessibility along with patient-centered care and delivering a digitally enabled healthcare future, sustainable, inclusive, and equitable to the needs of both the urban and underrepresented populations, will not just be available by adopting the culture and embracing these reforms in Nigeria but will also integrate into a healthcare system with not only a digital core but with the infrastructure to also create a system that will help in the provision of curative care and not just maintaining a healthcare system that can support the current limitations.