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UAE Decision on Health Data Law Provides Clarity

The decision will likely provide comfort to businesses operating in the healthcare sector both in the UAE and globally.

On 28 April 2021 the United Arab Emirates (UAE) federal government issued Ministerial Decision No. 51 of 2021 (the Decision) to clarify when health information may be stored or transferred outside of the UAE. The Decision should pave the way for many domestic and overseas healthcare service providers to continue processing, storing, and transferring health information outside of the UAE. The Decision follows last year's publication of a follow-up resolution (Cabinet Resolution No. 32 of 2020).

This *Client Alert* lists the exemptions to the default position established in 2019 that health information must be kept within the UAE and provides an analysis on the implications for businesses.

Background

In February 2019, the UAE President and UAE Minister of Health and Prevention (the Minister) issued Federal Law No. 2 of 2019 (the Health Data Law) on the use of information and communications technology (ICT) in health fields in the UAE. The Health Data Law, which came into effect in May 2019, impacts businesses in the UAE that use ICT to process health information, such as healthcare service providers, life sciences companies, cloud service providers, healthcare IT systems suppliers, and medical insurance providers.

Importantly, the Health Data Law restricts businesses from transferring health information outside of the UAE and requires the storage or processing of health information in the UAE, unless such activity has been approved by a decision of the health authority or the Minister. (For a refresher on other key features of the Health Data Law, see Latham's February 2019 [Client Alert](#)).

At the time the Health Data Law came into effect, its data localisation requirements raised concerns among domestic and overseas service providers that relied on storing or hosting health information in offshore data centres.

New Exemptions

The Decision reiterates the default position established in 2019 that health information must be kept within the UAE unless such activity has been approved by a decision of the health authority or the Minister. Crucially, however, the Decision provides a series of exemptions to that default position. Subject to certain conditions as outlined in the table below, health information may be exported from the UAE in the following circumstances:

Number	Topic	Description of Exemption	Conditions
Exemption 1	Treatment of overseas patients	For patients treated outside of the UAE and their health information is necessary to receive such treatment	<ul style="list-style-type: none"> • A written approval shall be granted from the person receiving the medical service or their legal representative • The health information shall only be shared with the concerned entity or person • The health information shall be encrypted
Exemption 2	Medical samples	Samples sent to laboratories abroad	<ul style="list-style-type: none"> • A written approval shall be granted from the person receiving the medical service or their legal representative • The health information shall only be shared with the concerned entity or person • The health information shall be encrypted
Exemption 3	Scientific research	Health information used in scientific research that complies with all UAE laws and has been approved by the competent health authority	<ul style="list-style-type: none"> • The health information shall be anonymised • The health information shall only be shared with the concerned entity • The health information shall be encrypted • The health information shall be sent using the highest safety standards • The health information shall not be used for purposes other than scientific research
Exemption 4	Insurance	Health information required by insurance and claims management companies to provide health insurance coverage	<ul style="list-style-type: none"> • The insurance and claims management companies must operate in the UAE • The health information shall be anonymised • The written consent of the person receiving the medical service shall be obtained • The health information shall not be “fully transferred” • A policy number may only be sent if it forms part of a claim processing system outside of the UAE • The health information shall be encrypted • The health information shall be sent using the highest safety standards
Exemption 5	Organisations cooperating with the UAE	Health information required by competent organisations	<ul style="list-style-type: none"> • A written approval shall be granted from the person receiving the medical service or their legal representative

Number	Topic	Description of Exemption	Conditions
		cooperating with the UAE federal or Emirate-level government	<ul style="list-style-type: none"> The health information shall only be shared with the concerned entity or person The health information shall be encrypted A copy of the health information shall be kept inside the UAE The health information shall be anonymised The health information shall be sent using the highest safety standards
Exemption 6	Medical devices	Health information processed by simple medical devices and tools used by members of the public to record and monitor health signs (e.g., blood pressure, blood sugar, and oxygen saturation)	<ul style="list-style-type: none"> None specified in the Decision
Exemption 7	Pharmacovigilance	Health information related to the prevention, treatment, or diagnosis of the patient, and which may lead to side effects, as per the controls and conditions of good pharmacovigilance practices	<ul style="list-style-type: none"> A written approval shall be granted from the person receiving the medical service or their legal representative The health information shall only be shared with the concerned entity or person The health information shall be encrypted A copy of the health information shall be kept inside the UAE
Exemption 8	Health authority approval	Health information that an Emirate-level health authority approves for transfer and storage outside of the UAE	<ul style="list-style-type: none"> A copy of the health information shall be kept inside the UAE The health information must not be confidential for reasons of public security, public interest, or public health Disclosure of the health information must not result in the disclosure of medical secrets unless the patient has provided written consent
Exemption 9	Remote medical services	Health information used to provide remote health services	<ul style="list-style-type: none"> The relevant physician shall only have access to the system for a determined duration If there is a need to send a specific report or medical image, then such report or image shall only be submitted to the concerned physician The patient has provided written consent
Exemption 10	Consent	Where the concerned person or their representative	<ul style="list-style-type: none"> A written approval shall be granted from the person receiving the medical service or their legal representative

Number	Topic	Description of Exemption	Conditions
		requests that the concerned person's health information is transferred outside of the UAE	<ul style="list-style-type: none"> The health information shall only be shared with the concerned entity or person The health information shall be encrypted A copy of the health information shall be kept inside the UAE

Key Takeaways

The Decision provides much-needed certainty around what service providers can and can't do with UAE health information. As such, the Decision is likely to provide comfort to businesses operating in the healthcare sector both in the UAE and globally.

The exemptions reflect the increasingly important role of technology in UAE healthcare, as new digital health offerings emerge in the region and overseas. However, as with any evolving regulatory regime, service providers will need to navigate the Health Data Law carefully and consider how the exemptions will be treated and processed in practice.

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