CHILDREN'S MEDICAL TOURISM IN NIGERIA: EXPLORING THE ROLE OF FACILITATORS IN ETHICAL, LEGAL, AND REGULATORY FRAMEWORKS

CHIDIMMA EUNICE IGWE[1]

ABSTRACT

Children's medical tourism is rising in Nigeria as families seek advanced care abroad due to weaknesses in the local health system. Medical Tourism Facilitators (MTFs) play a key role in this process, yet their largely unregulated operations pose major ethical, legal, and data-protection risks. Many operate without licensing or certification, prioritize referral fees over patient welfare, and fail to disclose conflicts of interest. These gaps endanger children in particular, as informed consent is undermined by aggressive marketing and the downplaying of medical risks. Cross-border transfers of children's health data by MTFs also raise compliance concerns under the Nigeria Data Protection Act (NDPA) 2023. When complications arise abroad, families face significant barriers to legal redress due to MTFs' self-protective practices and challenges in establishing jurisdiction against foreign providers. Using doctrinal and comparative legal methods, this paper shows that existing Nigerian laws, including the Child's Rights Act and FCCPA, inadequately regulate MTFs. It proposes a multi-level framework emphasizing mandatory professional certification, transparent vetting, active oversight, and disclosure of financial incentives. Stronger regulation is essential to protect Nigerian children and ensure MTF accountability.

Keywords: Medical Tourism; Medical Tourism Facilitators; Child Protection; Regulatory Oversight; Data Privacy

1.0 INTRODUCTION

Over the past few decades, the rapid growth of international trade and the global economy has significantly influenced the development of various sectors, particularly the healthcare industry. The increasing ease of global travel, the search for more affordable medical care, the demand for advanced medical technology, and the inefficiencies of public health systems have all contributed to the expansion of the healthcare sector through the rise of medical tourism. [2] Essentially, pediatric medical tourism is when a child patient travels to another country, i.e., the child patient travels from the child's home country to another country — specifically to receive medical care, diagnosis, or advice.[3] The drivers for pediatric medical

[1] LL.B, BL, LLM. Email- igwechidimmaeunice@gmail.com

[2] N.S. Abd Mutalib, L.C. Ming, S.M. Yee, P.L. Wong and Y.C Soh, 'Medical tourism: Ethics, risks and benefits' (2016) 50(2) *Indian Journal of Pharmaceutical Education and Research* 261 at 265 https://www.researchgate.net/publication/303400340_Medical_Tourism_Ethics_Risks_and_Benefits accessed 2 November 2025.

[3] G. Birchley, ., M. Linney, ., S.W. Turner, , & D. Wilkinson, (2016). Clinical ethics: medical tourism in children. Journal of Medical Ethics, 42(1), 3–7. https://pubmed.ncbi.nlm.nih.gov/34551899/ accessed 20

tourism typically fall into two categories: a parental preference for a foreign healthcare infrastructure over their own, or the pursuit of specialized treatments that are locally inaccessible.[4] Nigerians are significant contributors to the global medical tourism industry. Many Nigerians travel abroad, particularly to countries such as India and the United Kingdom, to seek various medical treatments.[5]

Medical tourism has been flourishing in several low- and middle-income countries that have become key destinations for international patients. Notably, India, Thailand, Malaysia, South Africa, and Turkey are among the world's leading medical tourism hubs. The rise of this industry is largely driven by high healthcare costs and long waiting times in developed nations, as well as by the lack of specialized services, elitist perceptions, and declining trust in the quality of healthcare systems in some developing countries.[6]

Furthermore, some individuals prioritize privacy, choosing to receive treatment elsewhere to avoid public exposure or ridicule associated with certain sensitive ailments. A significant push factor is the unavailability of certain advanced services and facilities within Nigeria; for instance, historical data shows India was a primary destination for complex procedures like heart surgery. This necessity, coupled with the instability caused by incessant strikes within the Nigerian medical system—which regularly disrupt booked appointments and contribute to preventable deaths—prompts those who can afford it to look elsewhere. Finally, patients seek cost-effectiveness and assured efficiency; many prefer to spend their money in countries like India or China, which specialize in medical tourism and are perceived to offer specialized care with better outcomes, sometimes even at a cheaper overall cost.[7]

Medical tourism is a growing industry that merges healthcare and travel, allowing patients to seek medical care abroad to access lower costs, specialized treatments, or faster services. While this sector offers substantial benefits, patients must navigate significant challenges, including language barriers, cultural differences, unfamiliar financial structures, and concerns over the quality of care and follow-up treatment. To manage these complexities and mitigate risks, medical tourism facilitator companies have become essential. These facilitators guide

---

February, 2026.

[4] G. Birchley, ., M. Linney, ., S.W. Turner, , & D. Wilkinson, . (2016). Clinical ethics: medical tourism in children. ibid

[5] O.A. Makinde, 'Physicians as medical tourism facilitators in Nigeria: Ethical issues of the practice' (2016) 57(6) *Croatian Medical Journal* 601 at 603 https://pmc.ncbi.nlm.nih.gov/articles/PMC5209931/ accessed 20 November 2025.

[6] ibid

[7] O.O. Aguele, 'Medical Tourism-Issues in Nigeria' (2020) 10(8) *Developing Country Studies* 47 at 52 https://www.academia.edu/100249989/Medical_Tourism_Issues_in_Nigeria accessed 6 November 2025.

patients through the entire process, coordinating everything from initial consultations and treatment scheduling to travel logistics and necessary post-treatment arrangements, ensuring a smoother and safer experience when seeking care overseas.[8]

Patients seeking healthcare abroad often rely on Medical Tourism Facilitators (MTFs), to smoothly organize their journey. These facilitators act as essential liaisons, arranging all healthcare-related travel details. This service is typically provided by two main types of organizations: sometimes, large private hospitals themselves operate dedicated online travel desks, handling the necessary arrangements for their incoming patients; other times, the arrangements are managed by specialized MTFs. These specialized agencies craft complete, packaged medical travel plans, tailoring every detail to meet the specific health and treatment requirements of the international patient.[9]

The marketing of healthcare services through the internet and social media has become an increasingly common practice among medical tourism facilitators (MTFs) aiming to reach a broader audience. Beyond promoting healthcare services, MTFs also act as intermediaries between medical tourists and healthcare providers at destination countries.[10]

The legal and regulatory landscape of medical tourism is inherently complex and often unclear to patients. Since healthcare providers operate under varied international standards for licensing, accreditation, and malpractice accountability, a patient who suffers harm abroad may face limited legal recourse. Pursuing cross-border litigation is difficult, and even when a ruling favors the patient, the enforcement of legal judgments across different jurisdictions is frequently unfeasible. This lack of standardized legal protections underscores the urgent need for global collaboration to establish mechanisms, such as international frameworks and cross-national agreements, to uphold patient rights and ensure accountability among medical providers.[11]

2.0 METHODOLOGY

This research utilizes a doctrinal methodology, focusing on a systematic analysis of legal principles, statutes, and judicial precedents to evaluate the liability of Medical Tourism Facilitators (MTFs) in Nigeria. The study is predominantly evaluative and comparative, seeking to harmonize domestic consumer protection laws with international clinical governance standards.

---

[8] N. Zein, 'Challenges and opportunities in medical tourism' (2025) 27(1) *Visions in Leisure and Business* Article 6 https://scholarworks.bgsu.edu/visions/vol27/iss1/6/ accessed 11 November 2025.

[9] ibid

[10] Makinde, Physicians as medical tourism facilitators in Nigeria: Ethical issues of the practice.

[11] Zein, Challenges and opportunities in medical tourism

The data for this study is derived from secondary sources, structured into primary and secondary legal authorities. The primary authorities consist of the key legislative frameworks including the Federal Competition and Consumer Protection Act (FCCPA) 2018, the National Health Act 2014, and the Child's Rights Act 2003. These are complemented by landmark judicial decisions from the Nigerian superior courts of record. Secondary authorities include academic journals, law reports, and specialized international instruments such as ISO 22525:2020 and the Global Healthcare Accreditation (GHA) standards.

A comparative analytical approach is employed to bridge the gap between Nigeria's current regulatory "vacuum" and global best practices. By benchmarking the "reasonable skill" requirement of Section 130 of the FCCPA against the Thailand Professional Qualification Institute (TPQI) and Todd's Guide, the research establishes a measurable standard for facilitator conduct. The collected data is analyzed through deductive legal reasoning and content analysis, applying broad statutory duties to the specific complexities of pediatric medical tourism. This synthesis ultimately facilitates the proposal of a normative regulatory framework tailored to the Nigerian jurisdiction.

3.0 FINDINGS

Medical tourism remains a steadily expanding global activity, encompassing travelers who seek a diverse array of medical procedures. Although the globalization of healthcare potentially expands treatment options available to children, this trend simultaneously introduces significant concerns. These concerns include complex medical, ethical, economic, regulatory, and legal issues, all of which families pursuing care abroad must be fully aware of.[12]

Medical Tourism Facilitators (MTFs) are companies or individuals whose core business is to coordinate all aspects of a patient's international medical travel for treatment. While they offer package services similar to general travel agencies, MTFs are differentiated by their expertise in providing information about complex medical options abroad. Their primary role involves linking patients with suitable foreign hospitals, negotiating key arrangements—including medical services, accommodation, and travel plans—and managing the full itinerary in the host country on behalf of the medical tourist (MT).[13]

---

[12] G. Guiton, F. Finlay and L. Plastow, 'Medical tourism through the ages' (2025) 2(1) *Journal of Family and Child Health* 40 https://www.magonlinelibrary.com/doi/abs/10.12968/jfch.2025.2.1.40 accessed 29 November 2025.

[13] A. Medhekar, 'Role, rules, and regulations for global medical tourism facilitators' in *Handbook of research on international travel agency and tour operation management* (IGI Global 2019) Ch 6 https://acquire.cqu.edu.au/articles/chapter/Role_rules_and_regulations_for_global_medical_tourism_facilitators/13454219 accessed 13 November 2025.

Families seek surgical care for their children in foreign countries primarily because they conclude that the required treatment or standard of care for complex conditions is unavailable or inadequate in their home nation. The consistent motivation is the belief among parents and caregivers that their child's specific surgical needs cannot be met domestically, leading them to pursue care elsewhere. This decision to seek cross-border treatment may be made independently of, or without the support of, home country authorities.[14]

The crucial function of Medical Tourism Facilitators (MTFs) in the global healthcare landscape cannot be overstated, as they essentially serve as the mediators or intermediaries connecting potential patients with private corporate healthcare providers and physicians within the global medical tourism supply chain. Given that traveling abroad for medical surgery and treatment is a highly complex phenomenon—far more demanding in terms of logistics compared to being a normal tourist—MTFs provide indispensable assistance.[15]

Despite this, facilitators play a substantial role in patient decision-making, often suggesting specific interventions and advising on safety and outcomes. This creates a risk that patients will rely heavily on advice from individuals who lack medical training, especially if they are unwilling or unable to consult their own home-country physicians. The title "medical" and the use of seemingly informed claims by facilitators can easily confuse patients, leading them to place unjustified trust in the advice received.[16]

Below is a table of the core Operational Roles and Responsibilities of Medical Tourism Facilitators

Role Category	Specific Facilitator Responsibilities
Information Brokerage	Acts as the primary bridge between parents and foreign providers; supplies detailed physician profiles and facility data.
Clinical Matching	Reviews pediatric medical histories and diagnostic images to "match" the child with specialized super-specialty hospitals.
Logistical Coordination	Manages all non-medical travel arrangements: visa procurement, flight bookings, and local accommodation.
Communication Liaison	Coordinates secure transfer of confidential medical records and facilitates remote consultations between doctors and families.
On-Site	Provides destination support including airport transfers, local

[14] D. Kufeji, 'Child health tourism for surgical care' (2024) 106(6) *The Bulletin of the Royal College of Surgeons of England* 114 https://publishing.rcseng.ac.uk/doi/10.1308/rcsbull.2024.114 accessed 7 November 2025.
[15] Medhekar, 'Role, rules, and regulations' (n 12).
[16] ibid

Navigation	transportation guidance, and translation services.
Patient Advocacy	Serves as a personal "case manager" or guide, often leveraging a strong online presence to offer tailored patient-centric packages.
Care Extension	Arranges essential support services such as personal nursing attendants and coordinates follow-up plans post-surgery.

TABLE A: ROLES OF MTFs

Table B: Ethical Issues in Medical Tourism Facilitator (MTF) Operations

Ethical Category	Observed Practice	Impact
Financial Transparency	Facilitators often operate on a commission-based model, receiving brokerage fees from destination hospitals.	Creates conflicts of interest, as hospital selection may be driven by profit rather than clinical suitability.
Information Integrity	Marketing emphasizes success stories and amenities while downplaying or omitting clinical risks.	Distorts informed consent; parents may make life-altering decisions based on incomplete or skewed information.
Professional Boundaries	Non-medical intermediaries provide clinical “matching” and recommend specialized surgical pathways.	Families rely on advice from actors not bound by professional oaths or clinical licensing standards.
Continuity of Care	MTFs commonly terminate involvement once the patient returns to Nigeria (“transactional termination”).	Creates a post-operative vacuum, weakening coordination between foreign and local clinicians.
Data Confidentiality	Pediatric health records are transferred through unregulated or non-encrypted digital channels.	Exposes sensitive data to breaches without safeguards required for medical records.
Social Justice	MTF services facilitate the diversion of private and public	Contributes to distributive injustice by draining resources that could

	healthcare spending to foreign systems.	strengthen local pediatric care in Nigeria.

Table C: Practical Legal Challenges and Redress Mechanisms

Challenge Category	The Practical Hurdle for Families	Redress Mechanism / Solution
Jurisdictional Vacuum	Nigerian courts often cannot hear cases against foreign hospitals where the actual harm (e.g., surgical error) occurred.	Civil Suit in Nigeria: Sue the Nigerian Facilitator locally for "negligent referral" or failure to vet the foreign hospital.
Evidence Gap	It is nearly impossible for a Nigerian family to obtain clinical records or expert testimony from doctors in a foreign country.	Data Access Petition: Use the Nigerian data regulator to force the facilitator to release all correspondence and digital records.
Agency Denial	Facilitators often use "Waivers" to claim they are only "travel agents" and are not responsible for medical outcomes.	FCCPC Formal Complaint: Request the Commission to strike out "unfair contract terms" that limit the family's right to safety.
Professional Misconduct	Difficulty in holding non-medical facilitators accountable since they don't have a medical license to lose.	Institutional Reporting: File a report for "unauthorized practice" if a lay-person gave clinical advice that led to harm.
Financial Exploitation	Parents pay huge fees for "matching" but have no way to get a refund if the facility is substandard.	FCCPC Tribunal: Seek an order for "Restitution" or "Refund" for services that were not of a reasonable standard.
Post-Op Abandonment	Once the child is back in Nigeria, facilitators often "disappear," leaving local doctors with no surgical notes.	Fundamental Rights Action: Sue for a breach of the child's right to health, arguing the facilitator blocked access to vital records.

Table D: Integration of International Standards into Nigerian Regulatory Findings (2026)

Regulatory Finding	Global Standard / Competency	Mechanism for Accountability	Nigerian Statutory Integration
Trust Deficit & Information Asymmetry	ISO 22525:2020	Mandates specific guidelines for information sharing and facilitator knowledge.	FCCPA 2018, Sec. 115: Ensures the consumer's right to "accurate and transparent information." Sec. 130 implied warranty of quality.
Quality & Safety Risks Abroad	JCI & Trent Accreditation (EQA)	Provides a "Stamp of Approval" through peer reviews and prospective problem identification.	NHAct 2014, Sec. 13: Mandates quality standards for health services across the care continuum.
Ethical Misconduct (Secret Profits)	Global Healthcare Accreditation (GHA)	Certifies individual ethics, financial transparency, and risk management.	CAMA 2020, Sec. 306: Fiduciary duty of agents to avoid secret profits and conflicts of interest.
Lack of Specialized Skillsets	TPQI (Thailand) & Todd's Guide	Defines 10 Major Competencies, including cultural sensitivity and medical treatment knowledge.	NIHOTOUR Act 2022: Mandates certification and professional training for all tourism practitioners.
Data Privacy & Documentation	ISO 22525 (Cl. 4.4/6.8)	Requires a robust Information Management System for medical history and informed consent.	NDPA 2023: Legal requirement for "Privacy by Design" when handling pediatric medical records.
Post-Travel Abandonment	GHA (Care Continuum)	Validates the facilitator's ability to manage the entire patient journey, including follow-up.	CRA 2003, Sec. 1: Paramount interest of the child ensures care does not end at the airport.

4.0 DISCUSSION

4.1. (CHILDREN) MEDICAL TOURISM AND MEDICAL TOURISM FACILITATORS

Despite growing academic and media attention dedicated to the benefits and risks associated with adult medical tourism, research and overall understanding concerning child medical tourism remain significantly limited[17]

Nigerians engage in medical tourism for a variety of deeply rooted reasons that reflect both personal desires and systemic failings within the domestic healthcare sector. For the elite, seeking care abroad often serves as a marker of social status, with celebrities frequently opting for foreign countries for major life events, such as childbirth. More broadly, there is a widespread loss of confidence in Nigeria's medical system, driven by perceptions of dilapidated facilities and doubt regarding the quality and experience of domestically trained professionals.[18]

Patients seeking medical treatment abroad either plan their own travel—relying on word-of-mouth from friends and online research—or increasingly use medical travel facilitators (MTFs). These facilitators act as intermediaries between patients and specialized hospitals, providing key information on medical services, costs, hospital accreditation, and broader factors like a destination's political situation and tourism opportunities.[19]

Medical Tourism Facilitators (MTFs) are vital components of the medical tourism sector, acting as the essential link between international patients and healthcare providers abroad. As individuals or organizations, MTFs coordinate critical logistical and medical aspects, including patient services, travel arrangements, and accommodation needs. They achieve this by offering a broad scope of services such as consultations, managing bookings, developing industry networks, and transmitting crucial information.[20]

---

[17] Hamlyn-Williams, M. Lakhanpaul and L. Manikam, 'Child medical tourism: a new phenomenon' in N Lunt, D Horsfall and J Hanefeld (eds), *Handbook on Medical Tourism and Patient Mobility* (Edward Elgar Publishing 2015) 360 at 365 https://ideas.repec.org/h/elg/eechap/15607_36.html accessed 19 November 2025.

[18] O.O. Aguele, 'Medical Tourism-Issues in Nigeria' (2020) 10(8) *Developing Country Studies* 47 at 52 https://www.academia.edu/100249989/Medical_Tourism_Issues_in_Nigeria accessed 6 November 2025

[19] A. Medhekar, 'Role, rules, and regulations for global medical tourism facilitators' in *Handbook of research on international travel agency and tour operation management* (IGI Global 2019) Ch 6 https://acquire.cqu.edu.au/articles/chapter/Role_rules_and_regulations_for_global_medical_tourism_facilitators/13454219 accessed 13 November 2025.

[20] V. Siddoo, W. Janchai and O. Thinnukool, 'Understanding the multidimensional role of medical travel facilitators: A study on competencies and a proposed model' (2024) 10 *Heliyon* e30479 https://www.sciencedirect.com/science/article/pii/S2405844024065101 accessed 22 November 2025.

4.2. ROLES OF FACILITATORS

There is no single, standardized business model governing medical tourism facilitators especially in Nigeria. This complexity stems from the varying roles and responsibilities they assume. Facilitators differ significantly in scope: some refer patients to numerous countries, while others strictly limit their referrals to only one or two trusted international facilities. Furthermore, while some facilitators specialize in arranging a particular procedure or a specific group of treatments, others accept clients seeking a wide array of procedures with no stated limitations.[21] The absence of a standardized business model for MTFs creates a fragmented landscape where 'individual service' facilitators often operate without any professional indemnity. This diversity in scope ranging from high-volume firms to informal agents complicates the application of the FCCPA[22] which provides that "... a service provider shall not, in pursuance of trade and for the purpose of promoting or marketing, directly or indirectly, goods or services make any representation to a consumer (a) in a manner that is likely to imply any false or incorrect representation concerning those goods or services (b) that is reasonably misleading or likely to be misleading in any material respect concerning those goods and services ..." The legal 'duty of care' becomes harder to define when a facilitator's involvement varies from simple travel booking to complex clinical matching.

Medical tourism facilitators view their function as supplying patients with a comprehensive array of information and logistical support. This support ranges from providing details about specific physicians' data abroad to offering basic travel guidance. In a legal sense, this makes the MTF an information gatekeeper. By filtering which foreign doctors are presented to Nigerian parents, facilitators directly shape the 'informed consent' process, potentially violating FCCPA standards against misleading representations if risks are downplayed.[23]

The profession lacks a single structure; MTFs are classified into different models based on their service depth: full-service MTFs provide comprehensive support (covering visas, transport, physician selection, and post-operative care); referral service MTFs focus on scheduling, transport, and healthcare provider information; and individual service MTFs primarily act as intermediaries offering guidance and translation.[24]

---

[21] J. Snyder, V.A. Crooks, A. Wright and R. Johnston, 'Medical tourism facilitators: Ethical concerns about roles and responsibilities' in J Hodges, L Turner and A Kimball (eds), *Risks and challenges in medical tourism: Understanding the global market for health services* (Praeger 2012) Ch 13 https://www.sfu.ca/medicaltourism/Medical%20Tourism%20Facilitators%20-%20Ethical%20Concerns%20about%20Roles%20and%20Responsibilities.pdf accessed 6 November 2025.

[22] Section 123 (1) (a) (b)FCCPA 2018

[23] Section 123 (2) FCCPA

[24] M. Dalstrom, 'Medical travel facilitators: connecting patients and providers in a globalized world' (2013) 20(1) *Anthropology & Medicine* 24 at 29

Facilitators take the lead in helping prospective medical tourists plan their journey and make healthcare decisions. Their responsibilities include the critical step of choosing and refering the patient to the most suitable super-specialty hospital for the required medical procedure.[25] By selecting the clinic provider, the facilitator moves from being a mere travel agent and assumes a fiduciary like role. This clinic selection must be made in the best interest of the child. The Child Rights Act [26] establishes that "In every action concerning a child, whether undertaken by an individual, public or private body, institutions or -service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration" The facilitator must consider this rather than the highest referral commission paid to him.

Beyond the medical selection, they handle all the necessary logistical arrangements before travel, such as organizing flights, accommodation, and visa requirements. Furthermore, they are responsible for coordinating communications between the doctor and patient, securely transferring confidential medical records, and making arrangements for essential support services like a personal nursing attendant and follow-up care.[27] MTFs act as intermediaries for sensitive pediatric health data positioning them as Data Controllers under the Nigeria Data Protection Act (NDPA).[28] The provision of this section ensures that the MTF collects adequate and relevant data, limiting the use of the data to the purpose for which they are collected and do not retain it for longer that is lawfully, they should also make sure the information is accurate and not misleading and should process the information in a manner that ensures appropriate security of the data.[29] This role carries a strict liability to protect genetic and clinical history during cross-border transfers—a responsibility often ignored in the facilitator's standard 'non-medical' service agreements. [30]

Medical tourism facilitators frequently articulate clear boundaries for their responsibilities, particularly concerning post-treatment follow-up care and personal liability. The extent of their involvement in overseeing follow-up care upon the patient's return varies significantly based on the specific procedure and the facilitator's policy.[31] From a legal standpoint, these

---

https://www.researchgate.net/publication/236066706_Medical_travel_facilitators_Connecting_patients_and_providers_in_a_globalized_world accessed 10 November 2025.

[25] Medhekar, 'Role, rules, and regulations' (n 12). ibid

[26] Section 1 Childs Right Act 2003 Act 2003

[27] Medhekar, 'Role, rules, and regulations' (n 12). ibid

[28] Section 24 NDPA 2023

[29] Section 24 (1) (a-f) NDPA 2023

[30] Section 31 NDPA

[31] Section 127 FCCPA 2018.

liability waivers may be unconscionable under the FCCPA, as they attempt to absolve the facilitator of responsibility for the very clinical 'matching' they were paid to perform.

Conversely, other facilitators adopt a broader view, believing their support should span the entire continuum of care, from initial planning through the procedure, and extending to connecting the patient with their home-country physician if necessary. Despite these varying philosophies, the actual level of follow-up contact is often unclear, frequently consisting only of the facilitator *recommending* a follow-up plan rather than actively managing it. The FCCPA voids any agreement that seeks to limit or exclude liability for negligence, this therefore makes the laibility of the MTF absolute in case of negligence.[32]

Regarding liability for adverse outcomes, facilitators consistently emphasize their non-medical role, stressing that they are strictly a referral agency and are not responsible for the medical services themselves, a limitation often formalized through signed patient agreements.[33]

5.0 ETHICAL ISSUES

1. Facilitator Training and Accreditation

The global nature of medical tourism severely limits a patient's ability to assess the credentials of foreign hospitals and physicians, forcing them to navigate numerous regulatory and accreditation systems..[34] Currently, facilitators operate without a specialized statutory framework, often masking clinical intermediary roles under general 'hospitality' or 'business consultancy' licenses. This lack of a distinct professional identity means that there is no legally defined 'Standard of Care' for MTFs. Under Nigerian law, where a profession is unregulated, the courts struggle to apply the principles of professional negligence. By operating in this 'normative vacuum,' facilitators avoid the ethical oversight while simultaneously performing duties that directly impact the right to health enshrined in the Child's Rights Act.[35]

There is a significant lack of standardization and entry barriers for the facilitation profession. MTFs are not required to have medical training, and many may come from a tourism

---

[32] Section 129 FCCPA 2018

[33] J. Snyder, V.A Crooks, K. Adams, P. Kingsbury and R. Johnston, 'The 'patient's physician one-step removed': the evolving roles of medical tourism facilitators' (2011) 37(9) *Journal of Medical Ethics* 530 at 532 https://www.researchgate.net/publication/51037446_The_'Patient's_Physician_One-Step_Removed'_The_evolving_roles_of_medical_tourism_facilitators accessed 1 November 2025

[34] Snyder et al, 'The 'patient's physician one-step removed

[35] Section 13(1) CRA which states that very child is entitled to enjoy the best attainable state of physical,· mental and spiritual health.

background, lacking the necessary expertise to advise on complex medical needs.[36] From a consumer protection perspective, the lack of mandatory accreditation is a direct challenge to the Federal Competition and Consumer Protection Act (FCCPA) 2018. Specifically, Section 130 of the Act grants consumers the right to the performance of services in a 'manner and quality that reasonable persons are generally entitled to expect,' including the use of 'reasonable care and skill.[37] This creates a risk that patients will rely heavily on advice from individuals who lack medical training. The title "medical" and the use of seemingly informed claims by facilitators can easily confuse patients, leading them to place unjustified trust in the advice received.[38] In the specialized field of pediatric medical tourism, 'reasonable skill' must logically include clinical literacy and risk assessment. Without an accreditation body to certify these skills, any facilitator recommending a complex surgery is in a state of anticipatory breach of Section 130.[39] They are offering a service—clinical matching—that they are not legally or technically qualified to perform to the standard a reasonable parent would expect for their child

This vulnerability has led to calls for regulation and accreditation standards for MTFs. Currently, no single comprehensive monitoring body exists. Although many facilitator websites display logos, these typically indicate organization membership rather than verifiable certification (individual-level training). While some sites reference hospital accreditation bodies like the Joint Commission International (JCI), the display of a hospital's accreditation may inadvertently mislead patients into believing that the facilitator company itself is also qualified or certified.[40] Ultimately, the lack of professional standards leaves child patients vulnerable, as there are virtually no restrictions on who can become a facilitator or repercussions for violating ethical norms.[41] This violates the 'best interest of the child' mandate found in Section 1 of the CRA 2003. The law requires that decisions affecting a child's health be made by qualified experts. By allowing unaccredited agents to act as gatekeepers to foreign care, the Nigerian legal system fails to protect the child from 'information asymmetry,' where a parent trusts the facilitator's 'expertise' because no official accreditation exists to warn them otherwise."

---

[36] G. Cohen, *Patients with passports: Medical tourism, law, and ethics* (Oxford University Press 2014) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2514371 accessed 17 November 2025.
[37] Section 123 FCCPA
[38] Snyder et al, 'Medical tourism facilitators' (n 17)
[39] FCCPA 2018
[40] The display of these logos are fraudulent in nature going by the provisions of section 123 of the FCCPA that prohibits promoting or marketing, directly or indirectly, goods or services that make any representation to a consumer that may be false, misleading, erroneous, fraudulent or deceptive in any way.
[41] Snyder, et al Medical tourism facilitators: Ethical concerns about roles and responsibilities. ibid

Facilitators must maintain strict ethical boundaries, never putting foreign patients' safety at risk by recommending unaccredited medical facilities,[42] performing illegal cosmetic surgeries,[43] or dealing with organ trade surgeries that are unapproved due to ethical and legal constraints in the patient's home country.[44]

2. Informed Consent, Patient Vulnerability and Data Privacy

Medical Tourism Facilitators (MTFs), introduce significant risk into the informed consent process through aggressive marketing practices. Such bias compromises a patient's capacity to make a truly informed decision by creating unrealistic expectations about their care, adding another layer of complexity to the challenges posed by linguistic and cultural differences.[45] These intermediaries often present patients with overly optimistic outcomes while actively minimizing the risks associated with the medical treatments, this creates a significant legal conflict with the doctrine of informed consent in Nigeria. As established in *MDPDT v. Okonkwo (2001)*,[46] consent is only valid if it is 'informed, free, and voluntary.' When facilitators filter medical information to secure a booking, they are not merely 'marketing'; they are committing a deceptive representation under the FCCPA 2018.[47]

Such bias, particularly when directed at minors, parental consent must be scrutinized against Section 8 of the Child's Rights Act which provides that the rights and entitlements of a child "shall affect the rights of parents and, where applicable, legal guardians, to exercise reasonable supervision and control over the conduct of their children and wards." This vitiate the parents' autonomy, making any subsequent consent legally defective.

By facilitating access to treatments outside domestic regulatory frameworks—such as certain experimental therapies—MTFs can expose clients to risks their home system deemed unacceptable for safety reasons.[48] The vulnerability of parents seeking life-saving treatment

---

[42] The FCCPA through the Federal Competition and Consumer Protection Commission in Section 17 and 18 of the Act is responsible for the protection of consumers of goods and services from substandard good and harmful services

[43] Under Section 17 of the Medical and Dental Practitioners Act (MDPA). By recommending specific surgical interventions, these intermediaries 'hold themselves out' as having clinical expertise. If the facilitator is not a registered medical practitioner, such actions constitute the unauthorized practice of medicine, which is a criminal offense under Nigerian law.

[44] A. Medhekar, 'Role, rules, and regulations for global medical tourism facilitators' in *Handbook of research on international travel agency and tour operation management* (IGI Global 2019) Ch 6 https://acquire.cqu.edu.au/articles/chapter/Role_rules_and_regulations_for_global_medical_tourism_facilitators/13454219 accessed 13 November 2025.

[45] A. Nge Cynthia, 'Ethical dilemmas in international medical health tourism: A critical commentary' (2025) 5 *SSM - Health Systems* 100111 https://www.sciencedirect.com/journal/ssm-health-systems/vol/5/suppl/C accessed 2 November 2025.

[46] (2001) 7 NWLR (Pt. 711) 206

[47] Section 123

[48] Snyder et al, 'Medical tourism facilitators' (n 17)

for their children creates an inherent 'power imbalance' between the family and the MTF. This vulnerability is protected under Section 127 of the FCCPA, which prohibits unconscionable conduct i.e. taking advantage of a consumer's inability to protect their own interests due to physical or mental infirmity, ignorance, or illiteracy[49]

The central issue within medical tourism is the current unregulated status of laws concerning patient privacy and medical data transfer in many host countries. However, for Nigerian patients, the Nigeria Data Protection Act (NDPA) 2023 imposes strict regulation: Section 41 requires demonstration of adequate data protection in the host country for cross-border transfer of data, and Section 43 requires explicit consent after informing the patient of the risks. While the facilitator acts solely as an agent connecting the patient to the healthcare organization, they still function as 'Data Controllers' because they determine the purpose and means of processing personal data[50] including a child's health and genetic history. Though the MTF is not a provider of health services or a practicing medical professional, the actual health service provider maintains close contact with the patient and possesses access to their sensitive records. Consequently, the provider is obligated to ensure the confidentiality and security of medical information.[51]

3. Quality of Care and Transparency

The quality of medical treatment in destination countries is often questioned due to varying accreditation standards. Some hospitals may offer lower-quality care, leading to risks of complications and malpractice.[52] This is a breach of the duty of care.[53] In Nigerian tort law, once an intermediary takes on the role of selecting a healthcare provider for a vulnerable child, they assume a duty of care. This duty requires that the facilitator conducts 'due diligence' on the foreign facility's pediatric outcomes. Failing to disclose that a hospital lacks specialized pediatric ICU facilities, while still recommending it to a family, constitutes a breach of this duty. A uniform accreditation system is suggested to ensure consistent quality worldwide. Medical tourism can create inequities in destination countries by prioritizing

[49] see also Section 1 CRA

[50] Section 24 NDPA

[51] A.O. Adeoye, 'Assessing the associated medical, legal, and social issues in medical tourism and its implications for Nigeria' (2023) 44 *Pan African Medical Journal* 1 https://www.panafrican-med-journal.com/content/article/45/145/full/ accessed 27 November 2025..

[52] J. Connell, 'Medical tourism' in *Routledge Handbook on Tourism in the Middle East and North Africa* (Routledge 2018) https://www.taylorfrancis.com/chapters/edit/10.4324/9781315624525-27/medical-tourism-john-connell accessed 9 November 2025

[53] Section 24 (3) NDPA 2023

foreign and wealthy patients over local, lower-income populations.[54] This may lead to a two-tier healthcare system, limiting access to quality care for disadvantaged locals.[55]

Facilitator income is commonly derived from referral fees paid by the hospital where the patient is directed, even though some patients pay the facilitator directly. This arrangement creates a significant conflict of interest that can steer patient decision-making. These conflicts, in theory, can lead to supplier-induced demand (convincing patients to get unneeded or more extensive surgeries) or cause the facilitator to steer patients to facilities offering higher referral fees rather than those offering higher quality or lower cost. Disclosure of these conflicts is an important part of the solution, but it does not appear to occur regularly.[56]

The drive to communicate benefits means patients may receive an incomplete view of the dangers involved, sometimes receiving only an account of high quality without a comprehensive list of risks.[57] Reviews of facilitator websites confirm this lack of transparency: studies consistently find that risk information is severely limited and often relegated to "disclaimer"[58] or "Terms and Conditions" pages.[59] When risks are mentioned, they are usually downplayed to maintain a positive message, sometimes by noting that similar risks exist in the patient's home country. Consequently, the industry suffers from a lack of universal professional norms on communicating risk, meaning patients often book care without the necessary information to give fully informed consent.[60]

4. Lack of Adequate Follow-Up Care

The primary challenge in the post-operative phase of medical tourism is the critical lack of standardized care protocols, which compromises patient safety and outcomes.[61] Facilitators have an important role in coordinating post-return care between different countries, standards, and languages. Failure to do this is a significant legal failure, since in pediatric cases, post

---

[54] Under Section 130 of the FCCPA, the consumer has a right to 'quality' services; in medical facilitation, 'quality' must be defined by clinical safety, not the aesthetic appeal of the hospital's international wing

[55] J. Connell, 'Medical tourism' in *Routledge Handbook on Tourism in the Middle East and North Africa* (Routledge 2018) https://www.taylorfrancis.com/chapters/edit/10.4324/9781315624525-27/medical-tourism-john-connell accessed 9 November 2025

[56] G. Cohen, *Patients with passports: Medical tourism, law, and ethics* (Oxford University Press 2014) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2514371 accessed 17 November 2025.

[57] Section 123 FCCPA 2018

[58] Section 127 and 129 FCCPA 2018

[59] Cohen, *Patients with passports*. ibid

[60] J. Snyder, V.A. Crooks, A. Wright and R. Johnston, 'Medical tourism facilitators: Ethical concerns about roles and responsibilities' in J Hodges, L Turner and A Kimball (eds), *Risks and challenges in medical tourism: Understanding the global market for health services* (Praeger 2012) Ch 13 https://www.sfu.ca/medicaltourism/Medical%20Tourism%20Facilitators%20-%20Ethical%20Concerns%20about%20Roles%20and%20Responsibilities.pdf accessed 6 November 2025.

[61] A. Nge Cynthia, 'Ethical dilemmas in international medical health tourism: A critical commentary' (2025) 5 *SSM - Health Systems* 100111 https://www.sciencedirect.com/journal/ssm-health-systems/vol/5/suppl/C accessed 2 November 2025.

operative period is as critical as the surgery itself.[62] A reasonable parent would expect that a medical facilitator provides a 'clinical bridge' back to the local Nigerian doctor. By abruptly cutting ties, the facilitator creates a 'follow-up conundrum' that leads to the high mortality rates (up to 39% in some neurosurgical cohorts) observed in returning Nigerian medical tourists. This abandonment is not just an ethical lapse; it is a failure to complete the service to a reasonable standard of safety.[63] Patients may face complications after returning home, burdening their home countries' healthcare systems. Local doctors may refuse follow-up care due to liability concerns, leaving patients without proper post-treatment support.[64]

When patients return home, local healthcare providers are often unwilling to manage complications stemming from procedures performed abroad. This problem is severely worsened by the poor coordination of medical record transfer and communication between international and home country providers, leading to delayed complication recognition and potentially inappropriate treatment. Ultimately, the absence of clear protocols for managing these foreign complications places an unanticipated burden on home country healthcare systems and creates tension between patients and their local doctors, further complicating follow-up care due to international variations in medical practice and documentation standards.[65]

Using Nigeria as an example, a Nigerian doctor or home caregiver may be reluctant to provide follow-up treatment to a returning medical tourist for several reasons, including concerns about legal liability.[66] Even when follow-up care has been properly arranged, the expected costs may exceed what the patient can afford, ultimately compromising the quality of care they receive.[67]

MTFs' approaches to follow-up care vary greatly, ranging from arranging it only by client request to taking an active role by only accepting patients once aftercare has been secured. Despite some facilitators claiming extensive follow-up services (like arranging calls or reports), empirical analysis of their websites shows follow-up care is rarely addressed (appearing on less than 10% of main pages) and is not a consistent service offering.

---

[62] Under Section 130 of the FCCPA 2018, a service provider is mandated to deliver services in a quality that 'reasonable persons are entitled to expect.'

[63] Cohen, *Patients with passports*. (n 34)

[64] H.T. Olojede, 'Ethical Issues in Medical Tourism in Africa' (2024) 16(1) *African Journal of Stability & Development* 166 at 170 http://journals.abuad.edu.ng/index.php/ajsd/article/download/1109/597/4399 accessed 25 November 2025.

[65] Nge Cynthia, 'Ethical dilemmas' (n 37)

[66] Under Section 136 of the FCCPA, service providers can be held liable for 'defective services' that cause harm. If a facilitator fails to arrange the mandatory post-operative follow-up or hides the necessity of such care to make the 'package' look cheaper, they may be jointly liable for the resulting clinical decline of the child.

[67] Olojede, 'Ethical Issues in Medical Tourism in Africa' (n 39)

Ultimately, the lack of coordinated care is often worsened by patients' own hesitance to discuss their plans with domestic physicians, compounding the difficulty of ensuring post-treatment safety and effectiveness.[68]

6.0. LEGAL CHALLENGES AND REDRESS MECHANISMS

MTFs commonly attempt to insulate themselves from legal risks (such as suits for malpractice or poor care) by deliberately framing their role as merely facilitating contact and arranging travel, not providing medical services. The goal is to shift liability for complications entirely onto the foreign physicians and facilities. However, a significant redress mechanism lies in suing the Nigerian Facilitator for Negligent Referral. Under general tort law, an intermediary who takes a fee to match a patient with a hospital assumes a duty of care.[69] If the facilitator failed to verify that the foreign facility had a functioning pediatric ICU, they can be sued in a Nigerian court for 'negligence in selection.' or contributory negligence.[70] This allows the family to seek damages locally for the facilitator's administrative failure, even if the clinical error happened abroad.

This self-protective strategy often involves requiring clients to sign waiver contracts that explicitly state that the facilitator has no legal liability for adverse outcomes. From a legal standpoint, these are often Unfair Contract Terms. Under the FCCPA 2018, the Act prohibits terms that are 'excessively one-sided' or that exclude liability for personal injury resulting from a provider's negligence.[71] Furthermore, Section 129[72] explicitly prevents an undertaking from excluding liability for gross negligence.[73] While certain domestic mechanisms exist these options are complex and often overridden by the pre-signed waivers.[74] In application, a Nigerian court can strike out these waivers.[75] The justification is that a facilitator cannot

---

[68] J. Snyder, V.A. Crooks, A. Wright and R. Johnston, 'Medical tourism facilitators: Ethical concerns about roles and responsibilities' in J Hodges, L Turner and A Kimball (eds), *Risks and challenges in medical tourism: Understanding the global market for health services* (Praeger 2012) Ch 13 https://www.sfu.ca/medicaltourism/Medical%20Tourism%20Facilitators%20-%20Ethical%20Concerns%20about%20Roles%20and%20Responsibilities.pdf accessed 6 November 2025.

[69] see the case of P.W. Nigeria Ltd v. Mansel Motors Ltd & Anor (2017) LPELR-43390

[70] NRC v Emeahara & Sons [1992] 2 NWLR (Pt. 352) 206.

[71] Section 127

[72] FCCPA 2018

[73] Snyder et al, 'Medical tourism facilitators' (n 43). ibid

[74] N. Lunt, R.D. Smith, R. Mannion, S.T. Green, M. Exworthy, J. Hanefeld, D. Horsfall, L. Machin and H. King, *Implications for the NHS of inward and outward medical tourism: a policy and economic analysis using literature review and mixed-methods approaches* (Health Services and Delivery Research, No 2.2, NIHR Journals Library 2014) https://www.researchgate.net/publication/279869677_Implications_for_the_NHS_of_inward_and_outward_medical_tourism_A_policy_and_economic_analysis_using_literature_review_and_mixed-methods_approaches accessed 16 November 2025

[75] *Patrick Chukwunwike Chukwuma v. Peace Mass Transit Limited*, Suit No: E/514/2021

contract out of the 'reasonable care and skill' mandate required for pediatric healthcare services, especially when the child's life is at stake.[76]

Medical tourists frequently encounter legal challenges when complications occur, primarily due to the regulatory fragmentation of international healthcare. Patients often lack the standard malpractice protections and legal recourse available in their home countries because jurisdictional complexities and varying healthcare laws make establishing accountability difficult. Treatments deemed substandard domestically might be legally permissible elsewhere, exposing patients to greater risk. Compounding this, many patients discover that their home insurance plans do not cover complications arising from foreign procedures, leading to severe financial burdens. The absence of standardized international arbitration or complaint procedures further restricts a patient's options for seeking redress, leaving them in a regulatory gap that tends to favor providers over patients.[77]

Patients who experience medical malpractice or unsatisfactory treatment abroad often face challenges in seeking justice due to inadequate laws in destination countries. Different legal standards and jurisdictions make it difficult to pursue malpractice claims, and international litigation is often expensive and hard to enforce.[78]

However, pursuing legal redress against foreign providers is highly problematic for the patient. Litigation abroad is often expensive and difficult, requiring navigation of foreign legal systems and languages, and potentially costly return travel. Furthermore, the host country may offer only limited medical malpractice protections to begin with.[79]

There is no uniform law or guideline to protect patients receiving medical treatment abroad or to inform them of their rights and legal recourse. This includes the absence of regulations for medical devices, treatments, and procedures like surrogacy, which vary significantly across countries. The lack of standardization can lead to risks such as substandard care, exploitation, and legal complications.[80]

---

[76] UITH v. Akilo [2001] 4 NWLR (Pt. 703) 246 [CA]

[77] A. Nge Cynthia, 'Ethical dilemmas in international medical health tourism: A critical commentary' (2025) 5 *SSM - Health Systems* 100111 https://www.sciencedirect.com/journal/ssm-health-systems/vol/5/suppl/C accessed 2 November 2025.

[78] H. Wahed, 'Ethical and legal issues in medical tourism' (2015) 23(2) *IIUM Law Journal* https://www.researchgate.net/publication/328283835_Ethical_and_Legal_Issues_in_Medical_Tourism accessed 10 November 2025.

[79] J. Snyder, V.A. Crooks, A. Wright and R. Johnston, 'Medical tourism facilitators: Ethical concerns about roles and responsibilities' in J Hodges, L Turner and A Kimball (eds), *Risks and challenges in medical tourism: Understanding the global market for health services* (Praeger 2012) Ch 13 https://www.sfu.ca/medicaltourism/Medical%20Tourism%20Facilitators%20-%20Ethical%20Concerns%20about%20Roles%20and%20Responsibilities.pdf accessed 6 November 2025.

[80] Wahed, 'Ethical and legal issues' (n 46)

To successfully sue a foreign provider domestically, three major procedural rules must be overcome: proper jurisdiction, favorable choice of law and probable cause of action[81]

To establish jurisdiction in a domestic court, the overseas defendant must demonstrate at least "minimum contacts" with that local area. This standard usually necessitates the systematic targeting of patients from the originating country, such as engaging in specific marketing efforts or entering into contracts with local insurance providers. Applying the 'Minimum Contacts' doctrine in Nigerian MTF litigation lies in the need to prevent a total failure of justice for pediatric patients. While the doctrine originated in the US case of *International Shoe Co. v. Washington*,[82] where the Court held that, a party, particularly a corporation, may be subject to the jurisdiction of a state court if it has "minimum contacts" with that state. its logic is essential for the Nigerian MTF landscape: if a facilitator purposefully avails themselves of the Nigerian market, they must be subject to the jurisdiction of Nigerian courts. Without clear evidence of these business connections, judicial systems are typically hesitant to exercise authority, adhering to the fundamental principle that foreign entities should only face legal accountability in jurisdictions where they have purposefully sought out local rights and benefits.[83]

The above means that the main legal hurdle for a Nigerian patient trying to sue a foreign hospital or doctor in a Nigerian court is proving "minimum contacts." This is the key legal rule that gives the Nigerian court the power (jurisdiction) to judge someone who lives in another country. The court will only take the case if the Nigerian patient can show that the foreign provider has a real and deliberate business link to Nigeria. The patient must prove that the foreign provider was actively targeting Nigerian customers as a business strategy.

In application, Nigerian courts exercise jurisdiction over MTFs through the 'Doing Business' test, which mirrors the Minimum Contacts threshold. A court may grant leave to serve a defendant outside Nigeria if the 'contract was made within jurisdiction' or 'the breach occurred within jurisdiction.'[84] When an MTF operates a website targeting Nigerians, accepts payments in Naira, or holds physical consultations in Lagos or Abuja, they have established

---

[81] J.L Muzaurieta, 'Surgeries and safaris: Creating effective legislation through a comparative look at the policy implications, benefits, and risks of medical tourism for the American patient' (2014) *Temple International & Comparative Law Journal* https://sites.temple.edu/ticlj/files/2017/02/29.1.Muzaurieta-TICLJ.pdf accessed 5 November 2025

[82] 326 U.S. 310 (1945)

[83] Muzaurieta, 'Surgeries and safaris' (n 49): ibid

[84] Gulf Lines Ltd v. Nigerian Ports PLC [1995] 1 NWLR (Pt. 372) 507

'Purposeful Availment.' This provides the legal 'nexus' required for a Nigerian court to assert jurisdiction.[85]

Evidence of this targeting includes showing the hospital did a lot of marketing in Nigeria or had official contracts with Nigerian insurance companies or local medical travel agents (facilitators). The contract with a Nigerian facilitator is very important because it acts as solid proof that the foreign provider was willingly doing business in Nigeria. Without this clear proof of business engagement, the Nigerian court will likely refuse to hear the case. This is based on the fair legal idea that a foreign business should only be forced to answer to Nigerian law if it purposely tried to profit from the rights and benefits of the Nigerian market.

The Choice of Law question determines which nation's legal standards govern the malpractice claim. Courts are usually inclined to apply the law of the country where the medical procedure occurred (e.g., Nigerian law for surgery performed in a Nigerian hospital), where the standard of proof for negligence may be high and financial compensation is typically modest. Many foreign legal systems impose damages caps and do not allow recovery for non-economic losses or future earnings, rendering costly international litigation practically unfeasible.[86] This issue is critical because personal injury and malpractice laws in host countries are often significantly less favorable to patients than those in the originating country.[87]

The aggrieved patient (the plaintiff) typically structures a claim against the responsible party (the defendant) using two primary legal theories, or Causes of Action. The first possible cause of action is a Breach of Contract. Here, the plaintiff alleges that the defendant failed to execute the medical procedure in accordance with the terms of the agreed-upon contract, leading directly to the plaintiff's damages. This claim is powerful because it focuses solely on the failure of performance, making the *reason* for the failure irrelevant. Success relies on demonstrating that the contract contained sufficiently specific terms that the defendant's conduct clearly violated.[88]

---

[85] **S**onnar (Nig) Ltd v. Nordwind (1987) All NLR 548.

[86] N. Lunt, R.D. Smith, R. Mannion, S.T. Green, M. Exworthy, J. Hanefeld, D. Horsfall, L. Machin and H. King, *Implications for the NHS of inward and outward medical tourism: a policy and economic analysis using literature review and mixed-methods approaches* (Health Services and Delivery Research, No 2.2, NIHR Journals Library 2014) https://www.researchgate.net/publication/279869677_Implications_for_the_NHS_of_inward_and_outward_medical_tourism_A_policy_and_economic_analysis_using_literature_review_and_mixed-methods_approaches accessed 16 November 2025.

[87] Muzaurieta, 'Surgeries and safaris' (n 49)

[88] D.J.B. Svantesson, 'From the airport to the surgery to the courtroom – Private international law and medical tourism' (2008) 34(2) *Commonwealth Law Bulletin* 265 - 276

The most common cause of action is the Tort of Negligence. This requires the plaintiff to successfully demonstrate four distinct elements: first, that the defendant owed the plaintiff a duty of care (which all medical providers do); second, that the defendant breached that duty by providing substandard care; third, that the plaintiff suffered actual damages (injury); and finally, that the damages were a direct and foreseeable result (causation) of the defendant's breach.[89] In medical malpractice cases, proving the breach of the standard of care and establishing direct causation often represent the greatest difficulties in this type of action.[90]

7.0 REGULATORY FRAMEWORKS

It is necessary that Medical Tourism Facilitators (MTFs) should be registered by the government and accredited by institutions such as the Joint Commission International (JCI). This mandatory requirement ensures that potential Medical Tourists (MTs) who entrust their lives to these facilitators can trust MTFs to provide correct information necessary to make the right decision to travel abroad for surgery. This process, therefore, establishes a necessary degree of oversight and accountability within the complex global medical tourism supply chain.[91]

Concerns over the quality and safety of medical care abroad—driven by a perceived lack of robust clinical governance and questions about staff competence—have led to the rise of independent accreditation schemes. Accreditation is a form of External Quality Assurance (EQA) where a third-party body, such as the Joint Commission International (JCI) or Quality Healthcare Advice Trent Accreditation (UK), surveys providers. Its common characteristics include reviews conducted by trained professional peers, mechanisms for prospective problem identification and continuous improvement, and periodic reassessment. It generally applies to organizations (hospitals, clinics) rather than individual practitioners, serving as a "stamp of approval" to verify service quality.[92]

---

https://www.researchgate.net/publication/27826646_From_the_Airport_to_the_Surgery_to_the_Courtroom_-_Private_International_Law_and_Medical_Tourism accessed 21 November 2025.

[89] Donoghue v. Stevenson [1932] AC 562

[90] Svantesson, 'From the airport to the surgery to the courtroom' (n 53). Ibid see also MDPDT v. Okonkwo (2001) (supra)

[91] A. Medhekar, 'Role, rules, and regulations for global medical tourism facilitators' in *Handbook of research on international travel agency and tour operation management* (IGI Global 2019) Ch 6 https://acquire.cqu.edu.au/articles/chapter/Role_rules_and_regulations_for_global_medical_tourism_facilitators/13454219 accessed 13 November 2025..

[92] N. Lunt, R.D. Smith, M. Exworthy, S.T. Green, D.G. Horsfall and R. Mannion, *Medical tourism: Treatments, markets and health system implications: A scoping review* (Organisation for Economic Co-operation and Development 2011) https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/hsmc/publications/2011/medical-tourism-scoping-review.pdf accessed 1 November 2025

Managing the complex area of global healthcare requires a distinct set of skills, including knowledge of medical treatments, cultural sensitivity, and logistical coordination. Several international approaches have been developed to standardize these competencies:[93]

- ISO 22525:2020: Provides general and specific guidelines for companies offering medical tourism services, focusing on information sharing, compliance, documentation, and facilitator knowledge.[94]
- Global Healthcare Accreditation (GHA): Certifies and accredits individuals and providers, emphasizing knowledge, expertise, ethics, communication, and risk/quality management.
- Todd's Guide: A comprehensive framework specifying the knowledge, abilities, and competencies MTFs must follow to ensure high-quality services.
- Thailand Professional Qualification Institute (TPQI): Identifies ten major competency units covering the full range of MTF responsibilities across the medical tourism supply chain, from arranging medical care to risk management and business ethics.

8.0 LIMITATIONS OF ACCREDITATION

Accreditation schemes, however, face several potential problems. This is because the schemes themselves are often private companies, their commercial interests may sometimes overshadow quality assurance. Furthermore, accreditation may be unavailable to less well-off countries or may cause them financial hardship. Critically, schemes may fail to tackle ethically contentious areas, such as organ trafficking, unproven therapies (e.g., stem-cell therapy), or unnecessary operations. Despite these limitations, accreditation holds significant market value, offering commercial assurance to brokers, serving as a prerequisite for US Medicare participation, and acting as a primary marketing tool used by hospitals and facilitators to attract business. Crucially, no universal "official agency" (such as the UN, WHO, or WTO) is currently engaged in coordinating, delivering, or licensing these accreditation schemes.[95]

9.0 RECOMMENDATIONS

---

[93] S. Varshney, 'Competency required by medical travel facilitators in medical tourism industry' (2024) 13(06) *PARIPEX-INDIAN JOURNAL OF RESEARCH* https://www.researchgate.net/publication/381551300_COMPETENCY_REQUIRED_BY_MEDICAL_TRAVEL_FACILITATORS_IN_MEDICAL_TOURISM_INDUSTRY accessed 12 November 2025.

[94] Varshney, 'Competency required by medical travel facilitators' (n 57). ibid

[95] N. Lunt, R.D. Smith, M. Exworthy, S.T. Green, D.G. Horsfall and R. Mannion, *Medical tourism: Treatments, markets and health system implications: A scoping review* (Organisation for Economic Co-operation and Development 2011) https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/hsmc/publications/2011/medical-tourism-scoping-review.pdf accessed 1 November 2025

To bridge the gap between global standards and local practice, a unified regulatory approach is essential. The following proposals aim to transform intermediaries from unregulated vendors into accountable professional partners. By shifting toward a transparent and standardized framework, the legal protection of pediatric patients can be effectively realized. Consequently, the following multi-agency actions are proposed to ensure a safe and ethical medical travel environment.

1. **Mandatory Licensing and Registration Framework**

The Federal Ministry of Health (FMOH), in collaboration with the Federal Competition and Consumer Protection Commission (FCCPC), should establish a mandatory licensing body/agency for all MTFs operating within Nigeria. Registration should be contingent upon the facilitator's ability to demonstrate a formal "Service Level Agreement" with accredited foreign hospitals, ensuring that the "Care Continuum" is legally enforceable.

2. **Integration of International Technical Standards**

To operationalize the "reasonable care and skill" requirement under Section 130 of the FCCPA 2018, the Standards Organisation of Nigeria (SON) should formally adopt ISO 22525:2020 as the national benchmark for medical tourism. This would allow courts to use a breach of ISO protocols as prima facie evidence of professional negligence by a facilitator.

3. **Mandatory Financial and Conflict-of-Interest Disclosure**

Consistent with the fiduciary duties in Sections 130 and 123 of the FCCPA, the FCCPC should issue sector-specific guidelines requiring MTFs to provide a Mandatory Disclosure Document to parents. This document must clearly state any commissions or "referral fees" received from foreign hospitals, ensuring that the choice of hospital is based on the child's health needs rather than the facilitator's financial gain.

4. **Appointment of a Local Medical Liaison**

To fulfill the "Best Interest of the Child" mandate under Section 1 of the Child's Rights Act 2003, regulations should require every MTF to partner with a licensed Nigerian pediatrician. This liaison would review foreign treatment plans and manage post-operative follow-up care in Nigeria, preventing the "transactional termination" that currently leaves families stranded after returning home.

5. **Standardization of Patient Data Protection**

The Nigeria Data Protection Commission (NDPC) should issue a "Code of Practice" specifically for medical travel. This would ensure that sensitive pediatric health data shared with offshore facilitators is handled strictly under Section 30 of the NDPA 2023, with

mandatory encryption and clear "data-deletion" policies once the medical journey is concluded.

10.0 CONCLUSION

The rapid expansion of medical tourism in Nigeria, driven by systemic failings in the domestic healthcare sector, presents families seeking specialized care for their children with a paradox: access to advanced treatment abroad comes with severe, unregulated risks. This analysis confirms that Medical Tourism Facilitators (MTFs), while essential intermediaries, operate in a regulatory vacuum that undermines ethical practice, compromises informed consent, and leaves Nigerian children uniquely vulnerable.

The core ethical conflict lies in the unregulated status of MTFs. Lacking standardized training and verifiable certification, these facilitators often prioritize referral fees over patient safety, creating undisclosed conflicts of interest that steer families toward providers offering higher commissions rather than optimal care. This incentive structure directly violates the sanctity of informed consent by promoting overly optimistic outcomes while actively minimizing risks. Crucially, when directed at minors, this biased information conflicts with Section 1 of the Child's Rights Act, which mandates that the child's best interests must be the primary consideration in all decisions.

Legally, the system fails the child patient by allowing MTFs to strategically shift liability through unconscionable waivers. Facilitators commonly disclaim responsibility for adverse outcomes and follow-up care, requiring families to sign waivers that are difficult to challenge. While Nigerian statutes like sections 130 and 132 FCCPA offer some recourse against misrepresentation, pursuing the actual foreign provider is defeated by fundamental procedural hurdles. Although an MTF's contract may help establish the "minimum contacts" needed for a Nigerian court to assert jurisdiction, the court will likely apply the host country's unfavorable Choice of Law, leading to inadequate compensation. Furthermore, the handling of sensitive patient data, essential to the MTF's role, faces inadequate protection despite the strict requirements of Section 30 of the NDPA.

Therefore, the critical challenge is not the absence of law, but the fragmentation of existing legislation. To safeguard children, Nigeria must move beyond relying on disparate statutes. The solution lies in establishing the multi-level regulatory framework proposed by this paper. This framework, centered on mandatory licensing, public registries, and stringent disclosure

requirements for advertising and financial interests, is essential. By embedding accountability and transparency directly into the law, MTFs can be transformed from unregulated vendors into accountable, trusted partners, thereby ensuring that access to global healthcare does not come at the cost of a child's safety and fundamental rights enshrined under Section 13 of the Child's Rights Act.