

Navigating the Legal Landscape of AI in Healthcare



As artificial intelligence (AI) becomes more prevalent in healthcare, hospitals and health systems must navigate an evolving legal landscape. Attorney Kathleen G. Healy emphasises the complexity of this landscape, highlighting the proliferation of laws and regulations surrounding AI use in healthcare. Hospital leaders must consider legal complexities involving AI, particularly regarding standards of care, liability, and patient consent. These considerations are crucial as AI's role in both administrative functions and patient care continues to expand.

Standards of Care and Liability

One of the most significant challenges hospitals face with AI integration is maintaining the standard of care. AI should enhance, not replace, medical judgment. Healthcare providers must ensure that AI tools are used responsibly, complementing the expertise of healthcare professionals rather than substituting their judgment. As AI becomes more widely adopted, the standard of care is likely to evolve. Legal experts suggest that a "reasonable machine standard of care" could emerge, potentially raising the bar for healthcare providers.

The question of liability in AI-assisted care is complex. Determining liability isn't straightforward if a patient suffers complications after an AI tool is used. Factors such as the physician's diligence in using AI, the performance of the AI tool under contractual terms, and potential biases must be considered. Federal regulations are also moving towards addressing bias in AI, requiring healthcare providers to mitigate discrimination risks. These evolving standards and regulations underscore the need for hospitals to stay informed and compliant with legal requirements.

Patient Consent and Ethical Considerations

Another critical area is patient consent. Using AI in healthcare, such as recording patient conversations or supporting diagnoses, raises questions about obtaining informed consent. Hospitals must ensure that patients are aware of when AI tools are used in their care and understand the potential risks and benefits. This may involve evolving consent procedures to include disclosures about AI use and associated risks, including the possibility of inaccuracies and deep fakes.

Healthcare providers must also address the ethical implications of AI, particularly regarding biases and fairness. Federal regulations now include provisions aimed at preventing discrimination in healthcare through AI. Hospitals must proactively identify and mitigate any potential biases in AI tools. This includes considering how consent is obtained and ensuring transparency with patients about AI's role in their care. As AI becomes more embedded in healthcare workflows, robust policies and procedures around patient consent will be essential.

Developing Robust AI Governance

Hospitals must develop comprehensive governance policies to navigate the complexities of AI in healthcare. This involves creating multi-disciplinary teams to oversee AI's implementation and compliance with legal and regulatory standards. Hospital leaders should conduct an inventory of AI tools, ensure staff are knowledgeable about relevant regulations, and monitor AI tools for compliance.

Regular reviews and updates of policies and procedures are necessary to keep pace with the rapidly evolving AI landscape. Hospital CEOs should appoint point people to monitor AI-related issues and ensure that a diverse team from various organisational parts is involved in governance. By establishing strong governance structures, hospitals can maximise AI's benefits while minimising legal and ethical risks.

In conclusion, as AI technology advances and integrates into healthcare, hospital leaders must stay vigilant and proactive in addressing the legal, ethical, and operational challenges. By prioritising patient safety, consent, and compliance with evolving regulations, healthcare providers can harness AI's potential to improve patient outcomes while navigating the complexities of the legal landscape.

Source Credit: [ChiefHealthcareExecutive](#)

Image Credit: [iStock](#)

Published on : Thu, 20 Jun 2024