



DUALE, OVIA &
ALEX-ADEDIPE

Regulatory Framework for Telemedicine in Nigeria



Introduction

Telemedicine refers to remote delivery of healthcare services using information and telecommunication technologies. Telemedicine has received wide acceptance in global healthcare as a result of its tremendous potential to deliver healthcare services timely. The breakout of COVID-19 in 2020 and the attendant isolation policy led to an increase in the use of telemedicine, as it allows healthcare service providers to protect themselves and their patients while delivering medical services remotely.

Irrespective of the enormous benefits of telemedicine, undoubtedly there is a need for a regulatory framework that ensures patient safety, data security, and ethical practice. In today's edition of TMT Thursday, we explore the regulatory framework governing the use of telemedicine in Nigeria.



Regulatory Frameworks

As of the date of this publication, there is no single substantive regulation on telemedicine in Nigeria. However, existing regulations in Nigeria regulate telemedicine.

1. The Constitution of the Federal Republic of Nigeria 1999(CFRN)

Section 37 of the CFRN provides for the protection of the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communication.¹

This provision places an obligation on telemedicine providers or medical practitioners to ensure the privacy of medical records and health information. They are saddled with the responsibility to keep all data transmitted safe and private.

Undoubtedly, there is the risk of data breaches arising from telemedicine. The platform providers must take all organizational and technical measures to ensure data security. Such steps may include encryption, firewall, pseudonymization anonymization, restricted access, etc.

² Constitution of the Federal Republic of Nigeria 1999, (Cap 23, LFN 2004) s 37



2. The Nigeria Data Protection Act 2023 (NDPA)

The NDPA provides the framework for the protection of the personal data of individuals. Healthcare service providers and telemedicine platform providers must process the personal data of patients in accordance with the NDPA. The NDPA plays a vital role in telemedicine by safeguarding patients' data, ensuring transparent data processing, promoting data privacy, regulating cross-border data transfers, and fostering accountability among telemedicine providers. Compliance with the Act is essential for telemedicine providers to uphold and promote the responsible use of technology in healthcare delivery.

3. Code of Medical Ethics in Nigeria 2008 (the "Code")

The Code provides a specific legal framework for telemedicine.² The Code enjoins medical professionals to exercise caution, emphasizing the avoidance of potential legal pitfalls in aspects such as maintaining confidentiality, ensuring the adequacy of equipment used, referring patients appropriately, verifying the professional credentials of consultants, and confirming the registration status of specialists being consulted.

² Section 22 Code of Medical Ethics 2008



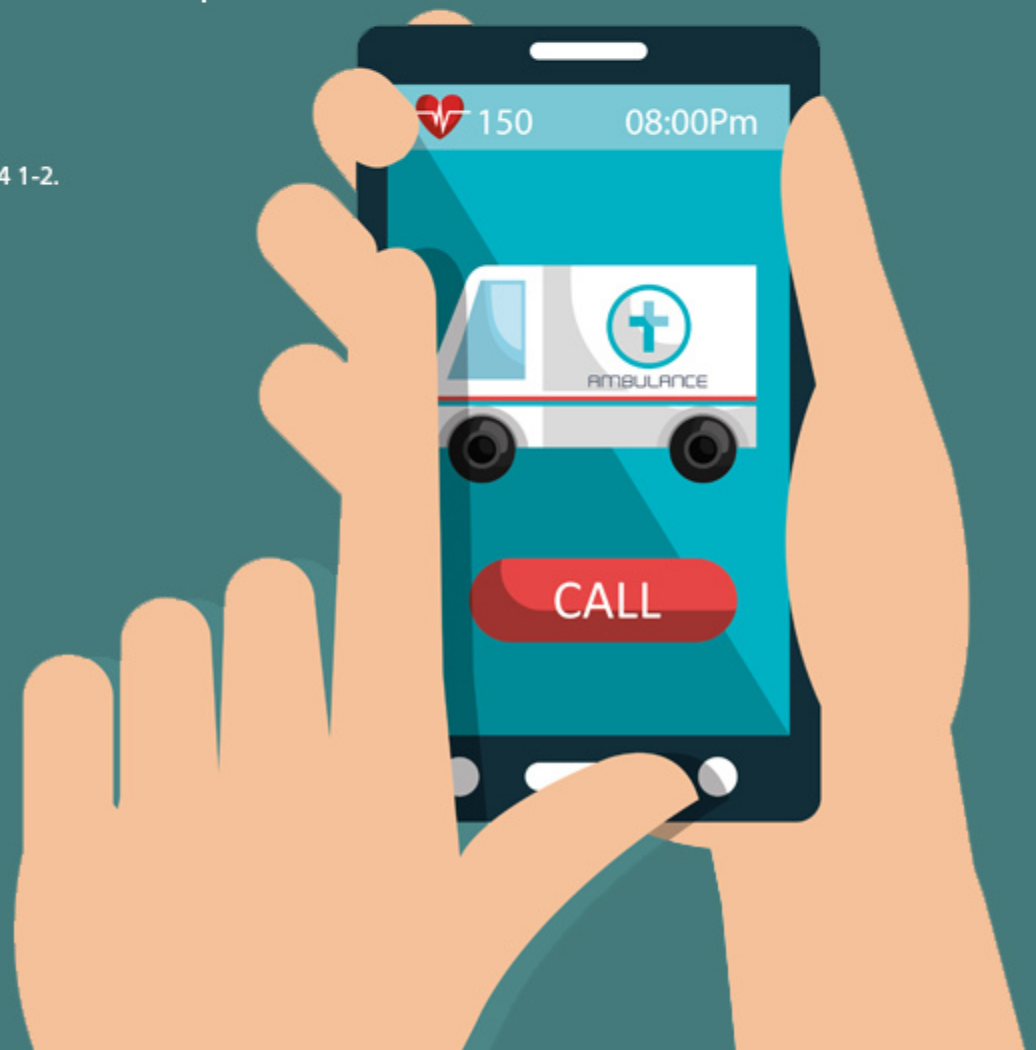
Additionally, the Code mandates medical and dental practitioners to ensure the security of personal information transmitted via electronic means and end-to-end encryption of electronic communication.

The Code lacks comprehensive guidance on essential matters, such as the expected standard of care of telemedicine practitioners, privacy safeguards, obtaining informed consent, and ensuring data security.

4. Medical and Dental Practitioners Act 2004 (MDPA)

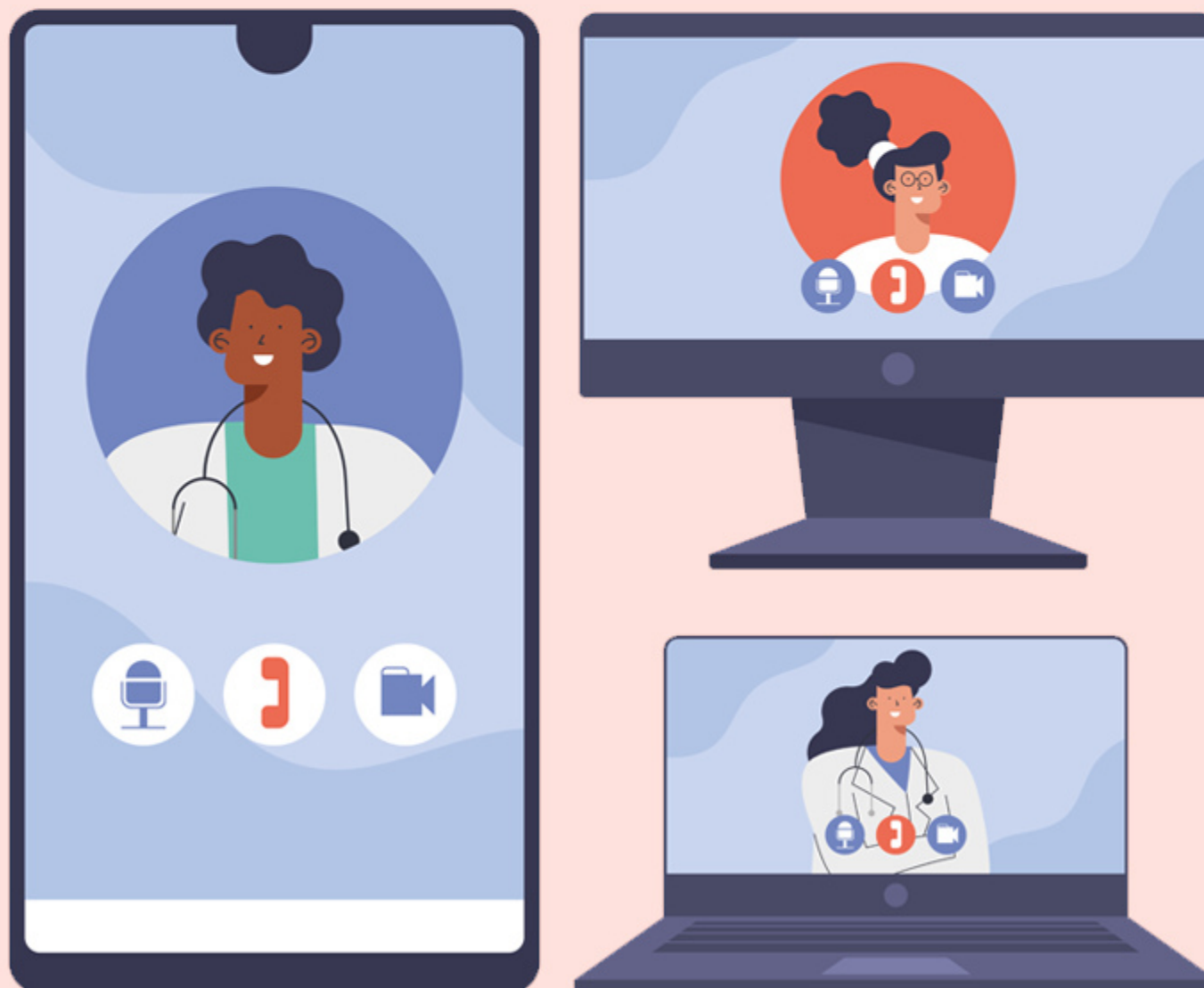
The objectives of the MDPA include the provision of disciplinary measures for medical and dental practitioners found liable for misconduct. It provides for the registration and licensing of medical practitioners. The MDPA establishes the Medical and Dental Council, entrusting it with the task of delineating the knowledge and proficiency standards expected of medical and dental practitioners.³

³ Sections 1-2 Medical and Dental Practitioners Act, Cap M8, LFN 2004 1-2.



5. The National Health Act 2014 (NHA)

Section 29 of NHA imposes a duty on the health institutions to put in place preventive control measures against unauthorized access to health records of patients and to the storage facility where patients' health records are kept and failure to do so exposes the health institution and its employees to imprisonment of 2 (two) years or less with the option of fine of N250,000 (Two Hundred and Fifty Thousand Naira only). Consequently, healthcare service providers and telemedicine platforms must put measures in place to prevent unauthorized access to patients' health records.



Conclusion

Telemedicine has emerged as a transformative innovation in the provision of healthcare not just in Nigeria but globally. It gives access, supports, and promotes delivery of healthcare services digitally thereby reducing physical interaction and direct hospitalization while significantly enhancing the delivery of high-quality healthcare services.

The existing regulatory frameworks provide guidelines for the practice of telemedicine in Nigeria addressing the issues of professional conduct, patient privacy, and technological standards. The regulatory framework presents opportunities for innovation, improved healthcare delivery, and enhanced access to quality services. By investing in infrastructure, and fostering professional development, Nigeria can position itself at the forefront of telemedicine adoption, ultimately advancing healthcare delivery and promoting universal health coverage for all its citizens.

