



## DR FRANCOIS SWART NEUROSURGEON

MBChB DA DipPeC M Med  
PR No: 0451118  
MP No: 0450014

### PROMOTION OF ACCESS TO INFORMATION ACT SECTION 51 MANUAL OF DR F SWART INC

This Manual is published in terms of Section 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) ("the Act"). 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.

#### OVERVIEW

Dr F Swart Inc is a medical specialist in the field of Neurosurgery. He is registered as a Neurosurgeon with The Health Professions Council of South Africa (HPCSA). He works in the health sector and is a healthcare professional registered under the Health Professions Act of 1974 and is subject to the rules and regulations of the HPCSA.

This manual serves to inform members of the public of the categories of information held, and which may, subject to the grounds of refusal listed in the Act, be disclosed after evaluation of an application for access to information made in terms of the Act.

#### AVAILABILITY OF THIS MANUAL

A copy of this manual is available -

- At our consulting rooms at Cintocare Hospital, Room 12, 175 Frikkie De Beer Street, Menlyn, Pretoria.
- On request from our Information Officer, details below.
- On our website: [www.drfs.co.za](http://www.drfs.co.za)
- From the South African Human Rights Commission ("SAHRC") or once the Protection of Personal Information Act, 2013 ("POPI Act") comes into effect, from the Information Regulator: <https://www.justice.gov.za/inforeg/index.html>

This Manual will be updated from time to time, as and when required.

#### OUR INFORMATION OFFICER

Our Information Officer is:  
Dr Francois Swart  
Tel no: +27 12 945 3028/9  
E-mail: [drfswart@outlook.com](mailto:drfswart@outlook.com)

#### HOW TO REQUEST ACCESS TO RECORDS HELD BY DR FRANCOIS SWART INC

Requests for access to records held by Dr Francois Swart Inc must be made using the request form that is attached to this Manual or available on our website or at our rooms, or from:  
[https://www.justice.gov.za/forms/paia/J752\\_paia\\_Form%20C.pdf](https://www.justice.gov.za/forms/paia/J752_paia_Form%20C.pdf), attached as Annexure A, ("Request Form").

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 and contact details of the other person as the one who has authorised the request must be provided. In order to verify this, the practice may require further proof such as an identify document or may call the person whose information it is to verify that she/he/they has/have given permission 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, etc) she/he/they want/s 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 she/he wants or is entitled to, and not the rest of the record.

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





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### HOW THE PROTECTION OF PERSONAL INFORMATION ACT WORKS

The Act provides that a requester may be provided with access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

Requests under the Act must be made in terms of the procedures prescribed by the Act, at the rates provided. The forms and tariff are dealt with under sections 53 and 54 of the Act.

More information on how the Act works and all other information including the Section 10 Guide can be obtained from the South African Human Rights Commission at:

The South African Human Rights Commission ("SAHRC")  
Postal Address: Private Bag 2700, Houghton, 20141  
Telephone Number: +27 11 877 3600  
Fax number: +27 11 403 0625  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)

There are also provincial SAHRC offices in all provinces.

### VOLUNTARY DISCLOSURE

The following information is made known automatically:

- General Terms and Conditions of the Practice
- Informed Consent Forms

### 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 not be read as exhaustive.

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

The Companies Act 71 of 2008; Income Tax Act 58 of 1962; Value Added Tax Act 89 of 1991; Labour Relations Act 66 of 1995; Basic Conditions of Employment Act 75 of 1997; Employment Equity Act 55 of 1998; Skills Development Levies Act 9 of 1999; Unemployment Insurance Act 63 of 2001; Compensation for Occupational Injuries and Disease Act 130 of 1993; Occupational Health and Safety Act of 85 of 1993; 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; National Credit Act 34 of 2005; Long-term Insurance Act 52 of 1998; Protection of Personal Information Act 4 of 2013; etc.

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; etc.

### RECORDS HELD BY THE PRACTICE AND RELATED CATEGORIES OF DATA SUBJECTS

We hold records in the categories listed below. The fact that we list a record type here does not necessarily mean that we will disclose such records, and all access is subject to the evaluation processes outlined herein, which will be exercised in accordance with the requirements of the Act.

Internal records relating to the Practice, which includes the Practice's founding and other documents, minutes, and policies; annual and other reports; financial records; operational records, policies and procedures; contracts; licences, trademarks and other intellectual property; production, marketing records; other internal policies and procedures; internal correspondence; statutory records; insurance policies and records; etc.

Personnel records, which includes records of temporary/fixed term/part-time/permanent employees, locums, associates, contractors, partners, directors (executive and non-executive). Records include personal files, records third parties have provided to us about their/our staff; employment contracts, conditions of employment; workplace policies; disciplinary records; termination records; minutes of staff meetings; performance management records and systems and all employment-related correspondence.





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Client/patient records, which include client/patient lists; health records; medical reports; funding records; agreements; consents; needs assessments; financial and accounts information; research information; evaluation records; profiling; and similar information. 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.

Supplier and service provider records, which include supplier registrations; contracts; confidentiality agreements and non-disclosure agreements, communications; logs; delivery records; commissioned work; and similar information, some of which might be provided to us by such suppliers and providers under service- and other contacts.

Technical records, which includes manuals, logs, electronic and cached information, product registrations, product dossiers, health professional council / statutory body records, approvals, conditions and requirements, trade association information and similar product information.

Third party information, which may be in our possession, but which would be subject to the conditions set in relation to such possession and use or purpose limitations.

Environment and market information, which include information bought, publicly available information and commissioned information which pertains to the specific sector and market of our business and factors that affect the business, professional and healthcare environment.

### **CATEGORIES OF RECIPIENTS OF PERSONAL INFORMATION**

We may, as authorised by the National Health Act, share relevant personal and health information with the hospitals we work in, 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. We also must, by law, report adverse events of products (medicines/devices) to the SA Health Products Regulatory Authority and the company whose products it is.

### **PLANNED TRANS-BORDER FLOW OF PERSONAL INFORMATION**

The Practice does have planned trans-border flow of personal information.

### **PURPOSE OF THE PROCESSING OF THE RECORDS REFERRED TO**

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

- In relation to the business/internal records: for good corporate governance and to comply with business and tax legislation.
- In relation to Employees: for retention of employment records as legislated and execution of employer/employee agreements and labour legislation.
- In relation to patients: for retention of records as required by law and to provide healthcare services, to access health products (prescriptions and products 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 databased.
- In relation to Suppliers and Service Providers: for record retention as legislated and for the execution of the supplier- and service level agreements.

### **THE SUITABILITY OF THE INFORMATION SECURITY MEASURES**

The Practice stores information electronically and physically as follows:

- Physical records are kept in locked cabinets at the Practice and only five people have access to the keys to the filing and other storage cabinets, as well as to the office(s) of Dr Swart and the Practice. The hospital has access control and boomed security gates and a dedicated on-site security company.
- Copies of records are kept in secure locked filing cabinets.
- Electronic records are kept on a secure cloud which is password protected, with software regularly updated to protect against hacking, unauthorised access, tampering and the like, and staff are trained to avoid practices that could place records at risk and on good practices that keep electronic information reasonably secure.

### **PRESCRIBED FEES**

The following applies a request for access to information other than personal requests:

- The requestor is required to pay the prescribed fee of R50 before the request will be processed.
- If the preparation of the record requested requires more than the prescribed 6 (six) hours, a deposit of not more than one third of the access fee which would be payable if the access were granted, shall be payable.





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- The requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- Records may be withheld until fees have been paid.
- The latest fee structure is available on the website of the SAHRC at [www.sahrc.org.za](http://www.sahrc.org.za) and attached hereto as Annexure B.

This manual is signed by Dr Francois Swart, Information Officer, on the 1st day of June 2021.

Signature: \_\_\_\_\_

**ANNEXURE A:**

**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:



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**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.
- (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 a 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 hereunder, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:



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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.

<b>1.</b> <b>If the record is in written or printed form:</b>			
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record
<b>2.</b> <b>If record consists of visual images</b> (This includes photographs, slides, video recordings, computer-generated images, sketches, etc.):			
<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images*
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*
<b>3.</b> <b>If record consists of recorded words or information which can be reproduced in sound:</b>			
<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)
<b>4.</b> <b>If record is held on computer or in an electronic or machine-readable form:</b>			
<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record*
<input type="checkbox"/>		<input type="checkbox"/>	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? <b>Postage is payable.</b>			<input type="checkbox"/> YES <input type="checkbox"/> 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 aforementioned 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.*

**ANNEXURE B:**

**FEES IN RESPECT OF RECORDS REQUESTED FROM PRIVATE BODIES**

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:

	R
(a) For every photocopy of an A4-size page or part thereof	1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	0,75
(c) For a copy in a computer-readable form on—	
(i) stiffy disc	7,50
(ii) compact disc	70,00
(d) (i) For a transcription of visual images, for an A4-size page or part thereof	40,00
(ii) For a copy of visual images	60,00
(e) (i) For a transcription of an audio record, for an A4-size page or part thereof	20,00
(ii) For a copy of an audio record	30,00
3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11 (2) is R50,00.