



Healthtech in the future

The legal ramifications / Second edition

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Kennedys



Foreword

In this second edition we consider the technological advancements that continue to transform the way patients are treated and cared for in the United Kingdom by healthcare providers.

In doing so, we focus on developments in the following areas which demonstrate healthtech is becoming increasingly embedded in the delivery of healthcare:



Genomics
and precision
medicine



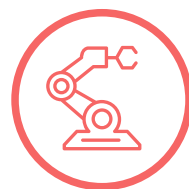
Remote and
virtual care



Wearable
technology



AI in clinical
elements
of healthcare



Robotic-assisted
surgery

Identifying potential legal risks, coverage issues, and impact on claims, we also consider the cyber and data risks associated with these technological developments.

Executive summary

The emerging areas of healthtech explored in the first edition of this report have become increasingly established in the delivery of healthcare in the UK. Such advancements continue to evolve and transform the way patients are treated and cared for.

This report provides an update on the latest developments within the healthtech sector and the evolving legal and regulatory landscape. Against this backdrop we revisit the potential risks posed to healthcare providers and clinicians, offering recommendations to help mitigate against those risks.

Investment and research into genomic medicine continues to advance at pace. The NHS is the first clinical service in the world that has the analytical capabilities to perform whole genomic sequencing. There will however be increased liability risk as its use becomes more widespread in the coming years.

The use of genetic testing to resolve matters of causation may develop in the coming years. However, we anticipate that courts will adopt a cautious approach to the use of genetic testing evidence and issues of patient consent, mindful of the profound consequences to a wide range of people from the results of one test.

The delivery of primary care services continues to evolve. The rise in the use of telemedicine by GP practices is established and there is now sufficient data to evaluate their impact on patient safety.

Retaining public engagement is key to making this evolution a success. Digital poverty and other barriers to accessing services remains a priority to resolve, particularly where primary carers act as gatekeepers and points of entry for vulnerable patients who may not be able to access assistance elsewhere. Language, age and cultural barriers remain issues of concern.

Hospitals are moving towards virtual and remote care models to streamline patient care and experience, and to reduce costs and manage resources. Wearable devices and patient self-management plays an increasing role here.

Whilst we wait to see if this uptake in telemedicine affects notifications and claim volumes, experience suggests an increased risk of claims exposure for primary care clinicians as a result of seeing fewer patients on a face-to-face basis.

The use of artificial intelligence (AI) within the healthcare sector remains high on the UK government agenda. Confidence in AI-enabled technology and regulation around it are key if the population are to trust it and accept its use.

Cybersecurity risks and the potential for data breaches continue to pose a significant risk to healthcare providers, with the UK government's Frontier AI taskforce warning that AI is likely to exacerbate this risk. Ensuring effective training is accessible, clear and understood all feeds into better and safer use of such new technology. Alongside this, explaining systems and ensuring transparency with regard to the limitations of such new technology are fundamental to securing public trust and support.

While new technologies like AI are currently at a nascent stage, they will undoubtedly develop. With the right checks and balances in place, we will likely reach a point when AI-based decision making will exceed human judgement. How societies approach that trajectory in the meantime is important, so that the risks can be effectively managed at the same time as realising the benefits that can enhance patient wellbeing and care. This in turn will help further develop public confidence and trust in the technology.



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