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TELEMEDICINE/E-HEALTH FOR UNIVERSAL HEALTHCARE: NEED ANALYSIS AND
COMPREHENSIVE LEGAL FRAMEWORK FOR INDIA

Abstract

Telemedicine (TM) programme in India, spearheaded by Indian Space Research Organisation (ISRO) using Satellite Communication (SatCom) resulted in substantial growth of telemedicine network with collaborative efforts of medical research organizations, trust hospitals, NGOs. Multiple networks run by other agencies using different communication technologies join the stream from time to time.

Telemedicine also referred as eHealth stresses on the critical factor of 'distance'; grapples with existing technology and seeks advancement, application of technology. Though 'guidelines' for tele-consultation in government sponsored TM programs are in place in India, neither the Central government nor any state in India has yet developed any act, law or regulations for TM. Though there has been no legal case so far arising out of TM practice, the lack of such laws seem to hinder the growth of practitioners, occasionally. Notable legal challenges include Liability for Patient Damages and Security of Patient Health Information. As the laws around the subject are not specific to the concept, but relate to the practitioners and the users, the need for a comprehensively binding structure can be felt in the present times.

India has laws governing different aspects of medical practice and information security and the existing provisions of law seem adequate to confront any potential legal issues arising in this context. With growing involvement of diverse stakeholders including private and commercial ones, the need for change/re-definition of the laws exclusively for the purpose of Telemedicine practice seem imminent. While the developed countries like the United States are shifting their focus towards the protection of privacy and security issues in handling and management of patient data, the developing countries are still looking for technical solutions.

Though there have been some attempts and suggestions for a Telemedicine Act in India, none exists today.

Critically probing the need and required focus areas along with the developments so far, an analysis of the Laws elsewhere will be carried out for drawing-up suitable and comprehensive legal framework for India. The framework encompasses not only an act but the law, guidelines and any other advisories and even the need for potentially leading to the establishment of a Competent Authority.

This paper will also examine how close cooperation between the nations could help achieve general norms and guidelines which could stand open to adoption into sui generis models.

The work may be useful as a reference for other developing countries adopting the TM practice for universal healthcare.