	BIRCHMED PATIENT INFORMATION MANUAL  PRIVACY AND CONFIDENTIALITY	Doc nr: M017
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## 1. Purpose and introductions

Birchmed Surgical Centre acknowledges the rights of privacy and dignity of all persons.

This includes the right to protection of private information. In compiling this policy the statutory framework contained in the laws of South Africa was given due consideration. The right to privacy is protected in the Constitution of Republic of South Africa.

All patient information will be protected from unauthorised access, loss or damage and respected as confidential by all staff members and Agents

**1.1.** This Manual refers to the Hospital Association of South Africa standards regarding the POPI ACT

**1.2.** This will form part of Birchmed Surgical Surgical's Manual.


## 2. Legal Framework

**2.1. The Constitution** - The Constitution South Africa Act No 108 of 1996 (s14) deals pertinently with the right to privacy and confidentiality

**2.2. The Electronic Communications and Transactions Act** No 25 of 2002 applies in respect of electronic transactions or data messages and state that data controller should have the express written permission of the data subject for the processing, collecting, collation or disclosure of information of a person

**2.3. The Health Act (2003)** - The National Health Act No 61 of 2003 (14) stipulates that the information is confidential and may not be disclosed if not consented to.

**2.4. The Medical Schemes Act** - The Medical Schemes Act No 131 of 1998 (57) deals with the business of a medical scheme and the duties of the Board of Trustees to ensure all reasonable steps are taken to protect the information of members.

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**2.5. The Children’s Act No 38 of 2005** (13) states that each child has the right to confidentiality regarding his health status except when maintaining such confidentiality is not in the best interest of the child.

**2.6. The Choice of Termination of Pregnancy Act No 92** of 1996 (7) provides that the identity of a woman who obtained a termination of pregnancy shall remain confidential at all times.

**2.7. The Pharmacy Act no 53 of 1974**, rules relating to good pharmacy practice deals extensively with disclosure of information obtained in the course of professional activities without express consent will constitute unethical or unprofessional conduct.

**2.8. The Protection of Personal Information Act No 4 of 2013** provides clear guidance on the protection rights of personal information.


**2.9. The Mental Health Care Act No 17 of 2002** (8) states that a person’s human dignity and privacy must be respected.

**2.10. The Nursing Act No 33 of 2005**, regulations deal dealing with acts of omission specifies that information obtained concerning a patient in the course of professional activities may not be disclosed without consent. The Promotion of Access to Information Act No 2 of 2000 deals with rights of access to information and clearly state that personal information may not be disclosed to third-party unless the party has given permission for disclosure of information.


**2.11. The Protection of Personal Information Act No 4 of 2013** provides clear guidance on the protection rights of personal information.

### 3 What is Patient Information

“Personal information” means information about an identifiable individual, including but not limited to:

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- 3.1 Information relating to the race, gender, sex, pregnancy, marital status, national ethnic, or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual
- 3.2 information relating to the education, medical, criminal or employment history of the individual or
- 3.3 any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person
- 3.4 the biometric information of the person
- 3.5 the personal opinions, view or preferences of the individual except where they are about another individual or about a proposal for a grant, an aware of a prize to be made to another individual
- 3.6 Correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- 3.7 The view or opinions of another individual about the individual
- 3.8 The views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual, but excluding the name of the other individual where it appears with the views or opinions of the other individual; and
- 3.9 The name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual.
- 3.10 Personal information will be collected form you directly. This will be done during the Admission process. Where the law requires that information

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regarding certain diseases need to be notified to authorities, this will take place.

#### 4 Process of information

Personal information of patients shall be processed for lawful purposes only.

#### 5. Access to Health or Other Records

5.1 Access must be given:

- 5.1.1 If the record is required for the protection of any rights.
- 5.1.2 The person complies with the procedures laid down by the Act.
- 5.1.3 There is no ground of refusal contemplated by the Act.


#### 6 Who can request Health or Other Records:

- 6.1 HPCSA
- 6.2 SANC
- 6.3 COID
- 6.4 RAF
- 6.5 Medical Aid
- 6.6 When subpoenaed by a Court of Law

#### 7 WHAT DOES PROCESSING OF PERSONAL DATA MEAN S

The following principles will be adhered to and considered with when dealing with patient rights.

- 7.1 It is important to recognise the process or decision that the following is considered before release of information.
  - 7.1.1 Does it justify the purpose?
  - 7.1.2 Is the minimum patient identifiable detail disclosed?
  - 7.1.3 Access to information is on a strict to know basis only?
  - 7.1.4 Everyone involved with patient information understands his/her

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responsibilities in this regard.

7.1.5 Compliance with the law is not negotiable.

## **8 WHEN TO REFUSE OR PERMIT THE SHARING INFORMATION**

8.1 Birchmed Surgical Centre adheres to the requirements of the National Health Act 61 of 2003 as well as the Patient Rights Charter; both of which grants a patient full participation in his/her health care management.

8.2 Birchmed does not use data for marketing purposes.

8.3 To ensure continuous improving of the care and service offering, patients may be asked to complete on line service experience questionnaire.


## **9 SHARING WITH THIRD PARTIES**

9.1 In accordance with medical aid membership a Service Provider and Specific Employees are obliged to share medical information with the medical aid of which the member belongs to.

## **10. PRIVACY WITHIN BIRCHMED SURGICAL CENTRE**

10.1 Hospital records will be archived by the hospital as defined in the terms and conditions of the admission document. Records remain active whilst patient is in hospital. As soon as the patient is discharged the Hospital record becomes inactive, and shall only be made available in terms of the stipulations of the Promotion to Access of Information Act 2 of 2000.

10.2 It is important that the environment within the

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Hospital gives consideration to privacy of patients i.e. tone of voice, closure of curtains, records out of reach of general public during visiting hours, not discussing patients in corridors or public places.

10.3 Birchmed Surgical Centre premises may have CCTV cameras in place that will record movement on premises. Except for this, filming video and taking photos, of patients is strictly prohibited.

#### 10.4 PERSONAL INFORMATION

10.4.1 On admission proof of identity will be required from all Patients.

10.4.2 On admission proof of medical aid membership shall be required from all patients who are members of Medical aids.

10.4.3 All existing personal information of patients shall be updated with every subsequent visit to the hospital


### 11 RETENTION OF PERSONAL INFORMATION

All patient information shall be archived as per regulatory requirements

### 12 SECURED PERSONAL INFORMATION

**12.1** The Promotion of Access to Information Act No 2 of 2000 deals with rights of access to information and clearly state that personal information may not be disclosed to third-party unless the party has given permission for disclosure of information.


**12.2** Birchmed Surgical Centre shall ensure that the appropriate are

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taken to safeguard personal information of other persons; which steps will include physical, technological and procedural safeguards which restrict access to systems, as well as all steps to ensure to keep the archiving of records safe.

**12.3 BIRCHMED SURGICAL CENTRE WEBSITE**

Our Website might use a file called Cookie; send to your computer to identify your device to our website. This cookie might be used to customize your experience on a Website. The cookie does not store any sensitive information that could be used by any other Website.

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### Records and Referred Documents

Record Document	Form Number	Location	Retention Period	Disposal Method
MO17		Z Drive	5 years	Absolute

Referred Document	Location	
	Computer	Hard Copy
		Not Printed

REVISION HISTORY	
	<p><b>NOTES:</b></p> <ol style="list-style-type: none"> <li>1. REVISED AREAS IN THE CURRENT DOCUMENT TO BE PRINTED IN ITALICS/RED AND DESCRIBED IN THE REVISION HISTORY TABLE BELOW.</li> <li>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.</li> </ol>

REV NO	AMENDED DATA	REVISION DETAILS
1.		
2.		