
The legal challenges of ubiquitous healthcare

Whereas the burden of private nursing for the elderly is getting heavier, industrialized countries with an aging society are endeavoring to seek possibilities of reducing the unit healthcare cost, such as technology assistance, and even the introduction of the brand new care type or model, which is an emerging application field of increasing importance.

The development of such kind of healthcare industry not only is suitable for aging societies but also coincides with the growing health management trend of modern people. Also, while the focus on acute diseases in the past has changed to chronic diseases which are common to most citizens, the measuring and monitoring of physiological indicators, such as blood pressure, pulse, blood sugar and uric acid have critical effects on condition control. However, it will mean huge financial and physical burdens to the elderly or suffering from chronic diseases if they need to travel to hospitals to measure these physiological indicators. At this moment, an economical, reliable and timely physiological information collection and transfer system will be technology with good potential.

For this reason, the purpose of this study is to investigate the potential business opportunities by applying the emerging information technology (IT) to the healthcare industry and the derivative legal and regulatory issues, with a focus on the seamless healthcare industry. It is hoped that by assessing the opportunity and risk in terms of legal and strategic analysis, we can single out the potential imbalance of fitting seamless healthcare, an IT-enabled service (ITeS), in the conventional control framework, and thereby establish a legal environment more appropriate for the development of the seamless healthcare industry.

Referring to the existing electronic healthcare classification, the industry is divided into the following four blocks: electronic content provider, electronic product provider, electronic linking service provider and electronic passport service provider. Also, by depicting the outlook of the industry, the mode of application and the potential and common or special legal problems of different products are clarified.

Given that health information collected, stored and transferred by electronic means involves unprecedented risk in information privacy and security, and that the appropriate control of such risk will affect the consumer's faith in and willingness to subscribe seamless healthcare services, this study analyzed the privacy framework of the USA, the EU and Taiwan. Results indicate that future privacy legislation in Taiwan should include the protection for non-computer-processed personal information, expand the scope and occupation of applications, reinforce control incentives, and optimize the privacy protection mechanism. Further, only when service providers have the correct and appropriate concept of privacy protection can the watch-and-wait attitude of consumers be eliminated. These can help to promote subsequent development of the industry in the future.

Due to the booming international trade as a result of globalization, and the gradual opening of the domestic telecommunication and healthcare markets following Taiwan's entry into the WTO, transnational distance healthcare will gradually become a reality.

However, the determination of the qualifications of practitioners is the prerequisite of transnational healthcare services. Taiwan may also consider lowering the requirements for physicians to practice in other countries and thereby to enhance the export competitiveness of Taiwan's healthcare industry by means of distance healthcare via endorsement or reciprocity.

Lastly, whereas the risks distance healthcare involves are higher than conventional healthcare services, the sharing of burdens and disputes over applicable laws in case of damages are the gray areas for executive control or judicial practice intervention. For this reason, service providers are unwilling to enter the market because the risks are too unpredictable. Therefore, this study recommends that the insurance system for distance healthcare should be the focus of future studies in order to promote the development of the industry.