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M A N U A L S

IN ACCORDANCE WITH

THE PROMOTION OF ACCESS TO

INFORMATION ACT (NO. 2 OF 2000)



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health

Department:
Health
PROVINCE OF KWAZULU-NATAL

**KWAZULU-NATAL DEPARTMENT OF
HEALTH
MANUAL IN TERMS OF THE
PROMOTION OF ACCESS TO INFORMATION
ACT, 2000
(ACT NO. 2 OF 2000)**

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1. INTRODUCTION

The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), ("PAIA"), was promulgated in terms of section 32 of the Constitution of the Republic of South Africa ("the Constitution"), which provides –

"(1) Everyone has the right of access to –

(a) information held by the state; and

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

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state."

The object of PAIA is to promote a society in which the citizens of South Africa have access to information to enable them to effectively exercise and protect their Constitutional rights.

PAIA was passed by Parliament on 2 February 2000 in accordance with section 32 of the Constitution to give effect to the rights enshrined therein. With the exception of sections 10, 14, 16 and 51, PAIA came into effect on 9 March 2000 with the remaining sections coming into effect on 15 February 2002.

PAIA may be utilised by any person who wishes to request information from a public body or private body within the Republic. In terms of PAIA, the person making the request for information is known as the "requestor".

Every public and private body is required to compile a manual in at least 3 (three) official languages of South Africa explaining how PAIA may be used to access information.

This Manual has been designed to assist requestors who wish to obtain information from the KwaZulu-Natal Department of Health, which is a public body. This Manual is available in English, isiZulu and Afrikaans.

This Manual, however, does not contain information about how to make a request to other public or private bodies. If a requestor wishes to make a request to another public (other than the KwaZulu-Natal Department of Health) or private body, the requestor should obtain a copy of the manual from the relevant public or private body.

This Manual is divided into sections to assist the requestor.

2. MANDATE AND FUNCTIONS OF THE KWAZULU-NATAL DEPARTMENT OF HEALTH

2.1. The KwaZulu-Natal Department of Health forms part of the KwaZulu-Natal Provincial Government and its mission is to develop a sustainable, co-ordinated

and comprehensive health system at all levels, based on the Primary Health Care approach, within the Province of KwaZulu-Natal.

The Department's vision is to achieve optimal health status for all persons in the Province of KwaZulu-Natal. The core values of the Department are:

- trust built on truth, integrity and reconciliation;
- open communication, transparency and consultation;
- commitment to performance; and
- the courage to learn, change and innovate.

2.2 To achieve the KwaZulu-Natal Department of Health's vision, mission and core values, the Department is responsible for developing and implementing national and provincial health policy, norms, frameworks and standards to achieve, within the Province's available resources, the progressive realisation of the right of access to health care services. The Department is responsible for providing accessible and comprehensive provincial public health care services. The Department is committed to transparency in the development and implementation of health policies and practices.

2.3 **Legislative Mandate of the KwaZulu-Natal Department of Health** (alphabetical order)

The legislative mandate of the KwaZulu-Natal Department of Health is contained in; inter alia, the following legislation –

Abattoir Hygiene Act, 1992 (Act No. 121 of 1992)

Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000)

Air Quality Act, 2004 (Act No. 39 of 2004)

Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)

Birth and Deaths Registration Act, 1992 (Act No. 51 of 1992)

Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)

Children's Act, 2005 (Act No. 38 of 2005)

Chiropractors, homeopaths and allied health service professions amendment Act, 1995 (Act No. 40 of 1995)

Choice on Termination of Pregnancy Act, 1996 (Act No. 92 of 1996)

Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)

Constitution of the Republic of South Africa

Council for Medical Schemes Levies Act, 2000 (Act No. 58 of 2000)

Dental Technicians Act, 1979 (Act No. 19 of 1979)

Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002)

Employment Equity Act, 1998 (Act No. 55 of 1998)

Foodstuffs, cosmetics and disinfectants Act, 1972 (Act No. 54 of 1972)

Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997)

Hazardous Substances Act, 1973 (Act No. 15 of 1973)

Health Professions Act, 1974 (Act No. 56 of 1974)

Higher Education Act, 1997 (Act No. 101 of 1997)

Human Tissue Act, 1983 (Act No. 65 of 1983)

Inquest Act, 1959 (Act No. 58 of 1959)

Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005)

KwaZulu-Natal cemeteries and crematoria Act, 1996 (Act No. 12 of 1996)

KwaZulu-Natal Provincial Archives Act, 2000 (Act No.5 of 2000)

Labour Relations Act, 1995 (Act No. 66 of 1995)

Liquor Act, 2003 (Act No. 59 of 2003)

Medical, dental and supplementary health service professions amendment Act, 1995
(Act No. 18 of 1995)

Medical Schemes Act, 1998 (Act No. 131 of 1998)

Medicines and related substances control Act, 1965 (Act No. 101 of 1965)

Mental Health Care Act, 2002 (Act No. 17 of 2002)

National Archives of South Africa Act, 1996 (Act No. 43 of 1996)

National Building Regulations and Buildings Standards Act, 1977 (Act No. 103 of 1977)

National Health Act, 2003 (Act No. 61 of 2003)

National Health Laboratory Service Act, 2000 (Act No. 37 of 2000)

Nursing Act, 2005 (Act No. 33 of 2005)

Pharmacy Act, 1974 (Act No. 53 of 1974)

Prescription Act, 1969 (Act No. 68 of 1969)

Prevention and treatment of drug dependency Act, 1992 (Act No. 20 of 1992)

Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

Promotion of equality and prevention of unfair discrimination Act, 2000 (Act No. 4 of 2000)

Promotion of administrative justice Act, 2000 (Act No. 3 of 2000)

Protected Disclosure Act, 2000 (Act No. 26 of 2000)

Public Finance Management Act, 1999 (Act No. 1 of 1999)

Public Protector Act, 1994 (Act No. 23 of 1994)

Public Service Act (Proclamation 103 of 1994)

Road Accident fund Act, 1996 (Act No. 59 of 1996)

Skills Development Act, 1998 (Act No. 97 of 1998)

Skills Development Levies Act, 1999 (Act No. 9 of 1999)

South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)

State Information Agency Act, 2002 (Act No. 38 of 2002)

Sterilisation Act, 1998 (Act No. 44 of 1998)

Traditional Health Practitioners Act, 2007 (Act No. 22 of 2007)

Tobacco Products Control Act, 1993 (Act No. 83 of 1993)

2.4 Functions of the KwaZulu-Natal Department of Health

2.4.1 The KwaZulu-Natal Department of Health has three core functions:

- a) the district health system;
- b) emergency medical rescue services; and
- c) institutional support services, which includes but is not limited to administration and management of district, regional tertiary and specialised hospitals.

2.4.2 The KwaZulu-Natal Department of Health falls within the portfolio of the Member of the KwaZulu-Natal Executive Council and responsible for Health i.e. the MEC for Health. The Head of Department is the accounting officer for the KwaZulu-Natal Department of Health and is responsible for the overall administration and management of the Department. The Department's main administrative offices are located in Pietermaritzburg, with additional health district offices located throughout the Province as described in section 7 of this Manual.

2.4.3 The health districts are responsible for the management and administration of the district health system.

2.4.4 The KwaZulu-Natal Department of Health also has a variety of community health services which are administered by the health districts which are listed in this section.

2.4.5 The district health system is based on the provision of comprehensive provincial health care services, including primary health care services. The first point of contact for public health care users is the clinic located in the geographical area where a public health care user lives. Depending on the public health care user's requirements, the public health care user is treated at the clinic in his or her area. If a clinic cannot assist the health care user, he or she may be referred to a community health care centre. If a community health care centre cannot assist the public health care user, he or she may be referred to a district hospital.

2.4.6 If a district hospital cannot assist the public health care user, he or she may be referred to a regional hospital for treatment. If a regional hospital cannot assist the health care user, he or she may be referred to a provincial tertiary hospital staffed by specialists and generalists. If a provincial tertiary hospital cannot assist the health care user, he or she may be referred to a central hospital which provides multi-speciality clinical services. A public health care user may also be referred to a specialised hospital, which could include a hospital specialising in chronic psychiatric, convalescent, tuberculosis, specialised spinal injury or acute infectious care.

2.4.7 Emergency medical rescue services are provided by the KwaZulu-Natal Department of Health through the KwaZulu-Natal Emergency Medical Rescue Service.

2.4.8 The KwaZulu-Natal Department of Health provides various community health services which are administered by the health districts and include:

- a) Chronic Diseases and Geriatrics
- b) Communicable Disease Control
- c) Environmental Health
- d) Health Promotion
- e) Maternal, Child and Women's Health
- f) Mental Health
- g) Nutrition
- h) Occupational Health and Safety
- i) Oral Health
- j) Rehabilitation

3. ORGANISATIONAL STRUCTURE OF THE KWA-ZULU-NATAL DEPARTMENT OF HEALTH

The current organizational structure/ organogram for the Department is attached to this Manual as **Annexure A**.

4. CONTACT INFORMATION FOR THE KWAZULU-NATAL DEPARTMENT OF HEALTH INFORMATION OFFICER

4.1 The Information Officer for the KwaZulu-Natal Department of Health is Dr S.M. Zungu, who is the Head of Department. Additional Deputy Information Officers (DIO's) have been appointed as per the attached schedule referred to in paragraph 4.6; 4.7 and 4.8 hereunder.

4.2 The Department's physical address is:

***KwaZulu-Natal Department of Health
Natalia Building
330 Langalibalele Street
Pietermaritzburg
3201***

4.3 The Department's postal address is:

***KwaZulu-Natal Department of Health
Private Bag X9051
Pietermaritzburg, 3200***

4.4 The Department's main telephone number is 033-395 2111. The Department's fax number for requestors requesting information from the Department can be sent to the General Manager: Legal Services Unit on fax number: (033) 342 5471.

4.5 The e-mail address for requestors requesting information from the Department is: monica.wilson@kznhealth.gov.za

- 4.6 The contact details for DIO's at the Provincial Hospitals of KwaZulu-Natal Department of Health is attached to this Manual as **Annexure "B1"**.
- 4.7 The contact details for DIO's at the District Offices of the KwaZulu-Natal Department of Health is attached to this Manual as **Annexure "B2"**
- 4.8 The contact details for DIO's at the Community Health Centres of the KwaZulu-Natal Department of Health is attached to this Manual as **Annexure "B3"**

5. GUIDE, IN TERMS OF SECTION 10 OF PAIA, DEVELOPED BY THE HUMAN RIGHTS COMMISSION

- 5.1 A guide on how to use PAIA has been published by the South African Human Rights Commission and is available from their website at www.sahrc.org.za
This guide provides information on, inter alia,:

- a) The provisions and purpose of PAIA;
- b) The address and contact details of all Information Officers in the Republic of South Africa;
- c) The procedures for requesting information;
- d) The assistance which may be expected from Information Officers and the Human Rights Commission;
- e) The procedures for appeal;
- f) The nature of records that can be requested; and
- g) The fees payable for information requested.

- 5.2 The contact details for the South African Human Rights Commission are –

The South African Human Rights Commission

PAIA Unit

Private Bag X2700

Houghton

2041

Tel: (011) 484 8300

Facsimile: (011) 484 7149

KwaZulu-Natal Office:

1st Floor, 136 Victoria Embankment

Durban

Tel: 031 304 7323/4/5

Facsimile: 031 304 7323

Contact person: Mduduzi Sibisi (email: msibisi@sahrc.org.za)

6. ACCESS TO INFORMATION OF THE KWAZULU-NATAL DEPARTMENT OF HEALTH

6.1 Subjects and categories of records and information held by the Department and automatically available records –

6.1.1 The subjects and categories of records held by the KwaZulu-Natal Department of Health are as follows –

- (a) financial records of the Department
- (b) audit reports
- (c) strategic and annual reports
- (d) procurement records
- (e) legislation applicable to the Department
- (f) agendas and minutes of meetings of Department
- (g) publications of the Department
- (h) internal policies of the Department
- (i) statutory records
- (j) health research reports
- (k) litigation records
- (l) Government Gazettes
- (m) Employment equity plans
- (n) Registry catalogue of files
- (o) Personnel records of employees of the Department

6.1.2 The following categories of records of the KwaZulu-Natal Department of Health are automatically available without the requestor having to make an application for such document in terms of PAIA –

- a) Annual reports of the Department
- b) Annual financial statements and reports of the Department
- c) Annual Performance Plan for the Department
- d) Speeches of the MEC for Health, KwaZulu-Natal
- e) Strategic Plans for the Department of Health
- f) Epidemiological profile of KwaZulu-Natal
- g) Departmental Guidelines and procedures
- h) Departmental material on health promotion and awareness
- i) Media releases of the Department
- j) Newsletters of the Department

6.1.3 Some of the automatically available documents can be freely accessed from the KwaZulu-Natal Department of Health's website at www.kznhealth.gov.za

7. PROCEDURE TO BE FOLLOWED FOR REQUEST FOR ACCESS TO A RECORD OF THE KWAZULU-NATAL DEPARTMENT OF HEALTH

7.1 If a requestor wishes to make a request for access to a record of the KwaZulu-Natal Department of Health, he or she must make a written request, with the requested fee, to the Information Officer, whose contact information is listed in section 3 of this Manual.

7.2 A requestor wishing to make a request must use **Form A**, which is

included in this Manual as **Annexure C. Form A** can also be accessed from the Department of Health's website at www.kznhealth.gov.za or a copy may be requested from Mrs M. Wilson at (033) 395 2744.

- 7.3 The requestor must provide enough information in **Form A** to enable the Information Officer to identify the following –
- a) the records requested, a description of the record, a reference number (if any) and any further particulars on the record must be provided by the requestor;
 - b) the requestor, all contact information must be provided; and
 - c) the form of access required by the requestor, that is, if the:
 - i) record is in written or printed form, whether the requestor wishes to make a copy of the record or inspect the record;
 - ii) record is a visual image, which may be photographs, slides, video recordings, computer generated images or sketches, whether the requestor wishes to view the images, copy the images or obtain a transcription of the images;
 - iii) record is recorded words or information which can be produced by sound, whether the requestor wishes to listen to the soundtrack or obtain a written or printed transcription of the soundtrack; or
 - iv) record is held on a computer or in an electronic form, whether the requestor wishes to obtain a printed copy of the record, printed copy of information derived from the record or copy in electronic readable form.
- 7.4 A requestor must also state the language in which he/she wishes to obtain the record. If the record is not available in the language preferred by the requestor, access may be granted in the language in which the record is available.
- 7.5 A requestor who is illiterate or otherwise unable to make a written request for access to a record for whatever reason, must be assisted by the Information Officer or a Deputy Information Officer to reduce the request in writing on the required form and give a copy of the written request to the requestor.
- 7.6 The Information Officer or a Deputy Information must assist a person who requires reasonable assistance with making a request for a record. Assistance must be provided free of charge.
- 7.7 After the lodging of the request by the requestor, the Information officer/ Deputy Information officer, must process the application within 30 days of date of receipt of the request.

8. RECORD CANNOT BE FOUND

If a record cannot be found, the Information Officer/ Deputy Information Officer must, by way of affidavit or affirmation, notify the requestor that it is not possible to give access to the record.

9. TRANSFER OF A REQUEST FOR ACCESS TO A RECORD

9.1 The Information Officer or a Deputy Information may transfer a request to the relevant body where the requested record:

- a) is not under the control of the KwaZulu-Natal Department of Health;
- b) is more closely connected with the functions of another public body;
or
- c) contains commercial information in which another public body has a greater interest.

9.2 A transfer of request must be made by the Information Officer/ Deputy Information Officer within 14 days of the request being received and the Information Officer/ Deputy Information Officer must notify the requestor of the transfer of the request, the reasons for the transfer and the period within which the request must be addressed.

10. FEES PAYABLE FOR ACCESS TO RECORDS

10.1 The initial fee payable by a requestor, other than a personal requestor, for a record is as indicated in **Annexure D** to this Manual. A personal requestor is a person seeking information about him or herself, does not have to pay the initial fee. All requestors, except those who are exempted in terms of section 22(8)(a) of PAIA, must pay the required fees to obtain a record.

10.2 Where a requestor wishes to lodge an appeal against payment of the initial fee, the requestor may make an application to court against the payment of the fee.

11. DEFERRAL OF ACCESS TO A RECORD

Access may be deferred where a record is not yet available.

12. TIME FRAMES AND NOTICE TO A REQUESTOR

The Information Officer/ Deputy Information Officer must decide within 30 days whether

to grant the request and then send a notice to the requestor. Where access is to be granted, the notice must state:

- a) that the access fee, if any, must be paid upon being granted access;
- b) the form in which access will be given; and
- c) that the requestor may lodge an internal appeal with the Department or an application with a court against the access fee to be paid or the form in which access is to be granted.

13. REFUSAL OF ACCESS TO A RECORD

If access is not to be granted to the record, the notice by the Information Officer or Deputy Information Officer must:

- a) give adequate reasons for the refusal;
- b) exclude, from the reasons, any reference to the content of the record; and
- c) state that the requestor may lodge an internal appeal with the Department or application with a court against the refusal of the request and advise the requestor of the procedure to lodge an internal appeal or application.

14. EXTENSION OF PERIOD TO DECIDE ON REQUEST

The Information Officer/ Deputy Information Officer may extend the period of 30 days in which to decide on the request if:

- a) the request is for a large number of records and compliance would unreasonably interfere with the activities of the KwaZulu-Natal Department of Health;
- b) the request requires a search or collection of records in an office not situated in the same town or city as the Information Officer/ Deputy Information Officer and Information Officer/ Deputy Information Officer can not reasonably be expected to complete the request within the initial 30 days;
- c) consultations among sections of the KwaZulu-Natal Department of Health or with another public body are necessary or desirable and the Information Officer can not reasonably be expected to complete the consultations within the initial 30 days; or
- d) the requestor consents in writing to the extension.

15. MANDATORY REFUSAL OF REQUEST FOR ACCESS TO RECORD

The Information Officer/ Deputy Information Officer must refuse access to a record

where a request for access to information would involve disclosure of:

- a) personal information about a third party;
- b) trade secrets of a third party;
- c) financial, commercial, scientific or technical information, other than trade secrets, if the disclosure of the information is likely to cause harm to the commercial or financial interests of a third party;
- d) information which is a computer program owned by a private body;
- e) information supplied in confidence by a third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations or prejudice the third party in commercial competition;
- f) information which would be a breach of duty of a confidence owed to a third party;
- g) information which could reasonably be expected to endanger the life or physical safety of an individual;
- h) a record if access to the record is prohibited in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- i) information which is privileged from production in legal proceedings unless the affected person has waived the privilege, which means the affected person must consent in writing to the release of the information; or
- j) information about research being carried out or likely to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, person carrying out the research or subject matter of the research to serious disadvantage.

16. DISCRETIONARY REFUSAL OF REQUEST FOR ACCESS TO RECORD

16.1 The Information Officer/ Deputy Information Officer may refuse access to a record where a request for access to information would involve disclosure of:

- a) information supplied in confidence by a third party, the disclosure of which could reasonably be expected to prejudice the supply of similar information or information from the same source and it is in the public interest that similar information or information from the same source should continue to be supplied;
- b) information, the disclosure of which would be likely to impair:
 - i) the security of a building, structure or system, which may be a computer system, means of transport or any other property; or
 - ii) methods, systems, plan or procedures for the protection of an individual in a witness protection scheme, the safety of the public or the security of

property;

- c) a record containing the methods, techniques or guidelines for the prevention, detection, curtailment or investigation of a contravention or possible contravention of law or prosecution of an alleged offender;
- d) a record on the prosecution of an alleged offender where disclosure of the record could reasonably be expected to impede the prosecution or result in a miscarriage of justice;
- e) a record, the disclosure of which could reasonably be expected to:
 - i) prejudice the investigation of a contravention or possible contravention of the law;
 - ii) reveal or enable a person to identify a confidential source of information related to the enforcement or administration of the law;
 - iii) result in the intimidation or coercion of a witness or a person who may be called as a witness in criminal or other proceedings to enforce the law;
 - iv) of a contravention of the law; or
 - v) prejudice or impair the fairness of a trial or the impartiality of an adjudication;
- f) information, the disclosure of which could cause prejudice to the defence, security or international relations of the Republic of South Africa;
- g) information, the disclosure of which is likely to materially jeopardise the economic or financial interests of the Republic of South Africa or the ability of the government to manage the economy of the Republic of South Africa effectively;
- h) information, which:
 - i) contains trade secrets of the state or a public body;
 - ii) contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the state or a public body;
 - iii) could put a public body at a disadvantage in contractual or other relations or prejudice a public body in commercial competition;
 - iv) is a computer program, defined in the Copyright Act, 1978 (Act No. 98 of 1978), owned by the state or a public body;

- i) information about research being carried out or likely to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose a public body, person carrying out the research or subject matter of the research to serious disadvantage; or
- j) information about a record of a public body which contains an opinion, advice, report or recommendation obtained or prepared or an account of a consultation, discussion, deliberation or minutes of a meeting on the formulation of a policy or taking a decision in the exercise of a power or performance of a duty conferred by law if disclosure could reasonably be expected to frustrate the deliberative process or success of the policy.

16.2 In the case of requests for medical records of patients –

(a) the Information Officer or Deputy Information Officer may, in terms of section 30 of PAIA, consult with the relevant health care practitioner regarding the granting of access to a record where he or she is of the opinion that granting access to the record may cause serious harm to a person's physical or mental health or well-being;

(b) if the health care practitioner is of the opinion that granting access to the record would be likely to cause serious harm to the person's physical or mental health or well-being, the Information Officer or Deputy Information Officer may grant access to the record only where the requestor proves that adequate provision has been made for counselling or other arrangements have been made to limit, alleviate or avoid the harm.

16.3 The Information Officer or Deputy Information Officer may refuse a request for access to a record if the request is manifestly frivolous or vexatious or the work involved in processing the request would substantially and unreasonably divert the resources of the KwaZulu-Natal Department of Health.

17. DEEMED REFUSAL OF REQUEST FOR INFORMATION

17.1 If the Information Officer or a Deputy Information Officer fails to give a decision on a request for access within 30 days, the Information Officer is deemed to have refused the request.

18. INTERNAL APPEAL

18.1 A requestor may lodge an internal appeal:

- a) against –
 - i) a refusal of a request;
 - ii) a decision of the Information Officer or a Deputy Information Officer who has refused a request for access; or
 - iii) a deemed refusal of a request.
- b) with respect to the prescribed request fee;
- c) against an extension of period to deal with a request; or
- d) the form of access to a record.

18.2 A third party may also lodge an internal appeal against a decision to grant a request for access to a requestor.

18.3 An internal appeal must be lodged on the prescribed **Form B (Annexure E)** within 60 days

of the date on which the Information Officer or Deputy Information Officer communicates his or her decision to the requestor.

- 18.4 A requestor who has lodged an internal appeal and is not satisfied with the decision of the Department may make an application for appropriate relief to a court, in terms of section 78 of PAIA, within 30 days of the decision of the internal appeal. A requestor or third party referred may only apply to a court for appropriate relief in terms of section 82 of PAIA after that requestor or third party has exhausted the internal appeal procedure against a decision of the information officer.