



Podcast Transcript
The Digital Health Ecosystem

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Kattman: Our topic today is the fascinating world of The Digital Health Ecosystem. Listen in as our guest walks us through the various technology solutions that are disrupting health care delivery and management. I'm Amy Kattman and you're listening to BakerHosts.

On today's episode, we will talk about The Digital Health Ecosystem. Janine Anthony Bowen is a partner at BakerHostetler in the digital assets and data management group. Janine co-leads many teams within the firm, including the Healthcare Technology team, the Digital Transformation and Data Economy team, and Privacy Governance and Technology Transactions team. Welcome to the show, Janine.

Bowen: Thank you for having me. It's a pleasure to be here today.

Kattman: To begin, Janine can you help us understand what The Digital Health Ecosystem is and how it's had an impact on care delivery and management?

Bowen: So, that's a great question. We consider The Digital Health Ecosystem through potentially three different lenses. So, I'll discuss each one of them for you. First of all, there's kind of the technology perspective, or the technology lens, and that deals with the technologies that are enabling what we're seeing from a digital health perspective. So we see things like Cloud Computing, Artificial Intelligence, Open Platforms where various organizations are sharing information across environments to deliver solutions much more quickly. We see the role of big data analytics and these huge data sets driving decision making. The internet of

things where we see sensors talking to sensors and sensors talking to computers and computers talking to computers without having that human interaction in between those conversations.

We see enterprise applications and the role of enterprise changing solutions being delivered into the marketplace that simply change the way healthcare providers or healthcare adjacent organizations do business. And then from a hard IP asset, we see robotics. The role of robotics playing in the healthcare space has made a huge difference, technologically, but we also have the market perspective and with the market perspective we see things like Telehealth playing out and how Telehealth is impacting the ecosystem. We see mobile health technologies.

Things sitting on our mobile devices, our laptops, our tablets, our cellphones. Health analytics, again this notion of these huge data sets and companies simply specializing in providing customized information for decision making around large sets of data. We see digital health systems, things like E-health records and E-prescribing as part of the ecosystem and then there's the cyber security overlay on top of all of that. So clearly, as we talk about all these different technologies or solutions or innovations in the marketplace, the ability to protect the information that sits within these technologies becomes critical and that's where the cyber security overlay plays in.

And then we see this notion of these kind of five value polls and McKenzie has described kind of these five categories where we see a lot of value in The Digital Health Ecosystem. Things around research and development and the role of AI and machine learning and drug development. We've seen that in particular with some of the developments around some of the coronavirus vaccines and how quickly they've come to market.

Screening and diagnosis is another category where there's a string value from a digital health ecosystem perspective. And then things we don't see, finance and ops. The roles of value-based care and population health management and how that is expanded, how technology hasn't abled some of those solutions to come to the marketplace. Wellness and disease prevention, things like sleep tracking and fitness. And then care delivery, just more effective therapies being introduced as a result of this ecosystems expanding so rapidly.

The notion of remote patient support and even the provision and supply of therapies in a remote manner. So those three perspectives. The technology perspective, the market perspective, I think it's kind of these value polls perspective, really kind of lay out what this ecosystem looks like. And simply is the way that I've described them, certainty, you can see that all of those things have a huge impact on care and delivery of services.

Kattman: Janine, has this innovation been working in the background for years or has much of the ecosystem expanded in response to coronavirus?

Bowen: So, the answer is both. So, coronavirus has clearly been an accelerator. It has made everything move faster. So, all things digital are five to ten years ahead of where they would otherwise have been absent coronavirus. But the innovations that have allowed this acceleration due to coronavirus have been cooking in the background for a while. So, certainly the combination of the two things have created the environment where innovation has accelerated and delivery of new solutions to the marketplace or adoption of those solutions has been accelerated because the technological underpinnings already exist.

So, and the biggest beneficiary of this acceleration has been this healthcare delivery. At this point, it's not unusual for people to have received remote care and received digital therapies. Whether you've had a digital appointment with your doctor, a digital appointment with your therapist, whether you're taking your health and fitness classes online. All of those things have been a beneficiary of this technology that's been in the background slowly churning and simply waiting on that spark or that catalyst to make it move faster and certainly disease management control also fits in that category of some of the things that are the biggest beneficiaries and so essentially it's this notion of providing lower cost and lower touch modalities to the delivery of healthcare and that's a lot of what you've seen in this acceleration that's due to coronavirus.

So, clearly a person costs more than a computer, with respect to the capability that is brought to the table. So, you will see costs being driven down as result to the implementation of some of the technologies. But also more importantly in the space and in this time and history with coronavirus, it's the lower touch that's the most important. And so, we're not going to see a full reversion back to the high touch system.

So, services that were previously delivered in a high touch, face to face fashion, can now be delivered synchronously and remotely and continue to deliver value and we're just not going to see that ever revert back to the place where we were before. So that means geography now has less importance. It's less important now for my doctor to be close to my home or my place of work because geography's not relevant as much as it was anymore in the same way that our work lives have been flattened by coronavirus in ways that we never thought were possible.

The same thing will continue to happen with respect to delivery of care. And so those technology drivers have continued to spin in the background delivering more computing capability for less money and cloud computing is really the perfect example of that and really kind of a template to how we can understand what has happened with the onslaught of innovation with coronavirus because cloud computing is essentially synchronous remote computing delivery.

So, things that we used to get inside of the fire wall. There used to be servers and data centers that existed inside a company's infrastructure. We knew where it was, we could walk into the data center, we could walk into the data room and we saw all the technicians that were supporting that work. Now, you don't have any sense of where that is because it's all remote and it's all virtual. Meaning that

multiple processing features can take place across multiple computers and multiple geographies at the same time.

So, that notion of synchronist remote computing delivery is really what we're seeing now with the way that we're living life in the coronavirus mode. So certainly, innovation has been working in the background, but for sure coronavirus has accelerated all things digital and have brought to market or have accelerated the adoption of technologies that were already existing, but had been having more difficulty getting traction in the marketplace.

Kattman: Very true. Let's switch gears a little bit and talk about impact. How has this digital health expansion impacted our healthcare system and what are you looking for in 2021 and beyond?

Bowen: So, that's a good question and this infusion of technology into healthcare is going to result in longer life spans, quicker R and D timelines, and more cutting edge consumer-facing solutions. It's also going to result in improved infrastructure and back office support. So, things that a patient or a consumer of digital health systems and solutions doesn't have any visibility to will be enhanced because some of these innovations that we're seeing.

We're also going to see improved collaboration across practitioners and the reduction in silos. So, to the extent now we see organizations really being close to the vest with innovation. We're going to see less of that and we're going to see more partnerships in sharing in this open platform setting, that I alluded to earlier, to improve collaboration, to improve speed to market, to improve results and better solutions for patients and so all of that will begin to continue to tick up in 2021 and will not return back to pre-coronavirus levels.

That said, in terms of what's coming, we're going to see a tighter focus on privacy compliance and rulemaking. Because keep in mind, all of this digital health and all of this ecosystem around health revolves around intimate patient details and we're going to see a continuing an increasing focus on protecting those details and an increasing focus on gaining patient and customer trust that the sharing of the details will not result in some breach of trust or violation of their expectations of privacy. And so that means, to the extent that the healthcare industry has been focused on HIPAA as the regime around privacy and compliance, they're going to need to open their mind set. Open their thinking.

So, there are lots of more regimes out there. For example, the telemarketing sales role. Right now, I had a doctor's appointment this morning. I got a text message last night reminding me that I had an appointment this morning and what I needed to do to prepare for it. That's not covered by HIPAA per say, but certainly is covered by the telemarketing sales role. The use and role of biometrics will continue to be important. Right now, I know I do, I open my phone with my figure print, okay, and in fact I open the app, my wellness apps, with my figure print.

So, the role in use of biometrics and the compliance obligations, with respect to the protection and conveyance of those biometric details, will continue to be important. And then there's things that healthcare providers typically have not thought about, and these are things like collecting payments and the role of PCI, okay? Protecting payment details. Right now, I have a few doctors that don't take credit cards for payments. Well they need to get on that train because guess what? I'm paying my healthcare with a credit card. But the notion of that's not something I do needs to, we need to lose that mind set because certainly collecting payments is a part of what this digital health ecosystem has brought.

And then there's things we haven't thought about around security incidents not related to personal health information as defined under HIPAA, but certainly private or personal as defined under a number of other privacy regimes. And then we have the role of healthcare adjacent providers. So companies that are collecting health related information, but are not covered entities under HIPAA.

What are the obligations of those organizations with respect to the treatment of the data and what bodies of law apply to them? And certainly, because legislation and rule making trails innovation, contracts become very important, okay, and the contractual protections and arrangements around data sharing become very important for us to think about.

So, tighter focus on that as well and something that's interesting that we need to talk about more is the role of data ethics. Because as this continued innovation and digital health ecosystems continues and there's more and more personal information being in the atmosphere of personal health related information, the role of ethics and what companies' obligations are with respect to the treatment of that information and data become important. And certainly, because rule making lags, we see things like rules around interrogability and information blocking rules coming online. So, that's a fairly robust list, but in terms of kind of the things that are cooking, those are some of the things that are cooking and certainly this tighter focus around compliance and rule making are a part of that.

Kattman: There certainly are a lot of things to consider, Janine. As a closing question, if you had one piece of advice for healthcare stakeholders, as it relates to the digital health ecosystem, what would it be?

Bowen: You know, and my answer to that is a non-legal answer, but because I'm a lawyer it has multiple parts. So, the answer is the train has left the station. The train around digital health is gone, right? It's left the station, but because it's a long train, there are still cars in the back for you to jump on and you need to jump on it because that sucker's gone. And so, what does that mean?

That means that technology cannot be scary to the company that's playing in this space. Technology is not going to go away, we're not going to revert back to previous systems. We're not going to be less robust in our treatment and our innovation, we're only going to become more robust in innovation. So, technology cannot be scary.

Also, this notion of we're going to get back to normal, we just need to change our mindset. The time before coronavirus is gone. It will never return, and we will never live life the way that we lived it before. So, the train is moving out, there's cars on the back to the extent that you're waiting for us to get back to normal. With respect to digital health and healthcare technology, that's a non-starter, that's not going to work for you. Also, innovation will continue to move on more rapidly and always more rapidly than legislation or regulation and I alluded to this in the prior question.

We are right now trying to figure out how current innovation fits from a regulatory and compliance perspective with laws that are generations old, one or two generations old, that simply do not fit and were never contemplated, the kind of innovation and the kind of technologies that we have before, but for sure that innovation will continue to move and for sure legislation and regulation will follow.

The role of ethics and the treatment of handling of intimate patient details will grow and to the extent that we think that the law is the bar, we need to think of the law as the floor and not the ceiling for how we should behave and how we should operate in the business setting around some of these technologies in the digital health ecosystem.

Geographic dependence will continue to wane. It will never be as important as it was for us to be physically in the same place. And so, this notion of geographic dependence or I need to see my doctor physically, or I need to see the guy that trains me physically will continue to wane because we have recognized, in the time that we're in now that, that is far less important than we ever knew. And finally, the value of data will continue to grow and so, we've thought about and we've talked about generations ago, real property was the most important asset that a company had and then we moved to intellectual property being the most valuable asset that a company had.

Now we're in the era that data will be the most valuable asset that a company has. And so, with respect to all the innovation, all the technology, all the enhancements in delivering healthcare in a digital or technology enabled fashion, the number one thing that's created is data and figuring out how to maximize the value of data is a very important piece of this puzzle. And so the train has left the station, there's some cars in the back if you can get on board with these five or six items that I've mentioned to you, then you, too, can participate in the up-side in the continuing ramping up of what we see happening in digital health.

Kattman: Thank you, Janine.

Bowen: It's my pleasure, I appreciate the time.

Kattman: If you have any question for Janine, her contact information is in the show notes. As always, thanks for listening to BakerHosts.

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