

Saudi Arabia Healthcare Transformation - A 2021 lookback

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The first formal public health department was established in Mecca in 1925. Since then, significant progress has been made in improving population health and expanding healthcare access, yet hurdles remain. Current reforms target decentralisation of the public sector and increasing private sector participation. At the backbone of all of this reform activity is Vision 2030.

Building on our series of Vision 2030 and healthcare privatisation articles, we look at the current highlights from the ongoing healthcare privatisation and public sector participation strategies in KSA over the past year.

(For an overview of Vision 2030 and our prior articles on PPPs and privatisation in healthcare in Saudi Arabia, see 1) <https://www.tamimi.com/law-update-articles/ksa-privatisation-corporatisation-and-ppp-schemes-in-healthcare> ; 2) <https://www.tamimi.com/law-update-articles/joining-dots-saudi-healthcare-reform> ; 3) <https://www.tamimi.com/law-update-articles/vision-2030-and-the-opportunities-it-represents-in-healthcare-in-saudi-arabia> ; and 4) <https://www.tamimi.com/law-update-articles/saudi-vision-2030-what-does-it-mean-for-your-industry/>).

Background:

The healthcare and life sciences sector is one of the most significant sectors for the Kingdom of Saudi Arabia and is a key focus area of Saudi Vision 2030. The Vision 2030 strategic objectives include a number that are dedicated to healthcare, including targeting the privatisation of 290 hospitals and 2,300 primary health centres by 2030. Through the various Vision 2030 programs, the Kingdom seeks to introduce new strategies to fulfil public health needs through insurance-based financing and increasing private sector participation.

April 2021 marked the completion of the first five years of Vision 2030. Set out below, we review the current status of the various programs and initiatives and provide an overview of the industry in Saudi Arabia.

Healthcare Clusters

As part of Vision 2030 and the MOH's Healthcare Transformation Strategy, the Saudi Ministry of Health ('**MOH**') is migrating all existing MOH providers into healthcare clusters, which will amount to approximately 20 – 30 geographically defined, vertically integrated, "Accountable Care Organisations", serving around 1-2 million people each. These clusters will be established as "corporatized" public bodies, with substantial and defined decision rights. This strategy was drawn widely from the NHS experience in corporatizing public healthcare providers.

As of early 2022, 20 health clusters were launched across the Kingdom. Healthcare clusters have already begun issuing tenders and contracts for private companies to provide consulting services to assist the formation, management, and operation of these clusters and their facilities. The goals of decentralisation and clustering public health service delivery is to increase competition, transparency, and efficiency as health clusters compete with each other as well as the private sector for clients and health care professionals.

Opening the doors to the private sector

Saudi Arabia's national healthcare system, where the government is responsible for both the financing of health care and its delivery, is largely publicly financed. The MOH is the largest provider of healthcare in the Kingdom, accounting for approximately 60 per cent of healthcare services, delivered at three levels: primary, secondary and tertiary. The other governmental healthcare providers (such as the Saudi Arabian National Guard and the Ministry of Defence and Aviation) provide comprehensive health services to their targeted population, usually employees and their dependents, and represent around 20 per cent of health services. The private sector provides the final 20 per cent of the healthcare services in Saudi Arabia, but we expect this to increase due to a variety of factors discussed in this chapter.

The Saudi government views healthcare as the sector with the best privatisation potential; consequently a restructure of the public sector is underway, through decentralisation and digitalisation initiatives, with the goals of increasing efficiency and reducing costs. Simultaneously, privatisation of public health services is ongoing, aiming to create a more competitive health care environment to attract investment and improve service delivery and outcomes. Saudi is seeking to make increased use of private healthcare provision and develop third sector organisations (such as charities and nongovernmental organizations) to cover gaps in the healthcare system.

We have also seen a shift towards public-private partnerships ('**PPP**') and build-operate-transfer ('**BOT**') contracts. An array of regulatory and legal reforms have been made in recent years to accommodate more foreign investment and PPPs. Of particular highlight is the 2019 Private Health Institutions Law, which newly permitted foreign investors to own, operate, and manage hospitals and health centres in the Kingdom through PPPs and BOT models. While private sector contribution to publicly funded projects is not new within Saudi, it had traditionally been largely restricted to certain sectors, and not permitted in healthcare. Further, the MOH now permits foreign ownership of hospitals and medical centres, if certain foreign investment requirements are met.

Additionally, in March 2021 the National Center for Privatization & PPP ('**NCP**') issued the regulatory base for private sector participation and PPPs in KSA – the Private Sector Participation Law and its implementing regulations ('**PSP Law**'). The PSP Law aims to increase private sector participation in infrastructure projects and in the provision of public services to citizens and residents, through PPPs and the privatization of public sector assets. All contractual relationships between the public and private sector that relate to infrastructure or the delivery of public services are covered by the PSP Law, if they meet the following parameters:

1. a term of five years or more;
2. the private sector's obligations include two or more of the following types of work: design, construction, management, operation, maintenance or finance of the assets, whether those assets are government-owned, or owned by the private sector party, or both;
3. there is quantitative or qualitative distribution of risks between the parties; and
4. payments owed by or to the private sector party are primarily performance-based.

Another highlight of the PSP Law is that it permits international arbitration as a dispute resolution forum. One of the challenges to foreign direct investment in Saudi Arabia was typically that foreign parties were unable to subject their government contract disputes to binding international arbitration. The PSP Law allows PPP contracts to specify that disputes arising out of such contracts will be referred to arbitration. The Board of Directors of the NCP is specifically provided authority to: approve the inclusion of an arbitration clause in the PPP contract; enter into an arbitration agreement to settle an existing dispute arising from the PPP project; or approve the inclusion of an arbitration agreement or clause specifying a foreign law to be the governing law for the subject matter of the dispute.

Further, the Kingdom has recorded a continuous rise of foreign investment licenses despite the negative effect of the COVID-19 pandemic on international investment sector. There was an over 250 per cent

increase in investment licenses issued by the Ministry of

Investment in 2021, compared with the previous year. The percentage of joint investment licenses between Saudi and foreign investors, as compared to total licenses, was 27 per cent for the first half of 2020, and 45 per cent for the first half of 2021, accounting to NTP's Annual Report 2021.

Privitization Program

Falling under Vision 2030, Saudi's Privatization Program was launched in 2018 in order to identify government assets and services that can be privatized in a number of sectors, including healthcare. At the launch of the Privatization Program, the Privatization Supervisory Committee performed a full scale study of the health sector, identifying nine different areas that would benefit from privatization and/or a PPP. The areas include the development of: health centres; hospital operations; new medical cities; radiology services; rehabilitation and extended care; home care; laboratories; pharmacies; and health care logistics.

The NCP was also established and is responsible for enabling the Privatization Program, including issuing regulations, creating the strategic framework for privatisation, and advancing the government assets and services earmarked for privatisation. As discussed above, the NCP issued the regulatory base for private sector participation and PPPs in KSA – the PSP Law.

Other responsibilities of the NCP include tendering various privatization initiatives including those for: the Saudi MOH; the Saudi Health Council; and the King Faisal Specialist Hospital and Research Center. Below we highlight some of the recent tenders.

Ministry of Health PPP's

PPP's are one of the main pillars for driving reform in the Kingdom. The MOH has issued a number of opportunities through its PPP program, charged with increasing private sector involvement in eight strategic areas: primary care; hospital commissioning; the construction of medical cities; rehabilitation; radiology; long-term care; home care; and laboratories.

Set out below is a recap of recent PPPs and privitisation activities in healthcare, issued through the NCP.

- Behavioural Health PPP

The most recent project initiated was for a 15 year contract concerning the clinical and non-clinical operations and maintenance of SABIC Behavioural Care Specialist Hospital within the Second Health Cluster. Expressions of interest ('**EOI**') were due 20 January 2022.

Construction of the 150 bed hospital is being undertaken on a 62,500 square meter area and is expected to be completed in 2022. The MOH sought private-sector operators who are specialized in behavioural health to operate clinical and non-clinical operations, as well as to provide certain medical and non-medical equipment, under a PPP model.

- Medical Cities PPP

Also in 2022, a health facility PPP was announced – under a model of design, build, finance, operate (with no clinical operations), maintain, and Transfer – for two medical cities: King Faisal Medical City in Abha ('**KFMC**') and Prince Mohammed Bin Abdulaziz Medical City in Al-Jouf ('**PMMC**'). The proposed bed capacity was 1,024 for KFMC and 442 for PMMC, with both medical cities proposed to be brownfield projects with partially constructed structures.

- Alansar Hospital PPP

The first hospital transaction under the Privatization Program was initiated in 2020, when the MOH announced the Alansar Hospital PPP, for the construction of the hospital under a build, maintain, and transfer model (including design, build, equipment procurement, operations and maintenance). The new Alansar Hospital was proposed to be located in Almadinah Almunawwarah with a planned clinical capacity of to 244 beds, which exceeds the clinical capacity of the previous facility by 170%, with annual visits expected to be beyond 400,000 visits for the new hospital. NCP received 87 responses to the EOI and nine consortiums and companies were prequalified for the project. We understand that the initiative is in an “advanced stage” and should be awarded soon, with the project slated for completion by the third quarter of 2025.

- Radiology & Medical Imaging / Tele-radiology Services PPP

The first support services PPP launched by the MOH through the Vision Realisation Offices, supported by the NCP, was the Radiology & Medical Imaging Services PPP, announced in 2019. This PPP is a pilot intended to supply and operate radiological services and medical nuclear imaging services in addition to increasing efficiency and utilization of an existing selected network of seven public hospitals in Riyadh. In December 2021, the MOH announced seven qualified companies/consortiums eligible to participate in the RFP proposal submission stage. The PPP is expected to establish the first remote radiological operation and reading service serving to interconnect the targeted hospitals, with King Fahad Medical City acting as the hub.

- Saudia Medical Services Company

The privatization of Saudia Medical Services Company (**‘SMS’**), a subsidiary of Saudi Arabian Airlines, was completed in 2020 through the sale of a majority stake in SMS to Dr. Soliman Abdel Kader Fakeeh Hospital Company. The transaction was the first privatization of a government-owned healthcare entity, which included the corporatization and restructuring of SMS from a cost center that was operated by Saudi Arabian Airlines into an independent, commercially-managed healthcare entity, which will provide healthcare services to the beneficiaries of Saudi Arabian Airlines, estimated to be over 140,000 employees and dependents.

Health Sector Transformation Program:

Launched in 2021 and established under the Kingdom’s Vision 2030, the Health Sector Transformation Program (**‘HSTP’**) was originally under the Vision Realisation Office (**‘VRO’**) of the MOH. Now, it has been established as a national program (with the healthcare related objectives of the National Transformation Program (**‘NTP’**) transferred to HSTP) with the goals of restructuring the Saudi health sector, ensuring continued development of healthcare services in the Kingdom, founded on the principle of value-based care.

The program also aims to facilitate citizen’s access to free health and healthcare services and insurance by guaranteeing fair and comprehensive geographical coverage across all regions of the Kingdom, expanding e-health services and digital solutions, and improving the quality of healthcare delivery. Under its priority initiatives built upon the lessons learned from the pandemic is the national e-health initiative.

Already, we have seen the implementation of digitisation in the health sector and launching of a package of applications, spurred forward by the pandemic. The National Platform for Healthcare Information Exchange Services (**‘NPHIES’**) was launched in January 2021 by the CCHI for a phased adoption by health insurers. NPHIES is set to become the only means of communication between payers and providers in respect of health insurance transactions. Further, the ‘Sehha’ app launched in 2017 to provide remote medical and preventive care to users; remote medical services were made available in 2019 for COVID-19 vaccinations, testing, and information through the ‘Sehhaty’ app; and the appointment booking application ‘Mawid’, launched in 2018, acts as the Central Appointment System for the MOH. Further, the ‘Wasfaty’ service was launched in 2020 and links hospitals and primary healthcare centers with community

pharmacies, to provide electronic prescriptions.

The HSTP will work on enabling comprehensive transformation in the sector and its restructuring, adopting the principle of value-based care aimed at ensuring transparency and improving health services. The program will focus on boosting public health and disease prevention, in addition to improving access to health services through optimal coverage, comprehensive and equitable geographical distribution, and expanding the provision of e-health services.

Not-for-Profit Privatisation:

Under the above-mentioned Privatisation Program's study, it was concluded that King Faisal Specialist Hospital & Research Centre ('**KFSHRC**') should be turned into a not-for-profit organization working to advance specialised healthcare and medical research as well as enhance patient experience. In 2021 by Royal Decree, the centre was turned into an independent, non-profit institution, establishing it as a wholly independent financially sustainable and professionally governed entity, in line with Vision 2030 objectives. The road to completion of this transformation included corporatisation (completed in December 2021), operational transformation (ongoing, but expected to be completed in December 2023), and establishment of an investment arm to maintain revenue generation in the long-term.

With the introduction of the concept on non-profit companies into the law in 2020, permitting them to operate as joint-stock or limited liability companies, and the inclusion of an enhanced non-profit sector in Vision 2030, we expect further activity in this space.

Public Investment Fund Program

The Public Investment Fund ('**PIF**') is considered Saudi Arabia's Sovereign Wealth Fund, a pivotal factor in achieving the Kingdom's Vision 2030. PIF has established more than 30 companies across 10 strategic sectors to grow PIF assets. The PIF Program was launched in the fourth quarter of 2017 with the aim of strengthening the fund's position and making it an essential arm to achieve the Kingdom's Vision 2030.

To such end, PIF established the National Unified Procurement Company ('**NUPCO**') in order to aid in localizing the pharma industry in Saudi Arabia by mandating that NUPCO is the strategic purchasing unit in the medical field. It provides procurement and logistics services to secure pharmaceutical supplies and medical devices for the Kingdom's public health sector, with the goal of boosting the efficiency of government spending in the health sector. Only prequalified companies are invited to submit bids for NUPCO tenders. To become prequalified, foreign companies must register their company with NUPCO in addition to registering their medical products – both pharmaceuticals and medical devices – with the SFDA.

Health Insurance

Medical insurance is already compulsory for expatriates and Saudi nationals (and their dependents) working within the private sector. Citizens working within the public sector currently receive free coverage in government health care centres and public hospitals. Further, the comprehensive pilgrim's health insurance project provides comprehensive insurance coverage in the case of accident, disaster or health emergency.

A key program of the MOH VRO related to health insurance and purchasing of healthcare services. With the primary objective of achieving universal health coverage, this new strategy for the health financing system in the KSA aims to introduce a Health Insurance and Health Service Procurement Program for: 1) strategic purchase of health care services; 2) evaluation of health cost-based risks; and 3) facilitating a restructuring of KSA's network of healthcare providers.

Further to separating the payer and provider functions in the public healthcare sector and to facilitate

future reimbursement to public healthcare providers, the MOH set up the Program for Health Assurance and Purchasing ('**PHAP**'). PHAP will become the new payer for healthcare services in MoH and will serve as the Center for National Health Insurance.

Concluding thoughts

These reforms have opened the door to privatisation across the sector and we expect a rapid increase in private sector investment in Saudi Arabia. In the short term, PPP opportunities are likely to be focused on consultancies, construction, and operation of new facilities, with the privatisation of existing public facilities following later in the coming decade. Joint ventures in the private sector are also on the rise, with a number setting their sights on acquiring and developing facilities.

Al Tamimi & Company's Healthcare Practice regularly advises on laws and regulations impacting the healthcare and life sciences sectors across the MENA region. For further information please contact (healthcare@tamimi.com).