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ACCESS TO INFORMATION MANUAL
 COMPLIED IN TERMS OF SECTION 51 OF THE
 PROMOTION OF ACCESS TO INFORMATION ACT, NO 2 OF 2000

THIS MANUAL APPLIES TO INFORMATION HELD BY:


BIRCHMED SURGICAL (Pty)Ltd
 Reg No: 2023 / 657418 / 07

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SECTION 51 MANUAL FOR BIRCHMED SURGICAL

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1. PROMOTION OF ACCESS TO INFORMATION ACT

- 1.1 The Promotion of Access to Information Act No. 2 of 2000 (“the Act”) was enacted on 3 February 2000, giving effect to the constitutional right in terms of section 32 of the Bill of Rights as contained in the Constitution of the Republic of South Africa 108 of 1996 to access information held by the State or Private Institution and that is required for purpose of exercising or protecting rights.
- 1.2 In terms of section 51 of the Act, all Private Bodies are required to compile an Information Manual (“PAIA Manual”).
- 1.3 Where a request is made in terms of the Act, the Private Body will be obliged to release the information, except where the Act expressly provides that the information may not be released.

2. INTRODUCTION : BIRCMED SURGICAL CENTRE

- 2.1 Birchmed Surgical PTY (Ltd) trading as Birchmed Surgical is a registered Company and function as a one day Surgical Day Centre delivering various surgical procedures.
- 2.2 The purpose of this manual is to facilitate requests for access to records of Birchmed Surgical.
- 2.3 Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including but not limited to:
 - 2.3.1 Limitations aimed at the reasonable protection of privacy;
 - 2.3.2 Balancing the rights with any other rights as contained in the Bill of Rights in the Constitution: c. Commercial confidentiality; and
 - 2.3.3 Effective and efficient good governance. v. Nothing stated in this manual shall limit, or constitute a waiver of, any of the rights of the requester or of the Company in terms of the Act.
 - 2.3.4 Birchmed Surgical makes no representation and gives no undertaking that the information in this manual or any information provided by Birchmed Surgical to a requester thereof is complete or accurate, or that such information is fit for any purpose.
 - 2.3.5 All users of any such information shall use such information entirely at their own risk and Birchmed Surgical shall not be liable for any loss, expense, liability or claims howsoever arising, resulting from any use of this manual or of any information provided by Birchmed Surgical or from any error therein.
 - 2.3.6 All users irrevocably agree to submit exclusively to the laws of the Republic of South Africa and to the exclusive jurisdiction of the courts of the Republic of South Africa in respect of any dispute arising out of the use of this manual or of any information provided by the Company.
 - 2.3.7 A copy of the manual is available on our website – www.birchmed.co.za

3. PARTICULARS IN TERMS OF THE SECTION 51 MANUAL

CONTACT DETAILS:

Birchmed Surgical
8 Tiger Road
Birchleigh
Kempton Park
1620

P O Box 11004
Aston Manor
1618

Telephone:
(011) 391 3300

E-mail: tessab@birchmed.co.za

Clinic Manager : Tessa Bosman

4. THE SECTION 10 GUIDE ON HOW TO USE THE ACT INTERMS OF SECTION 51(1) (b)

The Guide will be available from the South African Human Rights Commission by not later than August 2005. Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit The Research and Documentation Department
Postal address: Private Bag 2700


Houghton
2041

Telephone: +27 11 484-8300

Fax: +27 11 484-0582

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

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5. RECORDS AVAILABLE IN TERMS OF ANY OTHER LEGISLATION IN TERMS OF SECTION 51(1)(d)

Records are kept in accordance with the following legislation (this list is not exhaustive).

- 5.1 Basic Conditions of Employment Act 75 of 1997
- 5.2 ii. Companies Act 71 of 2008
- 5.3 iii. Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 5.4 iv. Competition Act 71 of 2008
- 5.5 v. Copyright Act 98 of 1978
- 5.6 vi. Employment Equity Act 55 of 1998
- 5.7 vii. Income Tax Act 58 of 1962
- 5.8 viii. Labour Relations Act 66 of 1995
- 5.9 ix. Occupational Health and Safety Act 85 of 1993
- 5.10 x. Prevention of Organised Crime Act 121 of 1998
- 5.11 xi. Promotion of Access to Information Act 2 of 2000 xii. Protection of Personal Information Act 4 of 2013
- 5.12 xiii. Skills Development Levies Act 9 of 1999
- 5.13 xiv. Trade Marks Act 194 of 1993
- 5.14 xv. Unemployment Insurance Act 30 of 1966
- 5.15 National Health Act 61 of 2003
- 5.16 xviii. Children’s Act 38 of 2005

6 INFORMATION NOT AUTOMATICALLY AVAILABLE - REFER SECTION 51 (1) (E) OF THE ACT

The following records are not automatically available without a request therefore in terms of the Act:

6.1 Company Secretarial

- 6.1.1 / Registers / Resolutions or Extracts of meetings / Statutory returns


6.2 Movable and Immovable Property

- 6.2.1 Title Deeds
- 6.2.2 Lease Agreements
- 6.2.3 Hire Agreements / Rental Agreements
- 6.2.4 Hire-purchase agreements
- 6.2.5 Credit Sale Agreements / Instalment Sale Agreements

6.3 Intellectual Property

- 6.3.1 Designs

- 6.3.2 Licensing agreements
- 6.4 Insurance
 - 6.4.1 Insurance Policies / Claims Files
- 6.5 Third Parties
 - 6.5.1 Records held by the Company relating to other parties, including financial records, correspondence, contractual records.
 - 6.5.2 Patient records will not be disclosed to any other party without appropriate written consent being in place from patient.
- 6.6 Taxation
 - 6.6.1 Income tax files
- 6.7 Human Resources
 - 6.7.1 Policies and procedures
 - 6.7.2 Employee information
 - 6.7.3 Personnel files
 - 6.7.4 Conditions of Employment
 - 6.7.5 Internal Audits
 - 6.7.6 Correspondence
 - 6.7.7 Training Schedule and Related Material
 - 6.7.8 Agreements
 - 6.7.9 Forms and applications
 - 6.7.10 Standard letters and notices
- 6.8 Finance
 - 6.8.1 Financial statements
 - 6.8.2 Reports and returns
 - 6.8.3 Banking details and bank account records
 - 6.8.4 Debtors/creditors statements and invoices
- 6.9 Operations
 - 6.9.1 Policies and procedures
 - 6.9.2 Reports and supporting documentation

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6.10 Information technology

6.10.1 System documentation and manuals

6.11 Administration

6.11.1 Internet

6.11.2 Correspondence with internal and external parties

7 PROCEDURE FOR REQUESTING A RECORD NOT AUTOMATICALLY AVAILABLE

7.1 The requester must use the prescribed form.

7.2 This request must be made to the address, fax number or electronic mail address of Birchmed Surgical.

7.3 The requester must provide sufficient detail on the request.

7.4 The requester should also indicate which form of access is required and specify a postal address or fax number in the Republic.


7.5 The requester should also indicate if, in addition to a written reply, any other manner that is to be used to inform the requester and state the necessary particulars to be so informed.

7.6 The requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right.

7.7 If a request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request.

8 THE LATEST NOTICE REGARDING CATEGORIES OF RECORDS OF THE BODY, WHICH ARE AVAILABLE WITHOUT A PERSON HAVING TO REQUEST ACCESS IN TERMS OF THIS ACT IN TERMS OF SECTION 52(2).

At the time of this publication the Minister of Justice and Constitutional Development had not yet published any regulations under this section of the Act.

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9 DESCRIPTION OF SUBJECTS AND CATEGORIES OF WHICH THE AFOREMENTIONED COMPANIES HOLD RECORDS:

- Company Secretarial
- Movable and Immovable Property
- Intellectual Property
- Insurance
- Taxation
- Human Resources
- Finance
- Information Technology
- Administration

10 GROUNDS FOR REFUSAL OF ACCESS TO INFORMATION AND/OR RECORDS

- (a) Any refusal in terms of the Act.
- (b) The protection of third party’s right to privacy when such release of information would amount to the unreasonable and/or unlawful disclosure of persona information of that person.
- (c) Mandatory protection of any commercial information of a third party, including but not limited to any trade secrets, commercial and/or intellectual property.
- (d) Any confidential information which is protected by an agreement between the parties.
- (e) Mandatory protection and information that would be considered privileged in terms of any legal and/or medical proceeding.
- (f) Any intellectual, commercial and/or related documentation relating to the business activities of the Hospitals.
- (g) Any other reason that is allowed in any applicable law.

11 ACCESS TO HEALTH RECORDS OR OTHER RECORDS IN TERMS OF SECTION 61 OF THE ACT.

- (a) For the purposes of this section, the term “relevant person” shall refer to the requester and /or the authorized person making a request on the person’s behalf.

(b) Requesters must stipulate in their request for information and/or what health information is required, understanding that information held by a medical practitioner must be obtained directly from him or her. No hospital can release information held by another party, or information that is protected by a medical practitioner /patient relationship.

© The Information Officer, in terms of Section 50 of the Act, may only grant a request for access to information and/or a record provided by a medical practitioner in his or her capacity as such, about the physical or mental health of the requester him herself, or to authorised person making such a request on behalf of the person concerned.

(d) The Information Officer may in terms of Section 61 (1) of the Act, refuse access to information and/or records, if he or she is of the opinion that such disclosure would cause serious harm to the requester's physical and/ or mental health.

(e) Before the Information Officer allows grants or facilitates access to information and/or records, he or she may consult with the treating medical practitioner who, subject to Section 61(2) had been nominated by the relevant person.

(f) If the relevant person is:

(1) Under the age of 16 years, a person having parental responsibilities for the relevant person, must make the nomination referred to in Section 61() of the Act;

(3) Incapable of managing his or her affairs, a person appointed by the court to manage those affairs must make that nomination.

(g) If after the information Officer has given access to the medical practitioner, and the medical practitioner is of the opinion that the disclosure of the information and/or record to the relevant person, would likely to cause serious harm to his or her physical and/or mental health, or wellbeing, the Information Officer may only grant access to that information and/or record if he or she is has been given sufficient guarantees by the requester, that adequate provision has been made for such counselling or arrangement as are reason ably practicable before, during or after the disclosure of the information and/or record limit, alleviate or avoid such harm to the relevant person.

(h) Before access to the information and/or record is so given to the requester, the person responsible for such counselling or arrangements must be given access to the information and/or record.

(i) The Information Officer may also refuse access to the Information and/or records in terms of any other law.

12 OTHER INFORMATION AS MAY BE PRESCRIBED

The Minister of Justice and Constitutional Development has not made any regulations in this regard.

13 AVAILABILITY OF THE MANUAL

In accordance with paragraph 9(1) of the Regulations of the Act, this manual has been made available to the Human Rights Commission and is available on the Birchmed Surgical website (www.birchmed.co.za).

14 FEES IN RESPECT OF PRIVATE BODY

1. 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.

2. The fees for reproduction referred to in regulation 11(1) are as follows:

- | | |
|---|---------|
| (a) For every photocopy of an A4-size page or part thereof | R 01,10 |
| (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form | R 00,75 |
| (c) For a copy in a computer-readable form on – | |
| (i) Stiffy disc | R 07,50 |
| (ii) Compact disc | R 70,00 |
| (d) For a transcription of visual images, for an A4-size page or part thereof | R 40,00 |
| (e) For a copy of visual images | R 60,00 |
| (f) For a transcription of an audio record, for an A4-size page or part thereof | R 20,00 |
| (g) For a copy of an audio record | R 30,00 |
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00
4. The access fees payable by a requester referred to in regulation 11(3) are as follows:
- | | |
|---|---------|
| (1)(a) For every photocopy of an A4-size page or part thereof | R 01,10 |
| (b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine- readable form | R 00,75 |
| (c) For a copy in a computer-readable form on – | |

- | | |
|---|---------|
| (i) Stiffy disc | R 07,50 |
| (ii) Compact disc | R 70,00 |
| (d) | |
| (i) For a transcription of visual images, for an A4-size page or part thereof | R 40,00 |
| (ii) For a copy of visual images | R 60,00 |
| (e) | |
| (i) For a transcription of an audio record, for an A4-size page or part thereof | R 20,00 |
| (ii) For a copy of an audio record | R 30,00 |
| (f) To search for and prepare the record for disclosure, R30,00 for each hour or part of an hour reasonably required for such search and preparation. | |
| (2) For purposes of section 54(2) of the Act, the following applies: | |
| (a) Six hours as the hours to be exceeded before a deposit is payable; and | |
| (b) one third of the access fee is payable as a deposit by the requester. | |
| (3) The actual postage is payable when a copy of a record must be posted to a requester. | |

15 PRESCRIBED FORMS**REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY**

(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000))

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be given below.*
(b) The address and/or fax number in the Republic to which the information is to be sent must be given.
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: _____

Identity number: _____

Postal address: _____

Fax number: _____

Telephone number: _____

E-mail address: _____

Capacity in which request is made, when made on behalf of another person: _____

C. Particulars of person on whose behalf request is made


This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*

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(b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

- 1. Description of record or relevant part of the record:**
- 2. Reference number, if available:**
- 3. Any further particulars of record**

E. Fees

(a) A request for access to a record, other than record containing personal information about yourself, will be processed only after a request fee has been paid.

(b) You will be notified of the amount required to be paid as the request fee.

(c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.

(d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 here under, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:

Mark the appropriate box with an **X**.

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

	Copy of record*		Inspection of record
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2. If record consists of visual images

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

	View the images		Copy of the images*		Transcription of the images*
--	-----------------	--	---------------------	--	------------------------------

3. If record consists of recorded words or information which can be reproduced in sound:

	Listen to the soundtrack (audio cassette)		Transcription of soundtrack* (written or printed document)
--	---	--	---


4. If record is held on computer or in an electronic or machine-readable form:

	printed copy of record*		printed copy of information derived from the record*
	copy in computer readable form* (stiffy or compact disc)		

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?
Postage is payable.

YES

NO

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G. Particulars of right to be exercised or protected

*If the provided space is inadequate, please continue on a separate folio and attach it to this form.
The requester must sign all the additional folios.*

1. Indicate which right is to be exercised or protected:
2. Explain why the record requested is required for the exercise or protection of the fore mentioned right:

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at _____ this _____ day of _____ 20__

SIGNATURE OF REQUESTER / PERSON
ON WHO'S BEHALF REQUEST IS MADE