



NISHA PILLAY

OCCUPATIONAL THERAPY

Bsc (OT) WITS

Pr. No.: 0490652

Section 51 Manual

In terms of

*The Promotion of Access to Information Act, No 2 of
2000*

Nisha Pillay Occupational therapy

Private practice

Date of compilation: 25/06/2021

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Version control

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PART A: INTRODUCTION

A.1. What is the purpose of this Manual?

Under the Promotion of Access to Information Act 2000 (“PAIA”), Nisha Pillay Occupational Therapy is required to grant individuals access to records held by Nisha Pillay Occupational Therapy if that record is required by the individual to exercise or protect any legal right that individual enjoys under the law. Additionally, under the Protection of Personal Information 2013 (“POPI”), Nisha Pillay Occupational Therapy is required to be open and transparent about how Nisha Pillay Occupational Therapy handles personal information and allow individuals to access and correct their personal information. I await the commencement (or effective) date of POPI and will update this manual as soon as the date is announced by proclamation. The purpose of this Manual is to set out the information which Nisha Pillay Occupational Therapy is legally required to disclose under PAIA and POPI, and to explain how you can exercise your statutory rights under PAIA and POPI with respect to records and personal information handled by Nisha Pillay Occupational Therapy.

A.2. What is the status and scope of this Manual?

This Manual (version 1.0) was last updated on 25/06/2021 and will become effective on 01 July 2021. This Manual may be revised from time to time to reflect changes in laws and regulations, or changes in Nisha Pillay Occupational Therapy’s business operation.

A.3. Introduction to the practice

This private practice is the practice of Nisha Pillay Occupational Therapy. I run the occupational therapy practice according to the requirements set by the Health Professions Act No. 56 of 1974, and am subject to the authority of the Health Professionals Council of South Africa (HPCSA). My business is to provide therapeutic intervention within the scope and ambit of our competence and training, as defined from time to time. I am bound by a number of ethical rules issued by the HPCSA, most notably the duty to preserve patient confidentiality, unless legislation or a court order compels me to breach this duty. Requesters should note that commercial information and financial information may be withheld on the grounds of sections 63-70.

A.4. What are my rights under the Promotion of Access to Information Act?

A.4.1. On 9 March 2001, the Promotion of Access to Information Act, became operative, giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights; and to provide for matters connected therewith.

A.4.2. Under PAIA, everyone has the right to access:

a) any information held by the state; and

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b) any information that is held by another person and that is required for the exercise or protection of any rights.

A.4.3. A public body may make a request for information under PAIA only if, in making the request, the public body is acting in the public interest.

A.4.4. Records made available by Nisha Pillay Occupational Therapy under PAIA are described in Part C of this Manual. If you wish to make a request under PAIA to Nisha Pillay Occupational Therapy, please follow the procedure described in Section B of this Manual. Please note that your request will be subject to the applicable charges set out in Section B.4.

A.4.5. You can learn more about your rights under PAIA by contacting the South African Human Rights Commission (“SAHRC”) at:

South African Human Rights Commission
Braampark Forum 3
33 Hoofd Street
BraamfonteinSouth Africa
Email: info@sahrc.org.za
Web: <http://www.sahrc.org.za>
Tel: +27 11 877 3600

A.4.6. SAHRC has produced a detailed guidance on how to exercise your rights under PAIA. This guidance (known as PAIA Section 10 Guide) is available from SAHRC and can be accessed on SAHRC’s website.

A.5. Availability of this manual [S 51(1)(b) – Promotion of Access to Information Act]

A.5.1. A copy of this manual is available to the public for inspection at our website/registered offices as listed below or on request from the designated contact person.

A.5.2. Contact Details [S 51(1)(a)] – Nisha Pillay is responsible for the administration of and compliance with the Act in a fair objective and unbiased manner.

Physical address	132 Bellefield Avenue, Mondeor, Johannesburg, Gauteng, South Africa, 2091
Postal address	As above
Telephone number	064 909 0439
Email address	beyondthebasicot@gmail.com
Website	www.nishapillay-ot-beyondthebasic.com

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A.6. Description of the guide referred to in section 10, if available, and how to obtain access to it: [S 51(1)(b)(i)]

A.6.1. The Act grants a requester 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.

A.6.2. Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided.

A.6.3. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights.

A.6.4. The Guide is available from the SAHRC.

A.6.5. The contact details of the Commission are:

Postal Address: Private Bag 2700, Houghton, 2041

Telephone Number: +27-11-877 3600

Fax Number: +27-11-403 0625

Website: www.sahrc.org.za

A.7. Records that are automatically available without a person having to request access in terms of this Act [S51(1)(c)]

1. Inspection in terms of legislation other than this Act - None
2. Purchase or copying from the practice - None
3. From the practice free of charge Health related brochures, information leaflets

A.8. Description of the records of the practice which are available in accordance with any other legislation [S 51(1)(d)]

A.8.1. Records are kept in accordance with the following legislation (this list is not exhaustive):

(a) Basic Conditions of Employment Act 75 of 1997 - record containing the following information Section 31):

- employee's name and occupation;
- time worked (attendance register);
- remuneration paid (wages register);
- date of birth if under 18 years of age.

(b) Occupational Health and Safety Act 85 of 1993

- A copy of the Occupational Health and Safety Act 85 of 1993

(c) Compensation for Occupational Injuries and Diseases Act 130 of 1993

- All records required by the Act

(d) Employment Equity Act 55 of 1998

- Summary of the Employment Equity Act, 55 of 1998, issued in terms of Section 25(1)

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(e) Income Tax Act 58 of 1962

- All records required by the Act

(f) Labour Relations Act 66 of 1995

- Records of disciplinary hearings (if any)

(g) Unemployment Insurance Act 30 of 1966

- Records detailing the contributions by contributors employed by the employer in respect of earnings paid, time worked, payments made for piece work and overtime

(h) Value Added tax Act 58 of 1962.

- All records required by the Act

(i) All records required by related health legislation, including the Health Professions Act and the Medical Schemes Act.

Part B: Make a Request under PAIA

B.1. How can I make a request to Nisha Pillay Occupational Therapy under PAIA [S 53(1)]

B.1.1. In order to facilitate a timely response to requests for access, all requesters should take note of the following when completing the Access Request Form:

B.1.2. To facilitate the processing of your request, kindly:

1. Complete the Request Form which is embedded in Part D of this Manual, also available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at www.sahrc.org.za (copy attached hereto as an example)

2. Address your request to the Head of this practice – Nisha Pillay Occupational Therapy.

3. Provide sufficient details to enable us to identify:

(a) The record(s) requested;

(b) The requester (and if an agent is lodging the request, proof of capacity);

(c) The form of access required;

(d)

i. The postal address or fax number of the requester in the Republic;

ii. If the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;

(e) 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.

(f) Payment of Fees:

i. Pay the applicable Request Fee described in Section B4.4. below.

ii. Payment can be made via: an EFT (direct bank transfer). If you wish to pay the applicable Request Fee via EFT, you will need to send the proof of payment together with your request

a. You can obtain the details required for EFT by contacting Nisha Pillay Occupational Therapy (see Section A.5 above for contact details), or

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- b. Payment can be made via credit card or debit card at our registered offices. (see Section A.5 above for physical address details)
- c. This fee is not applicable to Personal Requesters, referring to any person seeking access to records that contain their personal information.
- ii. The completed Access Request Form together with a copy of the identity document must be submitted either via conventional mail, e-mail and must be addressed to the contact person as indicated above.

B.2. How will my PAlA request be processed by Nisha Pillay Occupational Therapy?

B.2.1. Nisha Pillay Occupational Therapy will process your request when the completed Request Form is received and any applicable Request Fee is paid. Subject to Section B2.2. below, your request will normally be processed within 30 days of receipt of the completed Request Form, provided that, all the required details are properly set out in the completed Request Form.

B.2.2. If it turns out that it will take more than 30 days to process your request (e.g. due to the volume of records/personal information that must be processed, or difficulty in accessing the relevant record/personal information), Nisha Pillay Occupational Therapy may extend the aforementioned 30 day period in processing your request. Should this become necessary, Nisha Pillay Occupational Therapy will notify you.

B.2.3. Once a decision on your request is reached, Nisha Pillay Occupational Therapy will notify you in writing.

Where Nisha Pillay Occupational Therapy decides to:

- a. Grant access to the record/personal information requested, Nisha Pillay Occupational Therapy will notify you how the access will be granted and what Access Fees are payable and release the requested record/personal information upon receipt of the applicable Access Fee.
- b. Deny access to the record/personal information requested - Nisha Pillay Occupational Therapy will notify you of the reasons why access was denied.
- c. Comply with your request to correct or delete your personal information, confirm how your request has been or will be actioned; and
- d. Deny your request to correct or delete your personal information, confirm why your request has been denied.

B.2.4. Where your request was a request for confirmation as to whether Nisha Pillay Occupational Therapy handles your personal information (i.e. you make a request under POPI s23(1)(a)), Nisha Pillay Occupational Therapy will give you the confirmation.

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B.3. What if I am not happy about how Nisha Pillay Occupational Therapy handled my PAIA/POPI request?

B.3.1. If you are not satisfied about the way in which your request was handled by Nisha Pillay Occupational Therapy (including where you are not happy about the Access Fee charged or the length of time it is taking to process your request), you can make an application for relief to the Constitutional Court, the High Court or another court of similar status.

B.3.2. Please note that if you wish to make an application to the court, you will need to do so within 180 days of receiving the relevant decision made by Nisha Pillay Occupational Therapy.

B.4. What are the charges applicable to my PAIA/POPI request?

B.4.1. There are two types of fees which are payable under PAIA, namely Request Fee, and Access Fee.

B.4.2. Request Fee - is payable upon making a request to access records/personal information. The fee will be R61.85. The fee is not applicable to the following persons:

1. Medically boarded/receiving a disability benefit.
2. Experiencing job loss
3. Part of a single person run household with a salary less than R27000 (more than 2 people in the family).

B.4.3. Access Fee - is payable in respect of records/personal information which are produced in response to your request. Access Fee is payable by everyone who makes a request and is dependent on the following: (this will be charged according to the most current rate)

- Number of photocopies of an A4-size page or part thereof
- Number of printed copies of an A4-size page or part thereof. Held on a computer or in electronic or machine-readable form.
- Transcription of visual images, for an A4-size page or part thereof.
- Copies of visual images
- Transcription of an audio record, for an A4-size page or part thereof
- Copies of an audio recording
- Each hour or part of an hour (excluding the first hour) reasonably required to search for and prepare the record/personal information for disclosure.
- Posting the record/personal information. (Actual postage incurred)
- Confirming whether Nisha Pillay Occupational Therapy handles personal information of the requestor (POPI s23(1)(a) request)

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B.4.4. Please note that:

- a. where Request Fee is payable, your request will not be processed until you pay the Request Fee;
- b. where Access Fee is payable, the record/personal information you requested will not be released until the Access Fee is paid; and

B.4.5. Please also note that if you are not a private individual and if the search for and preparation of the record requested is in Nisha Pillay Occupational therapy's view likely to require more than 6 hours of work, Nisha Pillay Occupational Therapy reserves the right to require you to pay 1/3rd of the Access Fee up front as a deposit.

B.5. Protection of Personal Information Act

B.5.1. Purpose of the processing [S 51(1)(c)(i)] – Not yet applicable

B.5.2. Categories of data subjects and of the information or categories of information relating thereto [S51(1)(c)(ii)] – Not yet applicable

B.5.3. Recipients or categories of recipients to whom the personal information may be supplied [S51(1)(c)(ii)] – Not yet applicable

B.5.4. Planned transborder flows of personal information [S 51(1)(c)(iv)] – Not yet applicable

B.5.6. General description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the information which is to be processed [S 51(1)(c)(v)] – Not yet applicable

Part C: Records Nisha Pillay Occupational Therapy makes available under PAIA

C.1. What records does Nisha Pillay occupational therapy hold?

C.1.1. You can request access to different types of records maintained by Nisha Pillay Occupational Therapy, including the following:

(a) Client Records

- Client Contracts
- Client Correspondence
- Billing Records
- Electronic Data Backups

(b) Finance and Administration

- Accounting Records
- Annual Financial Statements
- Banking Records
- Correspondence
- Invoices and Statements

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- Tax Records and Returns
- SARS Returns
- (c) Human Resources
 - Accounting and Payroll Records
 - Letters of Employment
 - Leave Records
 - Returns to UIF
- (d) Information Management and Technology
 - Contracts and Agreements
 - Licences
 - Data bases

C.1.2. Description of the records of the practice which are available in accordance with any other legislation [S51(1)(d)]

(a) See paragraph A.8.1 above.

C.2. When Access to Information may be refused.

There are various grounds under which an access to information request may or must be refused by an Information Officer of a private body, including but not limited to:

C.2.1. Protection of the privacy of a third party - An Information Officer of a private body must not allow access to personal information of a natural person, including a deceased individual, except where:

- a. Personal information of an individual who has given consent for this information to be released;
- b. Personal information which has already been made public;
- c. Personal information about a child under the age of 18 where the disclosure of such information is in the best interest of the child, and the requester is the child's carer (i.e. parent or guardian);
- d. Personal information of a deceased person to a requester who is the individual's next of kin, or who has been authorised (written consent) by the next of kin;
- e. Personal information of a deceased person who has been deceased for a period of more than 20 years;
- f. Personal information of an individual who is or was an official in a public or private body and where the information relates to their position as an official.

C.2.2. Protection of commercial information - must refuse access to information if releasing that information would cause harm to the commercial or financial interests of the business. PAIA lists the following commercial information which cannot be disclosed by an Information Officer:

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- a. Trade secrets;
- b. Financial, commercial, scientific, research or technical information about us which, if released, would cause harm to the practice;
- c. Information which had been supplied in confidence to the practice.

C.2.3. Protection of confidential information - PAIA provides that an information officer must refuse access to a record if the release of the record will amount to a breach of a duty of confidence owed to a third party in terms of an agreement or contract.

C.2.4. Protection of the safety of individual and property - This section states that an information officer must refuse access to a record if the disclosure of the record could reasonably be expected to compromise the safety of an individual or property;

C.2.5. Protection of information in legal proceedings – An Information Officer must refuse access to reports compiled for an insurance house when the assessment and report is paid for by the insurer. The requestor would be required to obtain access directly from the insurer. All assessing Therapists provide consent for release of the report to claimants, however requestors would be required to request it directly from the insurer. This refusal of access would additionally apply to reports compiled for medico-legal cases;

C.2.6. Protection of Research Information - An Information Officer of a public or private body must refuse access to records which contain information relating to research which is or will be undertaken by the public or private body in question or a third party. This refusal of access to information is in circumstances where the disclosure of the record will expose the research of the third party or public or private body, the individual or institution carrying out the research, or the subject matter of the research to a serious disadvantage.

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