



The National Institute of Health defines mHealth as the “use of mobile and wireless devices to improve health outcomes, healthcare services and health research.” This nascent field of healthcare delivery is still very small but is predicted to grow exponentially as major technology companies such as Apple, Google, Samsung, and even Facebook have announced mHealth initiatives alongside influential healthcare provider networks such as the Mayo Clinic, Cleveland Clinic, and Kaiser Permanente. In addition, small and nimble startups have created countless medical mobile applications (MMAs) that can operate on these technology providers’ mobile platforms.

Given the highly regulated nature of healthcare, significant legal barriers stand in the way of mHealth’s potential ascension. However, my contention is that the most difficult legal challenges facing the mHealth industry are neither government regulations of the underlying technology nor uncertain tort liability issues, but restrictive professional licensing and scope of practice laws. The primary reason is that mHealth threatens to disrupt historical power dynamics within the healthcare profession that have legally enshrined physicians as the primary decision-makers and economic earners within the healthcare industry. In other words, mHealth represents a redistribution of medical authority and financial power to technology companies and lesser-trained medical providers (nurses, physician assistants, etc.) at the expense of physicians who have committed significant resources to their medical training and have much to lose in future earnings. Therefore, I conclude that until the broader political economy questions of essentially how the spoils of the mHealth “gold rush” will be apportioned, physician groups will strongly resist changes in licensing and scope of practice laws that would be necessary for mHealth to reach its full transformative potential.