



PAIA and POPIA Manual

THIS MANUAL WAS PREPARED IN ACCORDANCE WITH SECTION 14 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000 ("PAIA") AND TO ADDRESS THE REQUIREMENTS OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 ("POPIA")

Registered Office Address:

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1. Introduction

The promotion of Access to Information Act, 2000, as amended, (the “Act”) gives third parties the right to approach public bodies to request information held by them, which is required in the exercise and/or protection of any rights. On request, the public body is obliged to release such information unless the Act expressly states that the records containing such information may or must not be released. This manual informs requestors of procedural and other requirements which a request must meet as prescribed by the Act, and further incorporates or addresses the requirements of the Protection of Personal Information Act, 2013 (“POPIA”)

2. Establishment of the Council

The Health Professions Council of South Africa (HPCSA or the Council) is a statutory body, established in terms of the Health Professions Act, 1974, to regulate Health Practitioners and the professions in matters related to Education & Training, Registration, Professional Practice & Professional Conduct and Continuing Professional Development.

3. Structure and Functions

The highest governance structure at HPCSA is the Council, constituted in terms of section 5 of the Act, which has 11 Committees established in terms of section 10, and then there are 12 Professional Boards under the auspices of the Health Professions Council of South Africa. HPCSA’s function, *inter alia*, is to provide control over the training, registration and practices of practitioners of the Health Professions by setting standards for the practices of the Registrable Professions. It is further empowered in terms of the Health Professions Act, to investigate complaints of unprofessional conduct lodged by members of the public against Registered Practitioners for unprofessional conduct. The Professional Boards falling under the Health Professions Council of South Africa are:

- 3.1 Professional Board for Dental Therapy and Oral Hygiene;
- 3.2 Professional Board for Dietetics;
- 3.3 Professional Board for Emergency Care Practitioners;
- 3.4 Professional Board for Environmental Health Practitioners;

- 3.5 Medical & Dental Professions Board;
- 3.6 Professional Board for Medical Technology;
- 3.7 Professional Board for Occupational Therapy and Medical Orthotics/Prosthetics;
- 3.8 Professional Board for Optometry and Dispensing Opticians;
- 3.9 Professional Board for Physiotherapy, Podiatry and Biokinetic;
- 3.10 Professional Board for Psychology;
- 3.11 Professional Board for Radiography and Clinical Technology;
- 3.12 Professional Board for Speech, Language and Hearing;

4. Information Officer and Deputy Information Officers.

- (a) The Information Officer of the Health Professions Council of South Africa is:

Registrar/CEO: Dr Munyadziwa Kwindu
Physical address: 553 Madiba Street
Arcadia
Pretoria, 0083
Postal address: P O Box 205
Pretoria, 0001
Telephone number: +27 (0)12 338 3921/9320
Fax number: +27 (0)12 338 9476/1594
Email address: MunyadziwaK@hpcsa.co.za
CC: SadickaB@hpcsa.co.za

- (b) The Deputy Information Officers of the HPCSA, whose physical and postal addresses is the same as those of the Information Officer above are:

(i) Head of Division: Information Technology: Ms Vuyo Nqaba
Telephone number: +27 (0)12 338 9462
Email address: VuyoN@hpcsa.co.za

(ii) Helpdesk Administrator:	Yvette Daffue
Telephone number:	+27 (0)12 338 9354
Email address:	YvetteD@hpcs.co.za

5. South African Human Rights Commission Guide

A guide to the Act (as contemplated under section 10 of the Act) is available from the South African Human Rights Commission. The guide contains such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act. Any enquiries regarding this guide and its contents should be directed to:

The South African Human Rights Commission:
 Postal address: Private Bag 2700, Houghton, 2041
 Telephone: +27 (0)11 877 3600 (Switchboard)
 Website: www.sahrc.org.za
 General information: info@sahrc.org.za
 Complaints: complaints@sahrc.org.za

6. Records held by the HPCSA

6.1 Core Operations Department

- (a) Registers of all practitioners according to the professions registered under the various boards;
- (b) Names of accreditors and accredited service providers of Continuing Professional Development (CPD) and their accreditation numbers, and records of Continuing Educational Units (CEUs) allocated to the CPD activities;
- (c) Registration Regulations and Rules ;
- (d) Personal files of all practitioners registered with the HPCSA;
- (e) Prescribed forms;
- (f) Accreditation agreements between the Boards and the various service providers;
- (g) Evaluation reports and evaluation guidelines for all Boards;
- (h) Board Examination results for all Boards; and
- (i) Handbooks on internship training;

- (j) Ethical rules and rulings;
- (k) Ethical guidelines
- (l) Database of approved internship programmes.

6.2 Finance & Supply Chain Management Department

- a) Audited financial statements;
- b) Accounting records Including Subledgers, General ledgers and Trial balances;
- c) Bank Statements;
- d) Bank and other reconciliations;
- e) Payment files including supporting documentation;
- f) Statutory returns;
- g) Contracts or Service Level Agreements;
- h) Receipt Books;
- i) Budget;
- j) Tender documents;
- k) Road Accident Fund documentation; and
- l) Revenue invoice supporting documentation.

6.3 Executive Company Secretariat Division

- (a) Information booklets;
- (b) Regulations for each profession;
- (c) Minutes of meetings of Council, the Boards, Committees of the Board and Council;
and
- (d) Policy documents adopted by the Boards.

6.4 Corporate Affairs Division

- (a) Annual reports;
- (b) Media statements;
- (c) Electronic Newsletter to practitioners (e- bulletin);
- (d) Bulletin;
- (e) Boards-specific Newsletters;
- (f) Pamphlets; and
- (g) Health Professions Act.

6.5 Legal and Regulatory Affairs Department

- (a) Information gathered during the investigation and adjudication of complaints;
- (b) Record of proceedings of all Professional Conduct cases;
- (c) Record of all litigation matters;
- (d) Schedule of all Regulations;
- (e) Charge sheets;
- (f) Record of matters resolved through Mediation;
- (g) Inspection Reports; and
- (h) Outcomes of Professional Conduct cases and Prelim Committees Resolutions.

6.6 Human Resources Division

- (a) Employment contracts;
- (b) Employment Equity Plan; (if applicable)
- (c) Disciplinary records;
- (d) Salary records;
- (e) Disciplinary code;
- (f) Leave records;
- (g) Policies
- (h) Training records; and
- (i) Training Manuals.

6.7 Office of the Registrar Department.

- (a) Schedule of Memorandum Of Understanding (MOU)'s with external parties;
- (b) Minutes of the management structures;

- (c) Audit Reports;
- (d) Strategic documents

6.8 Records available without a formal request

The following records are available on payment of the prescribed fees for copies without completing the prescribed form in terms of the Act. Requests for such records must be directed to the Information Officer or the Deputy Information Officers in writing whose details are provided above:

- (a) Bulletin;
- (b) Newsletters
- (c) Regulations, Ethical Rules and Guidelines Booklets;
- (d) Forms for lodging complaints; (free of charge)
- (e) General information brochures; (free of charge) and
- (f) CPD Brochures

7. Access to records & Procedure for requesting access to information

Records held by the public body may be accessed on request only once the requirements for request for access have been met. A requester in terms of the Act means: (i) any person making a request to access the record of that public body; or a person acting on behalf of the person referred to in subparagraph (i). The Act distinguishes between two types of requesters, however this Manual includes a third type of a requester:

(a) Personal Requester

A personal requester is a requester who is seeking access to a record containing personal information. Subject to the provisions of the Act and applicable law, HPCSA will provide the requested information, or give access to any record regarding the requested personal information. The prescribed fee for reproduction of the information requested will be charged as prescribed in the Act.

(b) Other Requester

This requester (other than a personal requester) is entitled to request access to information pertaining to third parties. However, the HPCSA is not obliged to grant access prior to the requester fulfilling the requirements for access in terms of the Act and any other applicable law. The prescribed fee for reproduction of the information requested will be charged.

(c) Recognised and Pre-Approved Data Requester

This requester has been recognised and pre-approved to make data supply request and includes:

- 1) Registered Students or Health Professionals for non-profit generating Academic Research
- 2) Health Profession affiliated Organizations, Societies or Associations and Accredited Academic Institutions
- 3) Non-profit-generating Research Projects for individuals or Organizations
- 4) Pharmacists & Pharmaceutical Supply Companies In respect of:
 - a. Withdrawal of Medications; and
 - b. Issuing of Vital Medicine Safety Notices and/or Warnings.

This type of Requester must follow **ANNEXURE A** for data requests, which are HPCSA approved GUIDELINES FOR THE DISTRIBUTION / SUPPLY OF: REGISTRATION AND PERSONAL POSTAL ADDRESS INFORMATION OF STUDENTS AND HEALTH PROFESSIONALS REGISTERED WITH THE HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA.

NB: The following procedure below does not apply to the Recognised and Pre-Approved Data Requester, only ANNEXURE A applies.

Procedure:

A requester must comply with all the procedural requirements contained in the Act relating to a request for access to a record. To request information, attached [Form A](#) must be completed and

sent to the Information Officer of the HPCSA or /her Deputy at the postal or physical address, fax number or electronic mail address stated above. The record requested will be furnished on payment of the prescribed fee, in instances where request for information fees are levied, and a proof of deposit may be requested from the requester in respect of the access fee. The prescribed form must be filled in with enough particularity to at least enable the information officer to identify:

- The record or records requested;
- The identity of the requester;
- What form of access is required; and
- The postal, electronic mail address or fax number of the requester.

A requester must state that he or she requires the information in order to exercise or protect the right, and clearly state what the nature of the right to be exercised or protected is. The requester must also provide an explanation as to why the requested record is required to exercise or protect that right.

The HPCSA will process a request within the required time as prescribed in the Act, unless the requestor has stated special reasons which would satisfy the Information Officer or his/her Deputy that circumstances dictate that this time period not be complied with.

The requester will be informed in writing whether access has been granted or denied. If, in addition, the requester requires reasons for the decision in any other manner, he or she must state in writing the manner and the particulars required.

If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the Information Officer or her Deputy.

If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the Information Officer or her Deputy and/or should a requester require the assistance of the Information officer or her Deputy in obtaining any record held by the HPCSA, such assistance will be provided by the Information Officer or her Deputy.

Upon receipt of the request, where applicable, the Information Officer or her Deputy will inform any third party affected by the request within 21 days of receipt of the request. The third party must inform the Information Officer or her Deputy why such information should not be made available to the requester within a specified period of time.

Decision:

The HPCSA shall, within 30 days of receipt of a request, decide whether to grant or decline a request and give notice with reasons (if required) to that effect. The 30-day period within which HPCSA must decide whether to grant or refuse a request, may be extended for a further period of not more than 30 days if the request is for a large quantity of information, or the request requires a search for information held at another office of HPCSA (other than the Head Office) and the information cannot reasonably be obtained within the original 30-day period. The Information Officer will notify the requester in writing should an extension be necessary.

8. Fees

The Act provides for two types of fees:

- a request fee, which will be a standard fee, and an
- access fee, which must be calculated by considering reproduction costs, search and preparation time and cost, as well as postal costs where applicable.

When a request is received by the Information Officer, the Information Officer or his/her Deputy shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before further processing of the request. If a search for the record is necessary and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the Information Officer or her Deputy shall notify the requester to pay as a deposit the prescribed portion (being not more than one third) of the access fee which would be payable if the request is granted.

The Information Officer or his/her Deputy shall withhold a record until the requester has paid the fee or fees as indicated. A requester whose request for access to a record has been granted,

must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the requested form. If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer will repay the deposit to the requester.

9. Processing of Personal Information.

9.1 Purpose of Processing

The HPCSA uses the Personal Information under its care in the following ways:

- Administration of the register for Registered Practitioners;
- Managing the Continuing Professional Development (“CPD”) database of practitioners;
- Staff administration;
- Keeping of accounts and records;
- Complying with tax laws and other applicable laws; and
- Any other relevant administrative purposes in terms of any other law, code or standard.

9.2 Categories of Data Subjects and their Personal Information

HPCSA may possess or possesses records relating to clients/practitioners, suppliers, council and board members, contractors, service providers, members of the public who lodged complaints against Health Practitioners and staff:

Data Subject Category	Personal Information Processed
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Natural Persons	Names; contact details; physical and postal addresses; date of birth; ID number; Passport number; Tax related information; nationality; gender; confidential correspondence
Juristic Persons / Entities	Names of contact persons; Name of Legal Entity; Physical and Postal address and contact details; Financial information; Registration Number; Founding documents; Tax related information; authorised signatories, beneficiaries, ultimate beneficial owners
Contracted Service Providers	Names of contact persons; Name of Legal Entity; Physical and Postal address and contact details; Financial information; Registration Number; Founding documents; Tax related information; authorised signatories, beneficiaries, ultimate beneficial owners
Employees / Board & Council Members	Gender; Marital Status; Ethnicity; Age; Home Language, Education information; Financial Information; Employment History; ID number; Physical and Postal address; Contact details; Opinions, Criminal behaviour; Well-being.

9.3 Categories of Recipients for Processing the Personal Information

HPCSA may supply the Personal Information to service providers who render the following services:

- Capturing and organising of data;
- Storing of data;
- Sending of emails and other correspondence to stakeholders;
- Conducting due diligence checks;
- Administration Assistance.

9.4 Actual or Planned Trans-Border Flows of Personal Information

HPCSA may share personal information with International Regulators or Associations on an ad hoc basis and in particular for vetting purposes.

9.4 General Description of Information Security Measures

HPCSA employs up to date technology to ensure the confidentiality, integrity and availability of the Personal Information under its care. Measures include:

- Firewalls
- Virus protection software and update protocols
- Secure access control;
- Secure setup of hardware and software making up the IT infrastructure;
- Outsourced Service Providers who process Personal Information on behalf of
- Council are contracted to implement security controls.
- Non-Disclosure Agreements

10. Grounds for refusal

The Information Officer or Deputy may refuse a request for information for the following reasons:

- (a) Where the disclosure would amount to an unreasonable disclosure of personal information;
- (b) Where the disclosure would amount to disclosure of the trade secrets of a third party;
- (c) Where the disclosure would lead to a revelation of financial, commercial, scientific or technical information of a third party;
- (d) Where such information was supplied in confidence by a third party;
- (e) Where the disclosure would breach the duty of confidence owed to a third party;
- (f) Where the disclosure would endanger the life or physical safety of an individual;
- (g) If the disclosure is prohibited under the Criminal Procedure Act;
- (h) If the disclosure is privileged under legal proceedings or research conducted by or on behalf of a third party; and
- (i) Where the disclosure would compromise the investigation where proceedings are pending.

10.1 The following grounds of discretionary refusal will apply:

- (a) Where the disclosure of such information relating to a third party would prejudice the supply of similar information in the future;
- (b) Where the record contains information around crime prevention, detection and prosecution of alleged offenders;
- (c) Where the disclosure would unreasonably reveal consultative material obtained on account of deliberations over formulation of policy, exercise of power or performance of a duty; and
- (d) Where the request is frivolous or vexatious.

11. Remedies Available If Request for Information Is Refused

Internal Remedies

The HPCSA does not have an internal appeal procedure. As such, the decision made by the Information Officer or Deputy pertaining to a request is final, and requestors shall have to exercise such external remedies at their disposal if a request is refused, and the requestor is not satisfied with the response provided by the information officer or deputy.

External Remedies

A requestor that is dissatisfied with the Information Officer or Deputy's refusal to disclose information, may within 180 days of notification of the decision, apply to a court for relief. Likewise, a third party dissatisfied with the Information Officer or Deputy's decision to grant a request for information, may within 180 days of notification of the decision, apply to a court for relief. For purposes of the Act, a court application must be lodged with a High Court or another court having jurisdiction.

12. Availability of the manual

The HPCSA's manual is available for inspection, on reasonable prior notice, free of charge, at the registered address stated above and further published on the HPCSA's website. Further copies are also available from the South African Human Rights Commission as provided in the Act.

SIGNED ON THIS _____ DAY OF _____ 20____

Dr MA Kwindu

ACTING REGISTRAR/CEO

APPROVED