

PAIA MANUAL FOR PRACTICE

Promotion of Access to Information Act No. 2, February 2000 (PAIA)



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")

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").

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1. INTRODUCTION TO THE PRACTICE

Natalie Peta Buttress trading as *NB Hearing* is a Solus Practice, which is conducted in accordance with the requirements of the Health Professions Act 56 of 1974 and is subject to the authority of the Health Professions Council of South Africa (hereinafter referred to as the "HPCSA").

The practice was established in Cape Town in 2001. It is a patient-centred hearing and balance practice, caring for the rehabilitation of function in people with peripheral and central hearing and balance difficulties. The practice provides comprehensive Audiology and Vestibular assessment and intervention services within the Private Sector. The clinical practitioners employed by the practice (hereinafter referred to as *Associates* of the practice) are registered at the HPCSA as Audiologist and/or Speech-Language Therapist and provide a range of services within the scope and ambit of their registration, competence, and training, aligned as this is with their Job Description, set out in their Employment Contract.

The Head Office of the practice is situated at the above address in Sea Point.

Branches of the practice are:

- Prince Alfred House, 35 Waterloo Road, Wynberg 7880
- 9 MediHouse, Wellington Park, Wellington Road, Durbanville 7550

Itinerant practice activities occur:

- Longbeach Medical Centre, Carlton Close, Noordhoek, 7975
- 155 Empire Avenue, Hout Bay, 7806

The Associates are bound by the Ethical Rules published by the HPCSA, including (but not limited to) the duty to preserve patient confidentiality. With respect to the legislation this means that a practice must achieve a balance between legitimate and reasonable access to the records of the patients and protection of their personal privacy.

2. **CONTACT DETAILS**

PRACTICE INFORMATION

Practice Name: Natalie Buttress Audiologists T/A NB Hearing
Registration Number: N/A
Head of the Practice: Natalie Peta Buttress
Practice Manager: Sharon Hibbert
Physical Address: 5 Sea Point Medical Centre
11 Kloof Road
Sea Point
8005
Postal Address: 5 Sea Point Medical Centre
11 Kloof Road
Sea Point
8005
Telephone Number: +27 (0)21 203 4327
E-mail address: natalie@nb-hearing.co.za
Website address: www.nb-hearing.co.za

INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

The Information Officer of the Practice is:

Owner: Natalie Peta Buttress
Physical address: 5 Sea Point Medical Centre
11 Kloof Road
Sea Point
8005
Postal address: As above
Telephone number: +27 (0)21 203 4327
Email address: natalie@nb-hearing.co.za

The Deputy Information Officer whose physical and postal address is the same as those of the Information Officer is:

Administrator: Charlene Swanepoel
Durbanville:
Telephone number: +27 (0)21 203 4327
Email address: charlene@nb-hearing.co.za

3. HUMAN RIGHTS COMMISSION GUIDE

The South African Human Rights Commission ("SAHRC") and the Information Regulator have compiled a Guide, in terms of Section 10 of the Promotion of Access to Information Act (Act 2 of 2000) ("PAIA"), to assist persons wishing to exercise their rights to access data records in terms of this Act. This Guide is available in all the official languages and contains, amongst others, the following information:

The purpose of the Act (PAIA):

- Particulars of the information officer of every public body;
- Particulars of every private body as are practicable;
- The manner and form of a request for access to information held by a body;
- Assistance available from both the information officers and the Human Rights Commission in terms of this Act;
- All remedies in law regarding acts, omissions, rights and duties, including how to lodge an internal appeal and a court application;
- Schedules of fees to be paid in relation to requests for access to information;
- Regulations made in terms of the Act.
- The manner, form and costs of a request for access to information held by a body;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the national, provincial, and local government.

Any person wishing to obtain the Guide may either access it through the website of the SAHRC at:

<https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf>

or should contact the Information Regulator at:

INFORMATION REGULATOR

Physical address: JD House
27 Stiemens Street
Braamfontein
Johannesburg
2001

Postal address: PO Box 31533
Braamfontein
Johannesburg
2017

Telephone Number: +27 (0) 10 023 5207 / +27 (0) 82 746 4173

E-mail address: infoereg@justice.gov.za

Website address: <https://www.justice.gov.za/infoereg/>

The practice acknowledges the Rights of patients set out in the SA Constitution, 1996, and other relevant legislation. The practice fulfils its obligations to patients through the Duties set out in the relevant practice documents. Practice procedures regarding Good Practice, Ethical Practice, Informed Consent, Confidentiality and Keeping of Records are consistent with the published Guidelines of the Health Professions Council of South Africa (Booklets 1, 2, 3, 4, 5, 9).

4. INFORMATION AVAILABLE FROM THE PRACTICE IN TERMS OF THE ACT

4.1 PRACTICE STRUCTURE, ASSETS, ACTIVITIES, PROCESSES AND RECORDS

4.1.1 Information relating to the form of practice (business modality):

The practice is a Solus Practice trading as *NB Hearing*. There is a founding document on record. The Owner's registration to practice is held at the Health Professions Council of South Africa under the Speech Therapy and Audiology register, STA 13846; there is a copy of the original registration certificate and the annual renewal registration card on site at the primary practice. The practice is registered with the Board of Healthcare Funders PCNS 8212740. NB Hearing employs administrative and professional personnel to perform the functions of the business and the clinical services.

4.1.2 Information relating to governance and management of the practice:

Practice governance is set out in the Practice Manual: the Owner of the practice is the Director and is also the Information Officer. There is a Practice Manager who is the authorised Deputy Information Officer. These two are the keepers of the data/information in the practice. To ensure *efficient management* and facilitate democratic debate and discussion, monthly meetings are conducted on the last Friday of each month (online/virtual) under the direction of the Owner. Minutes of the monthly practice meetings are recorded by the Practice Manager and captured electronically. Relevant records of these management processes and procedures are:

The Practice Manual records the establishment of the practice; sets out operating procedures for the members of the practice; incorporates a set of Data Sheets, Consents, Guidelines and Clinical Documents; there is a separate set of Consents and Agreements for hearing aid dispensing.

A Practice Register to record practice activities and processes for each employee, is held for:

- Leave taken (Annual, Sick, Compassionate, Unpaid);
- Attendance records;
- Training and skills development, internal and external;
- Annual performance review;
- Performance management plan;
- Additional personal meetings requested by the Owner or the employee;
- Access to data subjects' records;
- Personal data (see section 8.1 below)

4.1.3 Information relating to occupational health and safety:

A practice keeps a Safety Manual and delegates a member of the practice as its Safety Officer.

- Safety Officer's mandate from the Owner;
- Inventory of safety related equipment (fire hydrants, sterile disposal and waste)
- Infection control guideline;
- Evacuation plan in the event of fire or flood;
- Health and safety incident reports.

4.1.4 Information relating to fixed and moveable assets:

This is information that refers to the property in which the activities of the practice are conducted, fittings and furnishings, equipment and supplies to enable the operations of the practice. It is held in an Asset Register.

- Title deeds of fixed property owned by the Practice;
- Servitude records for fixed property;
- Mortgage records;
- Lease of the property in which the practice is conducted;
- Leases for moveable property of the practice;
- Asset register of furniture and equipment;
- Purchase records;
- Financing and lease agreements;
- Sale and purchase agreements;
- Stock sheets;
- Orders of saleable goods and delivery notes.

4.1.5 Information relating to agreements with third parties:

There are various agreements entered into between the practice and third parties. They are held in the Contracts File.

- Suppliers of equipment (creditors) and associated Service Level Agreements;
- Information technology services and support including software and data management systems;
- Service Provider agreements with Medical Aids.
- Research trial participation contracts.

4.1.6 Information for circulation in the public domain:

The practice publishes and circulates information electronically to its patient database, colleagues and the public as follows.

- Documents published in the public domain on the website;
- Practice newsletters, blogs, vlogs;
- Practice update communications;
- Product information;
- Professional Associations' newsletters or information updates.

4.1.7 Information relating to any legal actions or involvement:

Should there be any complaints or claims against the practice or its associates a detailed record is held in the practice. These are held in the Legal Matters File.

- Complaints against the practice or individual practitioners;
- Legal opinions and advice;
- Record of briefs, representation, pleadings, and other documents pertaining to any actual, pending or threatened litigation;
- Record of any actions under the domain of the Labour Relations Act No 66 of 1995 and subsequent amendments, subsequent mediation and arbitration.

4.1.8 Information relating to insurance:

A practice insures its property and people as well as taking care of the interests of its patients. The following policies are available on the premises and are to be found in the Contracts File.

- Comprehensive policies for premises and contents thereof including public liability;
- Short term Insurance policies and related records;
- Professional indemnity policies;
- Historical record of any/all claims.

4.2 PERSONNEL INFORMATION AND RECORDS

4.2.1 Personnel

The practice holds personal information about all the personnel including the Owner, a registered Speech-Language Therapist and Audiologist. Three Audiologists and one Speech-Language Therapist/Audiologist are employed by NB Hearing. There is a Practice Manager at the primary practice and three General Administrators who provide services at the fixed venues identified in Paragraph 1.

The personal information on record is: full name/s, date of birth, identity number, race, gender, nationality and personal contact details.

The original Employment contracts of all the above personnel are held at the office of the primary practice in Sea Point. These are consistent with the requirements of the Labour Relations Act No. 66 of 1995 and its amendments and set out the terms and conditions of employment. Each person has a Job Description; employees are provided with a copy of the Practice Manual (including their workplace and clinical policies) on commencement of employment.

Regarding skills development, Continuing Professional Development is a requirement for Associates' renewal of annual registration with the HPCSA. Associates are required to accumulate 30 (Audiologists) or 60 (Speech-Language Therapist and Audiologist) credits per year. There is a register to record attendance at CPD events with a copy of the certificates of attendance and allocation of credits. The Owner of the practice facilitates skills development of the Administrative personnel, in consultation.

At year end a shared performance review takes place with all personnel and is recorded in the individual employee's file along with a performance management plan for the coming year.

A register of attendance, leave taken per year (Annual, Sick, Compassionate, Study, Unpaid) is on the premises in the Practice Register.

The information recorded in the following documents, that are on file at the primary practice, is held in the Employee Records File:

- Names and occupations of employees;
- Letters of appointment to the practice;
- Employment contracts including remuneration and benefits;
- Terms and conditions of employment including workplace policies;
- Statutory council registration and certificates of CPD compliance;
- Employment equity and skills development plans and reports;
- Performance management records;
- Relevant health information;
- Complaints and disciplinary records;
- Correspondence;
- Essential services permits;
- Record of requests for access to the files (hard copy or electronic) of data subjects'
- Signature of Information Officer on release and return.

If during a year there has been a need to recruit additional personnel, Administrative or Clinical, similar relevant information for each applicant is recorded in the Personnel Information Register.

4.2.2 Job Applicants

The same information set out for personnel, is collected from Job Applicants. Additionally, to assist the selection process the following information is required:

- Employment history and related information;
- Vetting reports;
- References;
- Relevant health information;
- COVID-19-related information;
- Relevant information on criminal behaviour;
- Interview schedule and notes;
- Correspondence relating to the interview and decision to employ or not.

Any documents arising from the recruitment or appointment process shall be held on the premises of the primary practice.

4.3 PATIENTS / DATA SUBJECTS

4.3.1 Patient records:

The patient records are made up of a hard copy and an electronic copy (secured and backed up) that capture the process from entry into the practice to discharge following completion of an intervention. The patient records include intake, history, assessment, findings and recommendations and consist of:

- Intake patient data form (personal details);*
- Fee schedule and acknowledgement of contents (settlement on conclusion of consultation or EFT payment);
- Request to submit account directly to Medical Aid and practice agreement to do so;
- Consent to initial consultation and procedures that may be required to reach a diagnosis;
- Consent to teleconsultation if indicated;
- Case history information including details of previous medical/health professions diagnoses, treatments and/or medication;**

- Incoming referral note *from* external health professional/s or other agent/s;
- Assessment, metrics, findings, interpretation;
- Recommendations to third party for special needs intervention;
- Recommendations for further intervention or medical device/s;
- Consent to proceed with further intervention or medical device/s;
- Motivations to Medical Aid to authorise medical device or long term therapeutic intervention;
- Third party documents to obtain medical device/s;
- Correspondence between practice and referring professional with findings and recommendations;
- Payment related records.

** Names and surnames; contact details; identity numbers; date of birth; race; gender; employers and their contact details; next-of-kin or significant other and their details;*

*** Health information, including diagnoses, procedures performed and special investigation reports (e.g. radiology reports, pathology results, etc.); medication; COVID-19-related information.*

4.3.2 Referrals:

- Referral correspondence to other health or education professional;
- Reports to relevant third parties (education, special needs, legal);
- Recommendations to third party for special needs or other intervention;
- Correspondence between practice and party to whom patient has been referred.

4.3.3 Research:

There is a formal process associated with the participation of a practice in a research trial or project. The records may be:

- Participation request and consent;
- Participant information and consent;
- Follow up correspondence;
- Closure notice on completion of the trial/project.

5. **PURPOSE OF PROCESSING PERSONAL INFORMATION**

The practice processes personal information of data subjects for the following purposes:

- 5.1** to conduct and manage the practice in accordance with the law, including the administration of the practice and claiming and collecting payment for services rendered;
- 5.2** for treatment and care of patients, including referrals to other practitioners and reporting to referring practitioners;
- 5.3** for communication purposes;
- 5.4** for the maintenance of practice records and patients' medical records;
- 5.5** for employment and related matters of employees and other practitioners;
- 5.6** for reporting to persons and bodies as required and authorised in terms of the law or by the data subjects;
- 5.7** for historical, statistical and research purposes;
- 5.8** for clinical trials;
- 5.9** for proof that what has been offered has been undertaken and completed;
- 5.10** for enforcement of the practice's rights; and/or
- 5.11** for any other lawful purpose related to the activities of the practice, *NB Hearing*.

6. POTENTIAL RECIPIENTS OF INFORMATION:

In processing patient information, the practice may share it with other parties directly involved with either the activities of the practice and the personnel, and the patient. These may be individuals, statutory bodies, organisations.

Examples include but are not limited to:

- Parents
- Next-of-kin or significant others
- Associates of the practice
- Health professionals
- Schools
- Industry specific supplier of professional goods and products
- Statutory bodies (SARS)
- Departments of Labour, Education, Health
- Compensation Commissioner
- Road Accident Fund
- Peer review reports
- Courier companies
- Insurers
- Board of Health Care Funders
- Medical Aids (or third party insurers)
- Hospitals or similar health facilities
- Banks
- Auditors
- Debt collection bureaux
- Legal and professional advisors
- Bodies performing peer review and clinical practice audits
- Executors of estates
- Purchaser of a practice

7. OTHER LEGISLATION RELEVANT TO RIGHTS TO ACCESS AND PRIVACY OF INFORMATION

The legislation listed below is directly related to the Promotion of Access to Information Act 2 of 2000 and the Protection of Personal Information Act 4 of 2013. These Acts support the protection of privacy in balance with the right to access information.

- Basic Conditions of Employment Act 75 of 1997
- Children's Act 38 of 2005
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Consumer Protection Act 68 of 2008
- Disaster Management Act 57 of 2002
- Electronic Communications and Transactions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Hazardous Substances Act 15 of 1973
- Health Professions Act 56 of 1974
- Income Tax Act 58 of 1962
- Labour Relations Act 66 of 1995
- Medical Schemes Act 131 of 1998
- Medicines and Related Substances Act 101 of 1965
- National Health Act 61 of 2003
- Occupational Health and Safety Act 85 of 1993
- Road Accident Fund Act 56 of 1996
- Skills Development Levies Act 9 of 1999
- Skills Development Act 97 of 1998
- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001
- Value Added Tax Act 89 of 1991

8. RECORDS AUTOMATICALLY AVAILABLE

No notice has been submitted by the practice to the Minister of Justice and Correctional Services regarding the categories of records, that are available *without* a person having to request access in terms of Section 52(2) of PAIA. However, the information on the website of the practice is automatically available without having to request access in terms of PAIA. Access and usage of the information on the website are subject to the Website Terms and Conditions as well as the Privacy Statement of the practice.

9. PLANNED TRANSBORDER FLOWS OF PERSONAL INFORMATION

The practice stores electronic information, including personal information of data subjects, in the 'cloud', the servers of which may be located outside of the borders of the Republic of South Africa. Due care is taken in the selection of appropriate cloud service providers to ensure compliance with the law and protect the privacy of data subjects. The practice is not planning to send any other personal information about any data subject to any other third party in a foreign country. Should this be required, relevant data subject consent will be obtained, where required, and transfers of such information will occur in accordance with the requirements of the law.

10. SECURITY MEASURES TO PROTECT PERSONAL INFORMATION

The practice is committed to ensuring the security of the personal information in its possession or under its control to protect it from unauthorised processing and access as well as loss, damage, or unauthorised destruction. The Information Officer of the practice continually reviews and updates its information protection measures to ensure that the information of the practice and the patient is secured according to the law. On the other hand, access must be allowed but limited. The measures it adopts to ensure the security of personal information include:

Internal policies to monitor and secure reception areas; to limit use of folders to offices where the patient is consulted and/or assessed. Offices where information is held are monitored; cabinets where physical records are held; unauthorised access is prevented; premises where records are held are secured at the close of business.

External controls fall within the domain of technology. Data security is managed with the assistance of the practice's technology support provider. The devices of the practice are synchronised and password protected; server access is limited; documents are stored off site in the cloud; hard drive data backups take place regularly.

Only those practitioners and employees that require access to the information to treat patients may access their records; the Practice Register includes a signed agreement from all personnel to access records from the Information or Deputy Information Officer with permission, to implement appropriate security measures and to maintain the confidentiality of the record.

Third party contractors are required to adhere to privacy policies and processes set out in a signed contract. Failure to adhere is subject to sanctions for any security breach.

Any security breaches are addressed in accordance with the internal disciplinary procedures *and* the requirements of the prevailing legislation. A security breach is reported immediately to the Information Officer; the patient is informed immediately.

There is a Schedule for Records Review, Update, Deletion and Retention that is checked monthly by the Information Officer or Deputy Information Officer.

11. PROCEDURE TO OBTAIN ACCESS TO RECORDS OR INFORMATION

The fact that records and information are held by the practice as listed in this Manual should not be construed as conferring upon any requester any right to that information or record. PAIA grants a requester access to records of a private body, if the record is required for the exercise or protection of any right. If a public body lodges a request, the body must be acting in the public interest. Access to records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form, which is attached to this Manual as Annexure A, and pay the prescribed fees as referenced below. The request form is also available from:

- the Information Officer of the practice at the contact details stipulated above; and
- the Information Regulator at the contact details stipulated above.

The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the requester. The requester must identify the right he/she is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right. If a request is made on behalf of another person, the requester must submit proof of the capacity in which the request is made to the satisfaction of the Information Officer. Access to the requested records or information or parts of the records or information may be refused in terms of the law. Requesters will be advised of the outcome of their requests.

12. FEES PAYABLE TO OBTAIN THE REQUESTED RECORDS OR INFORMATION

The fees for requesting and accessing information and records held by the practice are prescribed in terms of PAIA. The fees payable, which may be amended from time to time in accordance with notices published in the Government Gazette, are attached hereto as Annexure B. Details of the fees payable and any change to such fees may be obtained from the Information Officer. The fees are also available on the website of the Information Regulator. A requester may be required to pay the fees prescribed for searching and compiling the information, which has been requested, including copying charges.

13. AVAILABILITY OF THIS MANUAL

A copy of this Manual is available for inspection, free of charge, at the practice and on its website. A copy of the Manual may also be requested from the Information Officer against payment of the appropriate fee, which may be obtained from the Information Officer.

ANNEXURE A: INFORMATION AND RECORD REQUEST FORM



Annexure A.pdf

https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf

ANNEXURE B: FEES



Annexure B.pdf

<https://www.sahrc.org.za/home/21/files/PAIA%20Notice%20on%20fees.pdf>