



# NISHA PILLAY

## OCCUPATIONAL THERAPY

### Bsc (OT) WITS

Pr. No.: 0490652

# PROTECTION OF PERSONAL INFORMATION POLICY AND PROCEDURES MANUAL

In terms of the Protection of Personal Information Act 4 of 2013 ("POPIA"), any responsible party that processes personal information must do so in accordance with the principles outlined in POPIA.

## CONTROL MEASURES

- Establish a Regulatory Risk & Compliance Management Framework for the practice.
- Implement control measures (actions, activities, processes and/or procedures) that will provide reasonable assurance that the practice's compliance obligations are met and that non-compliances are prevented, detected and corrected.
- Control measures must be periodically evaluated and tested to ensure their continuing effectiveness.

Action / Activity / Process / Procedure	Control Owner
Annual Review	Nisha Pillay
Information Officer	
Deputy Information Officer	
POPI Audit	
POPI Awareness Training	

## PROTECTION OF PERSONAL INFORMATION POLICY

### POLICY STATEMENT

- This policy forms part of the policy owner's internal business processes and procedures.
- Any reference to the "practice" shall be interpreted to include the "policy owner".
- The practice's governing body, its employees, volunteers, contractors, suppliers and any other persons acting on behalf of the practice are required to familiarise themselves with the policy's requirements and undertake to comply with the stated processes and procedures.
- Risk owners and control owners are responsible for overseeing and maintaining control procedures and activities.



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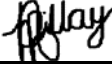
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### **POLICY ADOPTION**

By signing this document, I authorise the policy owner's approval and adoption of the processes and procedures outlined herein.

Name & Surname	Nisha Pillay
Capacity	Owner and Occupational Therapist
Signature	
Date	09 June 2021



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## 1. INTRODUCTION

The right to privacy is an integral human right recognised and protected in the South African Constitution and in the Protection of Personal Information Act 4 of 2013 ("POPIA").

POPIA aims to promote the protection of privacy through providing guiding principles that are intended to be applied to the processing of personal information in a context-sensitive manner.

Through the provision of quality goods and services, the practice is necessarily involved in the collection, use and disclosure of certain aspects of the personal information of clients, locums and other stakeholders.

A person's right to privacy entails having control over his or her personal information and being able to conduct his or her affairs relatively free from unwanted intrusions.


Given the importance of privacy, the practice is committed to effectively managing personal information in accordance with POPIA's provisions.

## 2. DEFINITIONS

### 2.1 Personal Information

Personal information is any information that can be used to reveal a person's identity. Personal information relates to an identifiable, living, natural person, and where applicable, an identifiable, existing juristic person (such as a company), including, but not limited to information concerning:

- race, gender, sex, pregnancy, marital status, national or ethnic origin, colour, sexual orientation, age, physical or mental health, disability, religion, conscience, belief, culture, language and birth of a person;
- information relating to the education or the medical, financial, criminal or employment history of the person;
- any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- the biometric information of the person;
- the personal opinions, views or preferences of the person;
- correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- the views or opinions of another individual about the person;
- the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.



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## 2.2 Data Subject

This refers to the natural or juristic person to whom personal information relates, such as an individual client, customer or a company that supplies the practice with services, referrals and products or other goods.

## 2.3 Responsible Party

The responsible party is the entity that needs the personal information for a particular reason and determines the purpose of and means for processing the personal information. In this case, the practice is the responsible party.

## 2.4 Operator

An operator means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party. When dealing with an operator, it is considered good practice for a responsible party to include an indemnity clause. The practice uses Yoco card machines with offers payment links. In order to do this the clients name and surname, telephone number or email address is recorded. The practice does not use this to provide invoices and receipts and therefore no other personal information is shared with this operator. Visit: <https://www.yoco.com/za/terms/privacy-and-app/> for more details on the yoco privacy policy.

## 2.5 Information Officer

The Information Officer is responsible for ensuring the practice's compliance with POPIA.

Where no Information Officer is appointed, the head of the practice will be responsible for performing the Information Officer's duties.

Once appointed, the Information Officer must be registered with the South African Information Regulator established under POPIA prior to performing his or her duties.

## 2.6 Processing of information

The act of processing information includes any activity or any set of operations, whether by automatic means, concerning personal information and includes:

- The collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use.
- dissemination by means of transmission, distribution or making available in any other form; or
- merging, linking, as well as any restriction, degradation, erasure or destruction of information.



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### **2.7 Record keeping**

Means any recorded information, regardless of form or medium, including:

- Writing on any material;
- Information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored;
- Label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- Book, map, plan, graph or drawing;
- Photograph, film, negative, tape or other device in which one or more visual images are embodied to be capable, with or without the aid of some other equipment, of being reproduced.

### **2.8 Filing System**

Means any structured set of personal information, whether centralised, decentralised or dispersed on a functional or geographical basis, which is accessible according to specific criteria.

### **2.9 Unique Identifier**

Means any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party.

### **2.10 De-Identify**

This means to delete any information that identifies a data subject or which can be used by a reasonably foreseeable method to identify, or when linked to other information, that identifies the data subject.

### **2.11 Re-Identify**

In relation to personal information of a data subject, means to resurrect any information that has been de-identified that identifies the data subject, or can be used or manipulated by a reasonably foreseeable method to identify the data subject.



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#### **2.12 Consent**

Means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.

#### **2.13 Direct Marketing**

Means to approach a data subject, either in person or by mail or electronic communication, for the direct or indirect purpose of:

- Promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; or
- Requesting the data subject to donate in any kind for any reason.

#### **2.14 Biometrics**

Means a technique of personal identification that is based on physical, physiological or behavioural characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition.





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### 3 POLICY PURPOSE

This purpose of this policy is to protect the practice from the compliance risks associated with the protection of personal information which includes:

- Breaches of confidentiality. For instance, the practice could suffer loss in revenue where it is found that the personal information of data subjects has been shared or disclosed inappropriately.
- Failing to offer choice. For instance, all data subjects should be free to choose how and for what purpose the practice uses information relating to them.
- Reputational damage. For instance, the practice could suffer a decline in shareholder (client base) value following an adverse event such as a computer hacker deleting the personal information held by the practice.

This policy demonstrates the practice's commitment to protecting the privacy rights of data subjects in the following manner:

- Through stating desired behaviour and directing compliance with the provisions of POPIA and best practice.
- By cultivating an organisational culture that recognises privacy as a valuable human right.
- By developing and implementing internal controls for the purpose of managing the compliance risk associated with the protection of personal information.
- By creating business practices that will provide reasonable assurance that the rights of data subjects are protected and balanced with the legitimate business needs of the practice.
- By assigning specific duties and responsibilities to control owners, including the appointment of an Information Officer and where necessary, Deputy Information Officers to protect the interests of the practice and data subjects.
- By raising awareness through training and providing guidance to individuals who process personal information so that they can act confidently and consistently.

### 4 POLICY APPLICATION

This policy and its guiding principles apply to:

- The practice and the management thereof
- All locums and volunteers

The policy's guiding principles find application in all situations and must be read in conjunction with POPIA as well as the practice's PAIA Policy as required by the Promotion of Access to Information Act (Act No 2 of 2000).

The legal duty to comply with POPIA's provisions is activated in any situation where there is:

A **processing of personal information** entered into a **record** by or for a **responsible person** who is **domiciled** in South Africa.



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POPIA does not apply in situations where the processing of personal information:

- is concluded during purely personal or household activities, or
- where the personal information has been de-identified.

## 5 RIGHTS OF DATA SUBJECTS

Where appropriate, the practice will ensure that its clients are made aware of the rights conferred upon them as data subjects. The practice will ensure that it gives effect to the following seven rights.

### 5.1 The Right to Access Personal Information

The practice recognises that a data subject has the right to establish whether the practice holds personal information related to him/her including the right to request access to that personal information.

The Promotion of Access to Information (PAI) Act 2000 gives all clients the right to access records held by the practice, provided it is for legitimate reasons. Either the client or someone authorised to act on the client's behalf can request access, and the request must be responded to within 30 calendar days. The PAIA states that requests should be refused if the disclosure to "the relevant person might cause serious harm to his or her physical or mental health, or well-being".

Relatives other than parents have no automatic right of access and any requests for information should only be granted with the consent of the client. Parents and guardians of children aged under 12 can gain access to their child's medical records if they request it. An exception is if the child has had a termination of pregnancy, which should remain confidential unless the child consents to its disclosure.

Children aged 12 or over, and who have the maturity to understand the consequences of disclosure, must give their consent to the disclosure of their medical records.

The police have no special right to access clinical records. However, they can be granted access if the client consents to it; if the information has been requested by a court order; or if – as with risks to public health – the public interest outweighs the client's right to confidentiality.

Solicitor (Insurance companies/disability claim assessors/claim handlers) may also request access to a client's medical records, in situations where they are handling a claim – again, the consent of the client is needed before any disclosure. If the solicitor is acting on behalf of the client, it can be assumed that the request is being made with prior consent from the client. To ensure best practice's the practice will also attain a signed consent form clarifying this.

An example of a "Personal Information Request Form" can be found under Annexure A.

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#### **5.2 The Right to have Personal Information Corrected or Deleted**

The data subject has the right to request, where necessary, that his/her or its' personal information must be corrected or deleted where the practice is no longer authorised to retain the personal information certain personal information that is not necessary to be held in a medical record.

#### **5.3 The Right to Object to the Processing of Personal Information**

The data subject has the right, on reasonable grounds, to object to the processing of his/her or its' personal information. In such circumstances, the practice will give due consideration to the request and the requirements of POPIA. The organisation may cease to use or disclose the data subject's personal information and may, subject to any statutory and contractual record keeping requirements, however, records may not be destroyed on request due to HPCSA regulations regarding recording keeping and storage.

#### **5.4 The Right to Object to Direct Marketing**

The data subject has the right to object to the processing of his/ her personal information for purposes of direct marketing by means of electronic communications.

#### **5.5 The Right to Complain to the Information Regulator**

The data subject has the right to submit a complaint to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of his/ her or its' personal information.

An example of a "POPI Complaint Form" can be found under Annexure B.

#### **5.6 The Right to be Informed**

The data subject has the right to be notified that his/her or its' personal information is being collected by the practice. The data subject also has the right to be notified in any situation where the practice has reasonable grounds to believe that the personal information of the data subject has been accessed or acquired by an unauthorised person.



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## 6 GENERAL GUIDING PRINCIPLES

All locums, employees and persons acting on behalf of the practice will at all times be subject to, and act in accordance with, the following guiding principles:

### 6.1 Accountability

Failing to comply with POPIA could potentially damage the practice's reputation or expose the practice to a civil claim for damages. The protection of personal information is therefore everybody's responsibility.

The practice will ensure that the provisions of POPIA and the guiding principles outlined in this policy are complied with through the encouragement of desired behaviour. However, the practice will take appropriate sanctions, which may include disciplinary action, against those individuals who through their intentional or negligent actions and/or omissions fail to comply with the principles and responsibilities outlined in this policy.

### 6.2 Processing Limitation

The practice will ensure that personal information under its control is processed:

- in a fair, lawful and non-excessive manner, and
- only with the informed consent of the data subject, and
- only for a specifically defined purpose.

The practice will inform the data subject of the reasons for collecting his/her or its' personal information and obtain written consent prior to processing personal information.

Alternatively, where services or transactions are concluded over the telephone or electronic video feed, the practice will keep a written record of the stated purpose for collecting the personal information followed by the data subject's subsequent consent letter.

The practice will under no circumstances distribute or share personal information between separate legal entities, associated practices (such as referring doctors/therapists/teachers/insurance companies/medical aids/family members etc) or with any individuals that are not directly involved with facilitating the purpose for which the information was originally collected, and for which written informed consent is gained.


Where applicable, the data subject must be informed of the possibility that their personal information will be shared with other aspects of the practice's business and be provided with the reasons for doing so.

An example of a "POPI Notice and Consent Form", "release form" can be found under Annexure C.

### 6.3 Purpose Specification

All the practice's business units and operations must be informed by the principle of transparency.

The practice will process personal information only for specific, explicitly defined, and legitimate reasons. The practice will inform data subjects of these reasons prior to collecting or recording the data subject's personal information.



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### 6.4 Further Processing Limitation

Personal information will not be processed for a secondary purpose unless that processing is compatible with the original purpose.

Therefore, where the practice seeks to process personal information, it holds for a purpose other than the original purpose for which it was originally collected, and where this secondary purpose is not compatible with the original purpose, the practice will first obtain additional consent from the data subject. I.e. Writing progress reports.

### 6.5 Information Quality

The practice will take reasonable steps to ensure that all personal information collected is complete, accurate and not misleading.

The more important it is that the personal information be accurate (for example, personal details of a life insurance policy or medical aid are of the utmost importance), the greater the effort the practice will put into ensuring its accuracy. Where personal information is collected or received from third parties, the practice will take reasonable steps to confirm that the information is correct by verifying the accuracy of the information directly with the data subject or by way of independent sources.

### 6.6 Open Communication

The practice will take reasonable steps to ensure that data subjects are notified (are at all times aware) that their personal information is being collected including the purpose for which it is being collected and processed.

The practice will ensure that it establishes and maintains a “contact us” facility, for instance via its website or email address, for data subjects who want to:

- Enquire whether the practice holds related personal information, or
- Request access to related personal information, or
- Request the practice to update or correct related personal information, or
- Make a complaint concerning the processing of personal information.

### 6.7 Security Safeguards

The practice will manage the security of its filing system to ensure that personal information is adequately protected. To this end, security controls will be implemented to minimise the risk of loss, unauthorised access, disclosure, interference, modification or destruction.

Security measures are in-line with the regulations of the HPCSA. All records must remain in the ownership of the therapist working with the said client and is not accessible to others in the practice without permission from the data subject/client. All hard copy records must be stored and locked away.



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The practice will continuously review its security controls which will include regular testing of protocols and measures put in place to combat cyber-attacks on the practice's IT network.

The practice will ensure that all paper and electronic records comprising personal information are securely stored and made accessible only to authorised individuals (treating therapists).

All new locums will be required to sign employment contracts containing contractual terms for the use and storage of employee information. Confidentiality clauses will also be included to reduce the risk of unauthorised disclosures of personal information for which the practice is responsible.

The practices operators and third-party service providers will be required to enter into service level agreements with the practice where both parties pledge their mutual commitment to POPIA and the lawful processing of any personal information pursuant to the agreement.

An example of "Employee Consent and Confidentiality Clause" for inclusion in the practice's employment contracts can be found under Annexure D.

An example of an "SLA Confidentiality Clause" for inclusion in the practice's service level agreements can be found under Annexure E.

## 6.8 Data Subject Participation

A data subject may request the correction or deletion of his or her personal information held by the practice.

The practice will ensure that it provides a facility for data subjects who want to request the correction of their personal information.

Where applicable, the practice will include a link to unsubscribe from any of its electronic newsletters, or marketing activities, or check-in service. After consent has been again to perform and share these activities with them.

## 7 INFORMATION OFFICERS

There are no legal requirements under POPIA for a practice to appoint an Information Officer. Appointing an Information Officer is however, considered to be a good business practice, particularly within larger organisations.

Where no Information Officer is appointed, the head of the practice will assume the role of the Information Officer. As the practice is a solo practice run and owned by one therapist, Nisha Pillay. She is regarded as the information officer and is registered as the practices' information officer.



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## 8 SPECIFIC DUTIES AND RESPONSIBILITIES

The Nisha Pillay cannot delegate its accountability and is ultimately answerable for ensuring that the practice meets its legal obligations in terms of POPIA. She is responsible for ensuring that:

- That she is registered as an Information Officer.
- All persons such as accountants, and IT persons are responsible for the processing of personal information on behalf of the practice now and in future:
  - are appropriately trained and supervised to do so,
  - understand that they are contractually obligated to protect the personal information they encounter, and
  - are aware that a wilful or negligent breach of this policy's processes and procedures may lead to disciplinary action being taken against them.
- Data subjects who want to make enquires about their personal information are made aware of the procedure that needs to be followed should they wish to do so.
- The scheduling of a periodic POPI Audit to accurately assess and review the ways in which the practice collects, holds, uses, shares, discloses, destroys, and processes personal information.

As the practice's Information Officer, Nisha Pillay is also responsible for:

- Taking steps to ensure the practice's reasonable compliance with the provision of POPIA.
- Continually analysing privacy regulations and aligning them with the practice's personal information processing procedures. This will include reviewing the practice's information protection procedures and related policies.
- Ensuring that POPI Audits are scheduled and conducted on a regular basis.
- Ensuring that the practice makes it convenient for data subjects who want to update their personal information or submit POPI related complaints to the practice. For instance, maintaining a "contact us" facility on the practice's website.
- Approving any contracts entered with billing systems, accountants, IT companies and locums and other third parties which may have an impact on the personal information held by the practice. This will include overseeing the amendment of the practice's locum contracts and other service level agreements.
- Encouraging compliance with the conditions required for the lawful processing of personal information.
- Ensuring that locums and other persons acting on behalf of the practice are fully aware of the risks associated with the processing of personal information and that they remain informed about the practice's security controls.
- Organising and overseeing the awareness training of locums and other individuals involved in the processing of personal information on behalf of the practice.
- Addressing locums POPIA related questions.
- Addressing all POPIA related requests and complaints made by the practice's data subjects.



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### **8.1 IT management**

The Practice's IT manager is Nisha Pillay, she consults with and is advised by Deenan Vythilingam at Vittal investments.

From an IT perspective she ensures that:

- The practice's IT infrastructure, filing systems and any other devices used for processing personal information meet acceptable security standards.
- All electronically held personal information is kept only on designated drives and servers and uploaded only to approved cloud computing services.
- Servers containing personal information are sited in a secure location, away from the general office space.
- All electronically stored personal information is backed-up and tested on a regular basis.
- All back-ups containing personal information are protected from unauthorised access, accidental deletion, and malicious hacking attempts.
- Personal information being transferred electronically is encrypted with a password.
- All servers and computers containing personal information are protected by a firewall and the latest security software.
- Performing regular IT audits to ensure that the security of the practice's hardware and software systems are functioning properly and POPI compliant.
- Performing regular IT audits to verify whether electronically stored personal information has been accessed or acquired by any unauthorised persons.
- Performing a proper due diligence review prior to contracting with operators or any other third-party service providers to process personal information on the practice's behalf.

### **8.2 Marketing & Communication management**

Section 69 of the POPI Act protects data subjects from direct marketing by means of any form of electronic communication unless consent is obtained. Such an electronic communication includes emails, SMSs, and Whatsapp messages. A data subject can only be approached once to obtain consent. Once consent is refused, it may not be requested for again.

If the data subject is a client. The client's contact details must have been obtained in the context of the sale of a product or a service, the direct marketing by electronic communication can only relate to the practice's own products or services, and the client must have been given the right to unsubscribe at the time that the information is collected and each time a communication is sent.

The practices marketing & Communication policy must therefore, ensure that:

- Approving and maintaining the protection of personal information statements and disclaimers that are displayed on the practice website, including those attached to communications such as emails, workshop adverts and check-in messages.
- Addressing any personal information protection queries from researchers and media outlets.
- Ensure there is a option to unsubscribe to receiving marketing and communication messages at any point





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#### **8.5 Locums and other Persons acting on behalf of the practice.**

locums and other persons acting on behalf of the practice will, during the course of the performance of their services, gain access to and become acquainted with the personal information of certain clients, suppliers.

Locums and other persons acting on behalf of the practice are required to treat personal information as a confidential business asset and to respect the privacy of data subjects.

Locums and other persons acting on behalf of the practice may not directly or indirectly, utilise, disclose or make public in any manner to any person or third party, either within the practice or externally, any personal information, unless such information is already publicly known, or the disclosure is necessary in order for the locum or person to perform his or her duties.

Locums and other persons acting on behalf of the practice must request assistance Nisha Pillay if they are unsure about any aspect related to the protection of a data subject's personal information.

Locums and other persons acting on behalf of the practice will only process personal information where:

- The data subject, or a competent person where the data subject is a child, consents to the processing; or
- The processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is a party; or
- The processing complies with an obligation imposed by law on the responsible party; or
- The processing protects a legitimate interest of the data subject; or
- The processing is necessary for pursuing the legitimate interests of the practice (to make a referral to another practitioner /health professional) or of a third party to whom the information is supplied (referee)

Furthermore, personal information will only be processed where the data subject:

- Clearly understands why and for what purpose his, her or its personal information is being collected; and
- Has granted the practice with explicit written or verbally recorded consent to process his, her or its personal information.

Locums and other persons acting on behalf of the practice will consequently, prior to processing any personal information, obtain a specific and informed expression of will from the data subject, in terms of which permission is given for the processing of personal information.

Informed consent is therefore when the data subject clearly understands for what purpose his, her or its personal information is needed and who it will be shared with.

Consent can be obtained in written form which includes any appropriate electronic medium that is accurately and readily reducible to printed form. Verbal recording of consent may also be attained should consent be given via video or telephonic mediums.



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Consent to process a data subject's personal information will be obtained directly from the data subject, except where:

- the personal information has been made public, or
- where valid consent has been given to a third party, or
- the information is necessary for effective law enforcement.

Locums and other persons acting on behalf of the practice will under no circumstances:

- Process or have access to personal information where such processing or access is not a requirement to perform their respective work-related tasks or duties.
- Save copies of personal information directly to their own private computers, laptops or other mobile devices like tablets or smart phones. All personal information must be accessed and updated from the practice's central database or a dedicated server.
- Share personal information informally. In particular, personal information should never be sent by email, as this form of communication is not secure. Where access to personal information is required, this may be requested from Nisha Pillay.
- Transfer personal information outside of South Africa without the expressed permission from Nisha Pillay.

Locums and other persons acting on behalf of the practice are responsible for:

- Keeping all personal information that they come into contact with secure, by taking sensible precautions and following the guidelines outlined within this policy.
- Ensuring that personal information is held in as few places as is necessary. No unnecessary additional records, filing systems and data sets should therefore be created.
- Ensuring that personal information is encrypted prior to sending or sharing the information electronically. The IT Manager will assist employees and where required, other persons acting on behalf of the organisation, with the sending or sharing of personal information to or with authorised external persons.
- Ensuring that all computers, laptops and devices such as tablets, flash drives and smartphones that store personal information are password protected and never left unattended. Passwords must be changed regularly and may not be shared with unauthorised persons.
- Ensuring that their computer screens and other devices are switched off or locked when not in use or when away from their desks.
- Ensuring that where personal information is stored on removable storage medias such as external drives, CDs or DVDs that these are kept locked away securely when not being used.
- Ensuring that where personal information is stored on paper, that such hard copy records are kept in a secure place where unauthorised people cannot access it. For instance, in a locked drawer of a filing cabinet.
- Ensuring that where personal information has been printed out, that the paper printouts are not left unattended where unauthorised individuals could see or copy them. For instance, close to the printer.



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- Taking reasonable steps to ensure that personal information is kept accurate and up to date. For instance, confirming a data subject's contact details when the client phones or communicates via email. Where a data subject's information is found to be out of date, authorisation must first be obtained from Nisha Pillay to update the information accordingly.
- Taking reasonable steps to ensure that personal information is stored only for as long as it is needed or required in terms of the purpose for which it was originally collected. Where personal information is no longer required, authorisation must first be Nisha Pillay to delete or dispose of the personal information in the appropriate manner.
- Undergoing POPI Awareness training from time to time.

Where a locum, or a person acting on behalf of the practice, becomes aware or suspicious of any security breach such as the unauthorised access, interference, modification, destruction or the unsanctioned disclosure of personal information, he or she must immediately report this event or suspicion to Nisha Pillay.

## 9. POPI AUDIT

Nisha Pillay will schedule periodic POPI Audits.

The purpose of a POPI audit is to:

- Identify the processes used to collect, record, store, disseminate and destroy personal information.
- Determine the flow of personal information throughout the organisation. For instance, the practice's various business units, divisions, branches and other associated organisations.
- Redefine the purpose for gathering and processing personal information.
- Ensure that the processing parameters are still adequately limited.
- Ensure that new data subjects are made aware of the processing of their personal information.
- Re-establish the rationale for any further processing where information is received via a third party
- Verify the quality and security of personal information.
- Monitor the extend of compliance with POPIA and this policy.
- Monitor the effectiveness of internal controls established to manage the practice's POPI related compliance risk.

In performing the POPI Audit, Nisha Pillay will identify areas within in the practice's operation that are most vulnerable or susceptible to the unlawful processing of personal information.

## 10. REQUEST TO ACCESS PERSONAL INFORMATION PROCEDURE

Data subjects have the right to:

- Request what personal information the practice holds about them and why. (except in the cases of medico-legal and insurance claim assessments)
- Request access to their personal information.
- Be informed how to keep their personal information up to date and who else is requesting their personal information to gain consent.



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Access to information requests can be made by email, addressed to Nisha Pillay. She will provide the data subject with a "Personal Information Request Form".

Once the completed form has been received, she will verify the identity of the data subject prior to handing over any personal information. All requests will be processed and considered against the practice's PAIA Policy.

Nisha Pillay will process all requests within a reasonable time (30 days).

\*\*\*protection of information in legal proceedings – Nisha Pillay is obligated to 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.

## 11. POPI COMPLAINTS PROCEDURE

Data subjects have the right to complain in instances where any of their rights under POPIA have been infringed upon. The practice takes all complaints very seriously and will address all POPI related complaints in accordance with the following procedure:

- POPI complaints must be submitted to the practice in writing. Where so required, Nisha Pillay will provide the data subject with a "POPI Complaint Form".
- Nisha Pillay will provide the complainant with a written acknowledgement of receipt of the complaint within 2 working days.
- She will carefully consider the complaint and address the complainant's concerns in an amicable manner. In considering the complaint, Nisha Pillay will endeavour to resolve the complaint in a fair manner and in accordance with the principles outlined in POPIA.
- Nisha must also determine whether the complaint relates to an error or breach of confidentiality that has occurred and which may have a wider impact on the practice's data subjects.
- Where Nisha Pillay has reason to believe that the personal information of data subjects has been accessed or acquired by an unauthorised person, the Information Regulator and the affected data subjects will be informed of this breach.
- Nisha Pillay will revert to the complainant with a proposed solution. In all instances, the practice will provide reasons for any decisions taken and communicate any anticipated deviation from the specified timelines.
- Nisha Pillay's response to the data subject may comprise any of the following:
  - A suggested remedy for the complaint,



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- A dismissal of the complaint and the reasons as to why it was dismissed,
  - An apology (if applicable) and any disciplinary action that has been taken against any employees involved.
- 
- Where the data subject is not satisfied with Nisha Pillay's suggested remedies, the data subject has the right to lodge a complaint to the HPCSA and information regulator.
  - Nisha Pillay will review the complaints process to assess the effectiveness of the procedure on a periodic basis and to improve the procedure where it is found wanting. The reason for any complaints will also be reviewed to ensure the avoidance of occurrences giving rise to POPI related complaints.

## 12. DISCIPLINARY ACTION

Where a POPI complaint or a POPI infringement investigation has been finalised, the practice may recommend any appropriate administrative, legal and/or disciplinary action to be taken against any employee reasonably suspected of being implicated in any non-compliant activity outlined within this policy.

In the case of ignorance or minor negligence, the practice will undertake to provide further awareness training to the employee.

Any gross negligence or the wilful mismanagement of personal information, will be considered a serious form of misconduct for which the practice will be forced to close until a time all policies and procedures can be followed explicitly.

Examples of immediate actions that may be taken subsequent to an investigation include:

- A recommendation to commence with disciplinary action.
- A referral to appropriate law enforcement agencies for criminal investigation
- Recovery of funds and assets in order to limit any prejudice or damages caused.

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*End of document*

*Annexures to follow*

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# NISHA PILLAY

## OCCUPATIONAL THERAPY

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#### ANNEXURE C: POPI NOTICE AND CONSENT FORM

##### POPI NOTICE AND CONSENT FORM

I, Nisha Pillay, understand that your personal information is important to you and that you may be apprehensive about disclosing it. Your privacy is just as important to me and I am committed to safeguarding and processing your information in a lawful manner.

I also want to make sure that you understand how and for what purpose we process your information. If for any reason you think that your information is not processed in a correct manner, or that your information is being used for a purpose other than that for what it was originally intended, you can contact me.

You can request access to the information I hold about you at any time and if you think that I have outdated information, please request me to update or correct it.

##### Contact Details:

Contact Number	064 909 0439
Email Address:	Beyondthebasicot@gmail.com

##### Purpose for Processing your Information

I collect, hold, use and disclose your personal information mainly to provide you with intended health services you wanted, information to access to the other services and products related to Sensory intelligence® that I provide will only be processed if consented to. I will only process your information for a purpose you would reasonably expect, including:

- Providing you with advice, therapy sessions that suit your needs as requested
- To verify your identity and verify your medical aid details for your benefit of receiving your claims
- To liaise and provide information to your insurer in the event that they request it with your permission
- To notify you of new products or services that may be of interest to you
- To confirm, verify and update your details
- To comply with any legal and regulatory requirements
- To wish you happy birthday
- Send you appointment reminders
- To supply additional information booklets that may assist you

Some of your information that I hold may include, your first and last name, email address, a home, postal or other physical address, other contact information, your title, birth date, gender, occupation, qualifications, past employment, residency status, insurance and medical aid details, income, budgeting, family history, medical information, therapy assessment findings (occupational functioning), completed assessment tools, reports from other health professionals, claim statements from medical funders.

##### Consent to Disclose and Share your Information

I may need to share your information to provide advice, reports, analyses, and/or services that you have requested.

Where I share your information, I will ensure that the third party gained your consent first and that you understand the nature of sharing.

##### Do you hereby authorise and consent to the practice sharing your personal information with the following persons:


YES or NO (circle applicable answer)

Name & Surname:

Signature

Date:

Date completed





# NISHA PILLAY

## OCCUPATIONAL THERAPY

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### NISHA PILLAY

#### Occupational Therapy

#### BSc(OT) WITS

Sensory Intelligence Practitioner; NDT and F.C.E trained

**PR. No. 4090652**

#### RELEASE FORM

In order to provide the best possible and holistic treatment, it is important that the therapist has as much information as possible about the client. This includes the medical and developmental history and difficulties experienced by the client as well as the results of any medical, psychological or other professional tests performed. To obtain reports on such tests and to forward any information (to the client's doctor, school, other therapists or professionals), the clients permission in writing is required. It is assured that this is purely for the client's best interests and that all information regarding the client and his/her family will be treated with strict confidentiality.

I \_\_\_\_\_, hereby authorize the release of any information pertaining to \_\_\_\_\_ (name of client/ or myself), to the therapist and that the therapist may in turn release this information to relevant professionals concerning the client, if and when redeemed necessary.

I also declare that information provided is to the best of my knowledge, accurate and true.

Name: \_\_\_\_\_ in the capacity of client/ parent/ legal guardian/spouse

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



# NISHA PILLAY

## OCCUPATIONAL THERAPY

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#### **ANNEXURE D: EMPLOYEE CONSENT AND CONFIDENTIALITY CLAUSE**

##### **EMPLOYEE CONSENT AND CONFIDENTIALITY CLAUSE**

"Personal Information" (PI) shall mean the race, gender, sex, pregnancy, marital status, national or ethnic origin, colour, sexual orientation, age, physical or mental health, disability, religion, conscience, belief, culture, language and birth of a person; information relating to the education or the medical, financial, criminal or employment history of the person; any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person; the biometric information of the person; the personal opinions, views or preferences of the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; the views or opinions of another individual about the person whether the information is recorded electronically or otherwise.

- "POPIA" shall mean the Protection of Personal Information Act 4 of 2013 as amended from time to time.
- The employer undertakes to process the PI of the employee only in accordance with the conditions of lawful processing as set out in terms of POPIA and in terms of the employer's relevant policy available to the employee on request and only to the extent that it is necessary to discharge its obligations and to perform its functions as an employer and within the framework of the employment relationship and as required by South African law.
- The employee acknowledges that the collection of his/her PI is both necessary and requisite as a legal obligation, which falls within the scope of execution of the legal functions and obligations of the employer. The employee therefore irrevocably and unconditionally agrees:
  - That he/she is notified of the purpose and reason for the collection and processing of his or her PI insofar as it relates to the employer's discharge of its obligations and to perform its functions as an employer.
  - That he/she consents and authorises the employer to undertake the collection, processing and further processing of the employee's PI by the employer for the purposes of securing and further facilitating the employee's employment with the employer.
  - Without derogating from the generality of the aforesaid, the employee consents to the employer's collection and processing of PI pursuant to any of the employer's Internet, Email and Interception policies in place insofar as PI of the employee is contained in relevant electronic communications.
  - To make available to the employer all necessary PI required by the employer for the purpose of securing and further facilitating the employee's employment with the employer.
  - To absolve the employer from any liability in terms of POPIA for failing to obtain the employee's consent or to notify the employee of the reason for the processing of any of the employee's PI.
  - To the disclosure of his/her PI by the employer to any third party, where the employer has a legal or contractual duty to disclose such PI.
  - The employee further agrees to the disclosure of his/her PI for any reason enabling the employer to carry out or to comply with any business obligation the employer may have or to pursue a legitimate interest of the employer in order for the employer to perform its business on a day to day basis.
  - The employee authorises the employer to transfer his/her PI outside of the Republic of South Africa for any legitimate business purpose of the employer within the international community. The employer undertakes not to transfer or disclose his/her PI unless it is required for its legitimate business requirements and shall comply strictly with legislative stipulations in this regard.
- The employee acknowledges that during the course of the performance of his/her services, he/she may gain access to and become acquainted with the personal information of certain clients, suppliers and other employees. The employee will treat personal information as a confidential business asset and agrees to respect the privacy of clients, suppliers and other employees.
- To the extent that he/she is exposed to or insofar as PI of other employees or third parties are disclosed to him/her, the employee hereby agree to be bound by appropriate and legally binding confidentiality and non-usage obligations in relation to the PI of third parties or employees.
- Employees may not directly or indirectly, utilise, disclose or make public in any manner to any person or third party, either within the organisation or externally, any personal information, unless such information is already publicly known or the disclosure is necessary in order for the employee or person to perform his or her duties on behalf of the employer.

Date compiled

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### ANNEXURE E: SLA CONFIDENTIALITY CLAUSE

#### SLA CONFIDENTIALITY CLAUSE

- "Personal Information" (PI) shall mean the race, gender, sex, pregnancy, marital status, national or ethnic origin, colour, sexual orientation, age, physical or mental health, disability, religion, conscience, belief, culture, language and birth of a person; information relating to the education or the medical, financial, criminal or employment history of the person; any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person; the biometric information of the person; the personal opinions, views or preferences of the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; the views or opinions of another individual about the person whether the information is recorded electronically or otherwise.
- "POPIA" shall mean the Protection of Personal Information Act 4 of 2013 as amended from time to time.
- The parties acknowledge that for the purposes of this agreement that the parties may come into contact with or have access to PI and other information that may be classified, or deemed as private or confidential and for which the other party is responsible. Such PI may also be deemed or considered as private and confidential as it relates to any third party who may be directly or indirectly associated with this agreement. Further, it is acknowledged and agreed by the parties that they have the necessary consent to share or disclose the PI and that the information may have value.
- The parties agree that they will at all times comply with POPIA's Regulations and Codes of Conduct and that it shall only collect, use and process PI it comes into contact with pursuant to this agreement in a lawful manner, and only to the extent required to execute the services, or to provide the goods and to perform their respective obligations in terms of this agreement.
- The parties agree that it shall put in place, and at all times maintain, appropriate physical, technological and contractual security measures to ensure the protection and confidentiality of PI that it, or its employees, its contractors or other authorised individuals comes into contact with pursuant to this agreement.
- Unless so required by law, the parties agree that it shall not disclose any PI as defined in POPIA to any third party without the prior written consent of the other party, and notwithstanding anything to the contrary contained herein, shall any party in no manner whatsoever transfer any PI out of the Republic of South Africa.



# NISHA PILLAY

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#### **ANNEXURE F: INFORMATION OFFICER APPOINTMENT LETTER (OATH)**

##### **INFORMATION OFFICER APPOINTMENT LETTER (OATH)**

I herewith and with immediate effect appoint myself as the Information Officer as required by the Protection of Personal Information Act (Act 4 of 2013) as this is a sole owned practice.

I will fulfil the following responsibilities:

- Taking steps to ensure the organisation's reasonable compliance with the provision of POPIA.
- Keeping the governing body updated about the organisation's information protection responsibilities under POPIA. For instance, in the case of a security breach, the Information Officer must inform and advise the governing body of their obligations pursuant to POPIA.
- Continually analysing privacy regulations and aligning them with the organisation's personal information processing procedures. This will include reviewing the organisation's information protection procedures and related policies.
- Ensuring that POPI Audits are scheduled and conducted on a regular basis.
- Ensuring that the organisation makes it convenient for data subjects who want to update their personal information or submit POPI related complaints to the organisation, to do so. For instance, maintaining a "contact us" facility on the organisation's website.
- Approving any contracts entered with operators, employees and other third parties which may have an impact on the personal information held by the organisation. This will include overseeing the amendment of the organisation's employment contracts and other service level agreements.
- Encouraging compliance with the conditions required for the lawful processing of personal information.
- Ensuring that employees and other persons acting on behalf of the organisation are fully aware of the risks associated with the processing of personal information and that they remain informed about the organisation's security controls.
- Organising and overseeing the awareness training of employees and other individuals involved in the processing of personal information on behalf of the organisation.
- Addressing employees' POPIA related questions.
- Addressing all POPIA related requests and complaints made by the organisation's data subjects.
- Working with the Information Regulator in relation to any ongoing investigations. The Information Officers will therefore act as the contact point for the Information Regulator authority on issues relating to the processing of personal information and will consult with the Information Regulator where appropriate, about any other matter.

##### **I hereby accept the appointment as Information Officer**

Nisha Pillay

Name & Surname

Signature

Date: 25/06/2021