

PAIA Manual

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1. Introduction and Purpose

- 1.1. Cherilee Botha Counselling Psychologist. (*the "Practice"*)
Cherilee Botha is in private practice and consults at Netcare Hospitals in the surrounding area of her practice. Cherilee Botha has one other consulting counselling psychologist at the practice who keeps their own records and does not have access to the practice records. The practice employs a practice manager who follows POPIA policies and procedures, as well as HPCSA guidelines when working with records for billing and administration purposes as consented to by clients.
- 1.2. The manual has been prepared, as required by section 51 of the Promotion of Access to Information Act, No. 2 of 2000 ("PAIA"), for the Practice. PAIA gives effect to the constitutional rights of access to any information held by a public or private body that is required for the exercise of protection of any rights.
- 1.3. The Practice is committed to ensuring that all business is conducted in accordance with good business practice and relevant legislation. In order to promote effective governance, it is necessary to ensure that all affected parties are educated and empowered to understand and access their rights in terms of PAIA, where applicable.
- 1.4. Where a request is made in terms of PAIA, the Practice is obliged to release the information, except where PAIA expressly provides that the information may or must not be released.
- 1.5. The objective of this PAIA Manual is to outline a suitable approach and response to requests to access information and the essential procedural requirements attached to such requests. This PAIA Manual should be read in conjunction with the Protection of Personal Information Act 4 of 2013 ("POPIA") and the Practice's policies in respect of POPIA, where applicable.
- 1.6. This PAIA Manual informs requesters of procedural and other requirements, as prescribed by PAIA. It is important to note that Section 9 of PAIA recognises certain limitations to the right of access to information, including, but not limited to:
 - Limitations aimed at the reasonable protection of privacy;
 - Commercial confidentiality; and
 - Effective, efficient and good governance.

Further to this, PAIA recognises the act of balancing a right to request information with any other rights, including such rights as contained in the Bill of Rights¹.

2. Overview

This manual is published in terms of Section 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA; "the Act") and to address requirements of the Protection of Personal Information Act, 2013 ("POPI"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information held by the State and/or held by a private person or entity where such information is required to protect rights.

This manual applies to the private counselling psychology practice of Cherilee Botha.

Office address:

Archimedix Corner
64 Michelle Avenue
Randhart
Alberton
Johannesburg
1448

Cherilee Botha runs a practice in the field of counselling psychology. She undertakes general counselling psychology work. Cherilee Botha works in the health sector and is a healthcare professional registered under the Health Professions Act of 1974. She is registered with and subject to the rules and regulation of the Health Professions Council of South Africa (HPCSA).

This manual serves to inform members of the public of the categories of information that Cherilee Botha holds in her capacity as a Counselling Psychologist and which may, subject to the grounds of refusal listed

in the Act, be disclosed after evaluation of an access application being made in terms of the Act. This manual will be updated from time to time, as and when required.

3. Information Officer Details

The Information Officer of this psychology practice is Cherilee Botha, owner and practitioner.

Contact number: 083 410 9883

Email: cherilee.psychologist@gmail.com

4. Practice Contact Details (Section 51(1)(a))

All requests for information in terms of the Practice's PAIA Manual must be directed to:

- | | | |
|------|----------------------|--|
| 4.1. | Information Officer: | Cherilee Botha |
| 4.2. | Postal Address: | 64 Michelle Avenue, Randhart, Alberton, 1448 |
| 4.3. | Street Address: | 64 Michelle Avenue, Randhart, Alberton, 1448 |
| 4.4. | Telephone Number: | 083 410 9883 |
| 4.5. | Email: | cherilee.psychologist@gmail.com |

5. Availability of the Manual

A copy of this manual is available for inspection on request from the Information Officer (see details above) free of charge or on the practice website www.cherileepsychologist.com.

Alternatively, please contact the following:

The South Africa Human Rights Commission:
PAIA Unit (the Research and Documentation Department)

Postal address: Private Bag 2700, Houghton, 2041

Telephone: 011 484 8300

Fax: 011 484 7146

Website: www.sahrc.org.za

Email: PAIA@sahrc.org.za

The Information Regulator (South Africa):

SALU Building, 316 Thabo Sehume Street, Pretoria

Ms. Mmamoroke Mphelo

Telephone: 012 406 4818

Fax: 086 500 3351

Email: inforeg@justice.gov.za

6. How to Request Access to Records

Requests for access to records held by Cherilee Botha, Counselling Psychologist must be made on the request form that can be accessed from Cherilee Botha, the practice website, or from:

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

When a record is requested, the following will apply:

- Fees may be payable as prescribed by law.
- The Request Form must be completed by the Requester. On the Request Form, all details must be completed, including the right the Requester wants to protect by requesting the information and why access to the information is required.
- If the requester is acting on behalf of someone else, the signature of the other person, as the one who has authorised the request, must be provided. In order to verify this, Cherilee Botha, may require further proof, such as an identity document, or may call the person(s) to whom the

information belongs to verify that permission has been given for the other person to access the information on his/her/their behalf.

- The Requester must state in which format (inspection of copy, paper copy, electronic copy, transcript, and so on) that he/she/they wants to access the information.
- If the record is part of another record, the Requester will only be able to access the part(s) that pertains to the information he/she/they wants or is entitled to, and not to the rest of the record.

All requests will be evaluated against the provisions of the Act. The Information Officer can refuse access on grounds stipulated in the Act. For example, one cannot access another person's confidential information, or trade or commercial secrets of a business. An answer on a request for information must be provided within 30 days of the request and, if not granted and the Requester is not satisfied, he/she/they can approach the courts within 30 days.

7. Access to Records (Section 51(1)(b))

- 7.1. PAIA grants a requester access to certain records of a private body if the said records are required to exercise or protect any rights of the requester. Should a public body lodge such a request; it must be acting in the interest of the public.
- 7.2. Any request for information in terms of PAIA, must be made in accordance with the prescribed form and manner, at the rates provided. The prescribed form, manner and the tariff are dealt with in sections 6 and 7 respectively.
- 7.3. The South African Human Rights Commission (SAHRC) has compiled and published a useful guide in terms of section 10 of PAIA, containing valuable information for the purposes of exercising any right in terms of PAIA.
- 7.4. The guide is made available in all official languages on the website of the SAHRC at the following URL: <https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf>
- 7.5. Any enquiries regarding this guide should be directed to the SAHRC using the following contact information:

Postal Address: : Private Bag 2700, Houghton, 2041
Telephone Number : +27(0)11 877 3600
Fax Number : +27(0)11 403 0625
Website : www.sahrc.org.za

8. Form of a Request for Information (Section 51(1)(e))

- 8.1. A requester must use the prescribed form "Form C" to request access to the information as set out in 5.2 above. Form C can be downloaded from the following URL: https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf
- 8.2. The request must be addressed to the Information Officer as indicated in section 2.
- 8.3. The requester must provide sufficient detail on Form C to enable the contact person of the Practice to establish who the requester of the said information is, as well as what information is being requested and in what format.
- 8.4. The requester must provide enough detail in respect of his/her contact details and if the requester wishes to be informed of the decision of the Practice in any specific manner (in addition to written), the manner and particulars thereof.
- 8.5. The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.
- 8.6. After the Practice has reached a conclusion with regard to the request, the requester will be notified in the required format.
- 8.7. If the request is granted, a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.
- 8.8. The Practice does not have internal appeal procedures; therefore, the decision made by the Information Officer of the Practice is final. Requesters who are dissatisfied with a decision of the Practice will have to exercise external remedies at their disposal.
- 8.9. A dissatisfied requester or a Third Party, may within 30 days of notification of the decision,

apply to an appropriate court for relief.

9. Prescribed Fees (Section 51(1)(f))

- 9.1. A requester who seeks access to a record containing personal information about that requester (a personal requester) is not required to pay a request fee subject to the volume of documentation requested being reasonable in nature and at the Practice's reasonable discretion; alternatively, the requester must pay the required request fee, as prescribed from time to time.
- 9.2. Every other requester, who is not a personal requester, must pay the required request fee, as prescribed from time to time.
- 9.3. If the preparation of the record requested requires more than the prescribed hours, a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted). A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- 9.4. Records may be withheld until the fees have been paid.
- 9.5. Fees:
 - The fee for a copy of the manual as contemplated in regulation 9 (2) (c) is R1,10 for every photocopy of an A4-size page or part thereof.
 - The fees for reproduction referred to in regulation 11 (1) are as follows:
 - For every photocopy of an A4-size page or part thereof R 1,10
 - For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form R 0,75
 - For a copy in a computer-readable form on compact disc R 70,00
 - For a transcription of visual images (where applicable), for an A4-size page or part thereof R 40,00
 - For a copy of visual images R 60,00
 - For a transcription of an audio record, for an A4-size page or part thereof R 20,00
 - For a copy of an audio record R 30,00
 - The request fee payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R50,00.
- 9.6. The fees herein are subject to change so you undertake to confirm the fees applicable to your request with the said contact person of the Practice as per Clause 2 *prior* to requesting the information you wish to request where a fee will be charged.

10. Information or Records Not Found

- 10.1. If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, the Information Officer shall notify the requester, by way of an affidavit or affirmation, that it is not possible to provide access to the requested records.
- 10.2. The affidavit or affirmation shall provide a full account of all the steps taken to find the requested records or to determine the existence thereof, including details of all communications by the Information Officer with every person who conducted the search.
- 10.3. If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form unless access is refused by the Information Officer.
- 10.4. The attention of the requester is drawn to the provisions of Chapter 4 of Part 3 of PAIA in terms of which the Practice may refuse, on certain specified grounds, to provide information to a requester.

11. Information Requested About a Third Party (Section 71 to 74)

- 11.1. Section 71 of PAIA makes provision for a request of information or records about a Third Party.
- 11.2. In considering such a request, the Practice will adhere to the provisions of section 71 to 74 of PAIA.
- 11.3. The attention of the requester is drawn to the provisions of Chapter 5 of Part 3 of PAIA in terms of which the Practice is obliged, in certain circumstances, to advise Third Parties of

requests lodged in respect of information applicable to or concerning such Third Parties.

12. Voluntary Disclosure

The following information is made known automatically and persons do not have to fill out a form to request such information:

- Documents and information on website
- Fees
- General practice terms and policies as well as policies pertaining to attendance and payment
- Informed consent forms

13. Policy Records available in terms of other legislation (Section 51(1)(c))

In terms of other legislation, policy records are available that have been amended, as relevant, from time to time. A list of “other legislation” is provided below and where applicable:

- Protection of Personal Information Act 4 of 2014 (the “POPI Act”)
- Promotion of Access to Information Act 2 of 2000 (the “PAIA”)
- Health Professions Act 56 of 1974
- National Health Act 61 of 2003
- Medical Schemes Act 121 of 1998
- Children’s Act 38 of 2005
- Mental Healthcare Act 17 of 2002
- The Companies Act 71 of 2008, where applicable
- Labour Relations Act 66 of 1995, where applicable
- Basic Conditions of Employment Act 75 of 1997, where applicable
- Employment Equity Act 55 of 1998, where applicable
- Skills Development Levies Act 9 of 1999, where applicable
- Unemployment Insurance Act 63 of 2001, where applicable
- Electronic Communications and Transactions Act 25 of 2002
- Telecommunications Act 103 of 1996
- Electronic Communications Act 36 of 2005
- Consumer Protection Act 68 of 2008
- Broad-based Black Economic Empowerment Act 53 of 2003, where applicable
- National Credit Act 34 of 2005
- Income Tax Act 58 of 1962
- Constitution of the Republic of South Africa, 1996 (the “Constitution”)

14. Schedule of records (Section 51 (1)(d))

The accessibility of the documents listed below may be subject to the grounds of refusal setout in this manual.

14.1. **Records that are available without having to submit a request in terms of PAIA:**

- 14.1.1. Marketing material
- 14.1.2. Pamphlets
- 14.1.3. Policies and forms related to healthcare and healthcare information

14.2. **Records that must be formally requested in terms of PAIA include:**

- 14.2.1. Association agreements and other related foundational documents
- 14.2.2. Minutes of meetings (where applicable)
- 14.2.3. Annual Financial Statements

- 14.2.4. Tax Returns
- 14.2.5. Accounting Records
- 14.2.6. Banking Records
- 14.2.7. Asset Register
- 14.2.8. Rental Agreement
- 14.2.9. Invoices
- 14.2.10. Skills Development Levies
- 14.2.11. UIF
- 14.2.12. Medical Aid records
- 14.2.13. Pension Fund records
- 14.2.14. Disciplinary records
- 14.2.15. Salary records
- 14.2.16. Training records
- 14.2.17. Training Manuals
- 14.2.18. Client related records and associated documentation and reports
- 14.2.19. Other records protected by way of confidentiality/non-disclosure agreements
- 14.2.20. Commercial activities of the Practice

Kindly note, certain types of information such as client records contain medical information and are thus, by their very nature, confidential. This type of information is vehemently protected unless the data subject consents to disclosure or the law compels disclosure.

- 14.3. In addition to the above, the Practice may refuse a request for information made in terms of clause 14.2. on the following basis:
 - 14.3.1. Mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
 - 14.3.2. Mandatory protection of the commercial information of a third party, if the record contains:
 - 14.3.2.1. Trade secrets of that third party;
 - 14.3.2.2. Financial, commercial, or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party; and
 - 14.3.2.3. Information disclosed in confidence by a third party to the Practice if the disclosure could place that third party at a disadvantage.
 - 14.3.3. Mandatory protection of confidential information of third parties if it is protected in terms of any agreement or legislation;
 - 14.3.4. Mandatory protection of the safety of individuals and the protection of property;
 - 14.3.5. Mandatory protection of records which would be regarded as privileged in legal proceedings;
 - 14.3.6. Mandatory protection of records of a personal nature as defined in terms of POPIA;
 - 14.3.7. The commercial activities of the Practice, which includes but is not limited to trade secrets, financial, commercial or technical information as well as software platforms or programmes exclusively developed for the Practice.
 - 14.3.8. Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

15. Categories of Records Held by the Practitioner: Section 51(I)(E)

Cherilee Botha, Counselling Psychologist holds records in the categories listed below. The fact that a record type is listed here does not necessarily mean she will disclose such records, and all access is subject to the evaluation process outlined herein, which will be exercised in accordance with the requirements of the Act.

Financial records

- Annual financial statements
- Tax returns
- Accounting records
- Banking records
- Bank statements
- Electronic banking records
- Asset register
- Rental agreements
- Invoices
- Tax records

Patient documents and records:

- Contact details and residential address
- Patient lists
- Health records
- Medical reports
- Funding records
- Agreements
- Consents
- Needs assessments
- Financial and accounts information
- Medical aid numbers
- Research information
- Evaluation records
- Profiling

It must be noted that, in the health sector, personal and patient information are protected by legislation and ethical rules, and disclosure can only take place, if at all, within those frameworks.

16. Purpose of the Processing of the Abovementioned Records

The purpose of processing the information contained in the records listed above is:

- In relation to the business/internal records: To comply with business and tax legislation.
- In relation to patients: For retention of records as required by law and to provide healthcare services, to access health products (prescriptions and product orders), and for the collection of fees for the services so provided. Where the practice participates in registries or other databases, the specific consents signed by patients to have their information included will disclose the purpose of such databases.
- In relation to the suppliers and service providers: For record retention as legislated and for the execution of the supplier and service level agreements.

17. Records Available in Terms of Other Legislation

Information is available in terms of the following legislation, subject to conditions set by such laws. As legislation changes from time to time, and new laws may stipulate new matters and extend the scope of access by persons specified in such entities, this list should be read as not being a final and complete list.

Health legislation (including all regulations issued in terms of such legislation):

- The National Health Act 61 of 2003
- Medical Schemes Act 121 of 1998
- Medicines and Related Substances Act 101 of 1965
- Children's Act 38 of 2005
- Mental Healthcare Act 17 of 2002
- Choice on Termination of Pregnancy Act 92 of 1996
- Sterilisation Act 44 of 1998
- Health Professions Act 56 of 1974

18. Categories of Recipients of Personal Information

Cherilee Botha may, as authorised by the National Health Act, share relevant personal and health information with other service providers who are involved in your care and where such sharing is in your best interest, and to medical schemes, where applicable. She also has to, by law, report adverse events of products (medicines/devices) to the SA Health Products Regulatory Authority and the company whose product it is.

19. Planned Trans-Border Flow of Personal Information

Cherilee Botha does not have any planned trans-border flow of personal information. However, she may transfer data trans-border in order to store data with third party cloud storage providers.

20. The Suitability of the Information Security Measures

The practice stores information physically as follows:

- The practice aims to keep physical records to a minimum. The only documents that are kept in either physical or both physical and electronic formats are:
 - The original copies of any consent forms that were submitted as hard copies by the patient or parent(s)/legal guardian(s) of patients,

- The intake interview form,
- Any hardcopy communication, including statements, received from patients' medical aid service providers via the national postal service.
- Handwritten notes made during sessions are typically converted into electronic records, which are password protected.
- Cherilee Botha aims to avoid writing down any identifying information on in-session handwritten notes. After converting the notes to electronic versions, the physical, handwritten notes are destroyed according to industry guidelines or standards (e.g., incinerating or shredding).
- Physical records are kept in a cupboard in Cherilee Botha's office that is locked when not in use. The key to the cupboard is kept on/near Cherilee Botha at all times while she is on practice premises. A spare key to the cupboard is kept at Cherilee Botha's place of residence, inside a locked cupboard.
- Cherilee Botha's office is locked when not in use.
- The practice premises (an office suite consisting of two individual offices, a reception and a shared outside waiting room) are kept locked when not in use. The office suite is secured by a locked door and metal security gate. The suite is protected by an alarm system and the entire building is protected by camera surveillance and electric fencing monitored by a security company. The doors that allow access to passage in Archimedx Corner where the practice premises are located are locked when the passage/offices on that block are not in use.

The practice stores information electronically as follows:

- Electronic records containing identifying and/or personal patient information are password-protected and stored on a password-protected laptop. The software on the laptop is regularly updated to protect against hacking, unauthorised access, tampering, and the like.
- Electronic records are backed up to a third-party cloud storage provider on a password protected account as well as an external hard-drive stored in a secure location at the practitioner's private residence.
- The practice's email account is password protected and is accessed through either a laptop or mobile phone, both of which are either password-protected. Cherilee Botha ensures that technology used by her practice manager is also secured and password protected.
- Cherilee Botha employs up-to-date technology to ensure the confidentiality, integrity, and availability of the personal information under her care. Measures include:
 - o Firewalls
 - o Virus protection software and update protocols
 - o Logical and physical access control
 - o Secure setup of hardware and software making up the IT infrastructure

Other security measures employed to secure patient information and records:

- Where possible, Cherilee Botha makes use of a patient number and/or initial system to label electronic and hardcopy records of patient information, as well as to schedule appointments in her diary and list contacts on her business mobile phone.
- Cherilee Botha takes reasonable measures to ensure the security and confidentiality of physical and electronic records, as well as the mobile phone and laptop used for practice purposes, including:
 - Being aware of who is around her when she accesses or uses patient documents and answers communications from patients,
 - Shielding the electronic copy and/or hard copy of personal records information from the sight of

others, or otherwise refrains from accessing records until she can effectively shield patient information from sight,

- Only accessing electronic records via secure and password-protected WIFI connections, and
- Locking the device when the laptop and mobile phone are not in use.

Any breaches to the integrity or security of patients' confidential information (e.g., damage or theft) will be communicated with the relevant patient(s) as soon as possible.

21. Retention of Patient Records

In accordance with Booklet 9 of the HPCSA, *Guidelines on the Keeping of Patient Records*, patient records are kept for a minimum period of six (6) years as from the date they become dormant, except where:

- "The patient is a minor, in which case records will be kept until the minor's twentyfirst birthday, or
- The patient is mentally incompetent, in which case records are kept for the duration of the patient's lifetime." (Section 9.3)

Any other exceptions to the minimum period of 6 years laid out in Booklet 9, Section 9: Duration for the Retention of Health Records, including any future amendments made by the HPCSA to this document, will be adhered to.

22. Destruction of Private and Confidential Records

In relation to destroying patient records, Cherilee Botha makes use of industry guidelines and standards and/or will act according to directions and guidelines provided by the HPCSA.

Should you have any queries kindly contact the Information Officer (details set out in Clause 3).

Signed by Cherilee Botha, Counselling Psychologist on this day 30 June 2021: C Botha.

This document is reviewed every two years or as may be required.

Manual approval and information

Manual owner	
Manual type	Compliance
Approver's signature	
Approved by (this version)	
Approval date (this version)	
Version number	V1

Summary of Manual history

<u>Version number</u>	<u>Drafted/adapted/reviewed by</u>	<u>Creation/review date</u>	<u>Approved by</u>	<u>Approval date</u>
V1				