
	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		1 of 11

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 CENTRE
Registration Number – IT 1978/95

	<p style="text-align: center;">ACCESS TO INFORMATION MANUAL</p>	Doc nr: M015
		Rev 1
		09.02.2017
		2 of 11

SECTION 51 MANUAL FOR BIRCHMED SURGICAL CENTRE

CONTENTS

1. Introduction to the Private Body
2. Contact details
3. The section 10 Guide on how to use the Act
4. Records available in terms of any other legislation
5. Access to the records held by the private body in question
6. The latest notice regarding the 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) Records that may be requested.
7. Description of Subjects and Categories of which the aforementioned Companies hold Records
8. Grounds for refusal of Access to Information and/ or Records
9. Access to Health or other Records in terms of Section 61 of the Act
10. Other information as may be prescribed
11. Availability of the manual
12. Prescribed fees for private bodies
13. Prescribed forms


	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		3 of 11

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 Doctors Trust trading as Birchmed Surgical Centre is a registered in a Trust 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 Centre.
- 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 Centre 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 Centre 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 Centre 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

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		4 of 11

3. PARTICULARS IN TERMS OF THE SECTION 51 MANUAL

CONTACT DETAILS:

Birchmed Surgical Centre
8 Tiger Road
Birchleigh
Kempton Park
1620

P O Box 11004
Aston Manor
1618

Telephone:
(011) 391 3300
Fax:
(011) 391 2665
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

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		5 of 11

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 Companies Act 71 of 2008
- 5.3 Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 5.4 Competition Act 71 of 2008
- 5.5 Copyright Act 98 of 1978
- 5.6 Employment Equity Act 55 of 1998
- 5.7 Income Tax Act 58 of 1962
- 5.8 Labour Relations Act 66 of 1995
- 5.9 Occupational Health and Safety Act 85 of 1993
- 5.10 Prevention of Organised Crime Act 121 of 1998
- 5.11 Promotion of Access to Information Act 2 of 2000 xii. Protection of Personal Information Act 4 of 2013
- 5.12 kills Development Levies Act 9 of 1999
- 5.13 Trade Marks Act 194 of 1993
- 5.14 Unemployment Insurance Act 30 of 1966
- 5.15 National Health Act 61 of 2003
- 5.16 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

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		6 of 11

- 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

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		7 of 11

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 Centre.

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.

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		8 of 11


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

- 9.1 Movable and Immovable Property
- 9.2 Intellectual Property
- 9.3 Insurance
- 9.4 Taxation
- 9.5 Human Resources
- 9.6 Finance
- 9.7 Information Technology
- 9.8 Administration

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

- 10.1 Any refusal in terms of the Act.
- 10.2 The protection of third party's right to privacy when such release of information would amount to the unreasonable and/or unlawful disclosure of personal information of that person.
- 10.3 Mandatory protection of any commercial information of a third party, including but not limited to any trade secrets, commercial and/or intellectual property.
- 10.4 Any confidential information which is protected by an agreement between the parties.
- 10.5 Mandatory protection and information that would be considered privileged in terms of any legal and/or medical proceeding.
- 10.6 Any intellectual, commercial and/or related documentation relating to the business activities of the Hospitals.
- 10.7 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.

	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		9 of 11

- 11.1 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
- 11.2 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.
- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 If the relevant person is:
- 11.6.1 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;
- 11.6.2 Incapable of managing his or her affairs, a person appointed by the court to manage those affairs must make that nomination.
- 11.7 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.
- 11.8 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.

11.9 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 Centre website (www.birchmed.co.za).

14.TIME TO MAKE DECISION

Within 30 (thirty) days of receipt of the request a decision whether to grant or decline the request and give notice with reason to that effect will be made.


If the request is being made and includes large volume of information the Requester will be informed of the extension sought and an additional 30 day period will apply

14 FEES IN RESPECT OF PRIVATE BODY

Access Fees	Charge
A4 Size photocopy of a page or part thereof	R 1,10
A4 Size printed copy of page or part thereof	R 0,75
A copy in computer readable format i.e. compact disc	R 70,00
A copy of visual images	R 60,00
A transcription of an audio record for an A4 size page	R 20,00
Search for a record that must be disclosed – per hour fee or part of an hour fee	R 30,00
Where a record has to be posted	Actual postal costs

Reproduction of Information Fees	Charge
A4 Size photocopy of a page or part thereof	R 1,10
A4 Size printed copy of page or part thereof	R 0,75
A copy in computer readable format i.e. compact disc	R 70,00
A copy of visual images	R 60,00
A transcription of an audio record for an A4 size page	R 20,00

A copy of an audio record	R 30,00
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	ACCESS TO INFORMATION MANUAL	Doc nr: M015
		Rev 1
		09.02.2017
		11 of 11

All fees are subject to change as allowed for in the Act.

Requesters shall be informed of any changes in the fees prior to making a payment

15 AVAILABILITY AND UPDATING OF THE PAIA MANUAL

This manual is made available in terms of Regulations Number R187 of 15 February 2002.

This manual will be updated as required and deemed necessary by Birchmed

Record Document	Form Number	Location	Retention Period	Disposal Method
MO15		Z Drive	5 years	Absolute

Referred Document	Location	
	Computer	Hard Copy
		Not Printed

REVISION HISTORY	
	<p>NOTES:</p> <ol style="list-style-type: none"> 1. REVISED AREAS IN THE CURRENT DOCUMENT TO BE PRINTED IN ITALICS/RED AND DESCRIBED IN THE REVISION HISTORY TABLE BELOW. 2. WHERE AMENDMENTS ARE MADE, THE WHOLE DOCUMENT SHALL BE RE-ISSUED WITH THE DATE AND NEW REVISION STATUS IN THE TOP RIGH HAND BLOCK OF EACH PAGE.