

# **DATA PROTECTION LAWS OF THE WORLD**

UAE - Dubai Health Care City Free Zone



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## UAE - DUBAI HEALTH CARE CITY FREE ZONE



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### LAW

**Note:** Please also see [UAE &#8211; General](#), [UAE &#8211; DIFC](#), [UAE &#8211; ADGM](#).

The Dubai Healthcare City ("**DHCC**"), a healthcare free zone in Dubai, implemented DHCC Health Data Protection Regulation No 7 of 2013 (which repealed and replaces the DHCC Data Protection regulation No. 7 of 2008) ("**HDPR**").

The HDPR regulates the protection of Patient Health Information, as opposed 'personal data'.

Note that as opposed to the ICT Health Law, which applies to entities across the UAE, including within freezones such as the DHCC (please see [UAE &#8211; General](#)), the DHCC HDPR only applies to those entities licensed within the DHCC and to patient information generated and stored therein.

In addition to the HDPR, the DHCC has also issued certain guidelines and standards, some of which have implications from a personal data protection standpoint, such as the DHCR Telehealth Standard (2017).

While the DHCC continues to have the HDPR available upon its website, the DHCC website also notes that [All healthcare regulations in the Dubai Healthcare City free zone are managed by Dubai Health Authority. Please click here<sup>\[1\]</sup> for more information on all healthcare regulations related-matters&#8211;](#)

Therefore, the actual application of the DHCC HDPR may still be subject to the interpretation and application of the Dubai Health Authority (&#8220;**DHA**&#8221;), including the application of the DHA&#8217;s own Policy for Health Data Protection and Confidentiality 2022.

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1: See <https://dhcc.ae/regulations/health-care-regulation>

### DEFINITIONS

#### Definition of Patient Health Information

Information about a patient, whether spoken, written, or in the form of an Electronic Record, that is created or received by any Licensee, that relates to the physical or mental health or condition of the patient, including the reports from any diagnostic procedures and information related to the payment for services.

#### Definition of Licensee

A Licensed Healthcare Professional, Licensed Complementary and Alternative Medicine Professional, a Licensed Healthcare Operator, an Approved Education Operator, an Approved Research Operator, a Licensed Commercial Company, or a Non-Clinical Operating Permit Holder; (essentially a healthcare professional working in the DHCC with access to Patient Health Information).

## Definition of Process, Processed, Processes and Processing

Any operation or set of operations which is performed on Patient Health Information, whether or not by automatic means such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment, erasure or destruction.

## NATIONAL DATA PROTECTION AUTHORITY

The DHCC Board of Directors and the Executive Body of the Dubai Healthcare City Authority ("**DHCA**") are responsible for ensuring proper administration the HDPR and any Rules, Standards and Policies made under the HDPR.

The Centre for Healthcare Planning and Quality is responsible for the compliance and enforcement of the HDPR ("**CPQ**").

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## REGISTRATION

Not applicable.

## DATA PROTECTION OFFICERS

There is a requirement for each Licensee, to have one or more Data Protection Officers (**DPO**). The responsibilities of the Data Protection Officers include:

- the encouragement of compliance by the Licensee with the HDPR;
- dealing with requests made to the Licensee under the HDPR; and
- otherwise ensuring compliance by the Licensee with the provisions of the HDPR (section 40 HDPR).

## COLLECTION & PROCESSING

Patient Health Information is not permitted to be collected by any Licensee, unless it is for a lawful purpose, and the collection is necessary for that purpose (article 27 HDPR). However, the meaning of lawful purpose is not defined in the HDPR.

The Patient Health Information should be collected from the patient directly, unless the Licensee believes on reasonable grounds that:

- the Patient concerned authorizes Collection of the information from someone else having been made aware of the matters set out in section 29(1);
- the Patient is unable to give his authority, and the Licensee having made the Patient's Representative aware of the matters set out in section 29(1) Collects the Patient Health Information from the Representative or the Representative authorizes Collection from someone else;
- compliance would prejudice the:
  - interests of the Patient; or
  - purposes of collection; or

- safety of any individual;
- compliance is not reasonably practicable in the circumstances of the particular case;
- the Collection is for the purpose of assembling a family or genetic history of a Patient and is collected directly from that Patient and / or the Patient's Representative;
- the Patient Health Information is Publicly Available Information;
- the Patient Health Information:
  - shall not be used in a form in which the Patient is identified;
  - shall be used for statistical purposes and shall not be published in a form that could reasonably be expected to identify the Patient; or
  - shall be used for research purposes (for which approval by an ethics committee, if required, has been given) and shall not be published in a form that could reasonably be expected to identify the Patient; or
- non-compliance is necessary:
  - to avoid prejudice to the maintenance of the law including the prevention, detection, investigation, prosecution, and punishment of offences;
  - for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation) (section 28 HDPR).

## TRANSFER

Patient Health Information may only be transferred to a third party located in a jurisdiction outside DHCC if:

1. an adequate level of protection for that Patient Health Information is ensured by the laws and regulations that are applicable to the third party; **and**
2. the transfer is either:
  - authorized by the Patient; or
  - necessary for the ongoing provision of Healthcare Services to the Patient.

A jurisdiction shall be considered to have an adequate level of protection if that jurisdiction is listed as an acceptable jurisdiction under the Dubai International Financial Center Data Protection Law No. 1 of 2007 or has the written approval of the Central Governance Board.

As noted above, DHA's regulations regarding Policy for Health Data Protection and Confidentiality 2022 may now override the transfer provisions of the HDPR.

## SECURITY

A Licensee is responsible for the security of its information systems and networks and should act in a timely and co-operative manner to prevent, detect and respond to security incidents. A Licensee is further required review and assess the security of information systems and networks and make appropriate modifications to security policies, practices, measure and procedures on a regular basis. Any security incidents must be disclosed to the CPU on a periodic basis.

A Licensee that holds Patient Health Information must maintain the security of the Patient Health Information, ensuring it is stored in a way that can be readily retrieved and easy removed or shared, as well as protecting the accuracy of the information. A Licensee is further responsible for ensuring reasonable safeguards are put in place to protect the Patient Health Information from loss, destruction, potential fire / water damage, tampering, theft, unauthorized access, use, modification, or disclosure (section 31, HDPR).

## BREACH NOTIFICATION

# DATA PROTECTION LAWS OF THE WORLD

There is no specific requirement set out in the DPL obliging a Licensee to inform the CPQ in the event of a breach. Licensees are required to inform the Customer Protection Unit (within CPU) on a periodic basis of any security incidents.

## ENFORCEMENT

The CPQ is responsible for the compliance and enforcement of the HDPR and may delegate its powers and duties to any appropriate committee(s) constituted by it or to appropriate person(s) appointed by it (section 42 HDPR).

The powers, duties and functions of CPQ include: (a) conducting an audit of Patient Health Information when requested by a Licensee for the purpose of ascertaining whether or not the information is maintained in accordance with the HDPR; (b) monitoring the use of Personal Identifiers, and to reporting to the Executive Body from time to time on the results of that monitoring, including any recommendations relating to the need for, or desirability of taking regulatory, administrative, or other action to give protection, or better protection, to the Patient or the Licensee; and (c) monitoring compliance with the HDPR.

CPQ may require a Licensee to produce specified information or documents when requested in writing, in relation to the Processing of Patient Health Information of a complaint about an Interference with Patient Health Information. If the Licensee does not comply with the request, the CPQ may impose a Penalty as set out in a list to be published by the DHCA from time to time (section 42).

It does not appear that the DHCA have produced any further information on the penalties that apply in relation to a breach of HDPR. It is unclear how any breaches of the HDPR will be dealt with in the DHCC.

As noted above, the DHA's interpretation and application of the HDPR may be relevant to the ultimate enforcement of the HDPR.

## ELECTRONIC MARKETING

The HDPR does not contain specific provisions relating to electronic or direct marketing.

## ONLINE PRIVACY

The HDPR does not contain specific provisions relating to online privacy, however, the broad provisions detailed above are likely to apply. In addition, as UAE criminal law applies in the DHCC, the privacy principles laid out therein may apply (see [UAE &#8211; General](#)).

### KEY CONTACTS



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### DATA PRIVACY TOOL

You may also be interested in our [Data Privacy Scorebox](#) to assess your organization's level of data protection maturity.



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