

## PRIVACY POLICY

dr hester van der walt

weskus pediatrie / west coast paediatrics

21 voortrekker str, vredenburgh, 7380; tel 0227135149, [www.pediater.co.za](http://www.pediater.co.za)  
pr 0377597, mp 0279102, sama 11741, vat 4530258856, registration 2013/207395/21

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### WESKUS PEDIATRIE / WEST COAST PAEDIATRICS [THE PRACTICE]

1 July 2021

## INTRODUCTION

**Confidentiality is central to trust.**

**This confidentiality is between us and you, whether you are the parent or guardian of a patient or the patient, which in our case are mostly children; or our employees or any other personal entity we relate with – without confidentiality there can be no meaningful interaction.**

**This policy must be read with any contracts and agreements entered upon with the Practice, whether verbal or otherwise.**

**We respect your Private Information and as a professional Christian Medical Practice have been doing that as a matter of fact under the dictate of our [Creator](#) and as stipulated by various Acts of Parliament of which the [National Health Act 2003](#) (Act No. 61 of 2003) is the most well-known in the case of patients.**

**The Health Professions Council Of South Africa, the Controlling Body of South African Health Care Professionals, has issued a document regarding the Confidentiality of Personal Information which serves as a good guideline and [standard](#).**

**The latest variant of laws dealing with the safeguarding of Private Information, and which also stipulates how Personal Information of the client must be managed, is the Protection Of Personal Information Act [POPIA], Act 4 of 2013.**

**This policy is about the way we treat YOUR private/personal information according to POPIA; yet the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), which can be described as POPIA's 'sister' act again controls ACCESS to your Personal Information – will also be mentioned here.**

**Please remember that we will never use any of your Personal Information for any other purpose than which you have specifically consented with us – at all stages, your co-operation and agreement is necessary except where we are forced by law to share it for other legal purposes.**

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### But why is this necessary?

Keep in mind that for instance POPIA covers all sectors of society, public and private, the Health Sector is one of them.

Over the last decades an individual's personal information has become more and more exploited by organisations and individuals motivated by monetary greed or other deviant character traits.

This has led to Personal Information becoming a high value asset, the attainment of which, by whatever means, becoming more lucrative by the day.

To control this obvious invasive trend governments and international organisations have been forced into creating a plethora of rules and laws, some dealing with only [Personal Information](#) which go under different names like the [GDPR](#) in the European Union, [CCPA](#) in the United States, [Lei Geral de Proteção de Dados Pessoais LGPD](#) in Brazil, and last but not least our very own [Protection of Personal Information Act](#) [POPIA] in South Africa – although slightly different, especially when it comes to terminology, they all have one common aim, protecting the individual's data. Remember POPIA concerns the PROTECTION of Personal Information and the other act, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), manages ACCESS to your Personal Information.

As all these regulations have a huge impact on international business it is easy to see why all major, and later on even minor geographical and economic-political entities will be required into enforcing like-minded legislation.

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### TERMINOLOGY AND DEFINITIONS- [the important ones regarding our relationship with you are in red]

As we are all affected by POPIA [the Act] we shall use its terminology – it might be slightly different from what we are used to, but in order for us to all be on the same page, so to speak, let's do it.

Most of this is straight from the Act and may sound 'legalese' but we will revert to ordinary language straight thereafter. Some references are to the Act which is [here](#).

#### **“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;

#### **“child”**

means a natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him- or herself;

#### **“code of conduct”**

means a code of conduct issued in terms of Chapter 7;

#### **“competent person”**

means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child;

#### **“consent”**

means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information; [in as far as possible consent must be written]

#### **“Constitution”**

means the [Constitution of the Republic of South Africa](#), 1996;

#### **“data subject” [YOU, THE PATIENT OR EMPLOYEE OR PROSPECTIVE PATIENT OR EMPLOYEE]**

means the person to whom personal information relates;

#### **“de-identify”,**

in relation to personal information of a data subject, means to delete any information that— identifies the data subject;

can be used or manipulated by a reasonably foreseeable method to identify the data subject; or

can be linked by a reasonably foreseeable method to other information that identifies the data subject,

and **“de-identified”**

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has a corresponding meaning;

### **“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 make a donation of any kind for any reason;

### **“electronic communication”**

means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient’s terminal equipment until it is collected by the recipient;

### **“enforcement notice”**

means a notice issued in terms of section 95;

### **“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;

### **“information matching programme”**

means the comparison, whether manually or by means of any electronic or other device, of any document that contains personal information about ten or more data subjects with one or more documents that contain personal information of ten or more data subjects, for the purpose of producing or verifying information that may be used for the purpose of taking any action in regard to an identifiable data subject;

**“information officer”** [IN OUR CASE DR HESTER VD WALT, [popia1@pediater.co.za](mailto:popia1@pediater.co.za) ]

of, or in relation to, a—

public body means an information officer or deputy information officer [IN OUR CASE GABRIEL SMIT, [popia2@pediater.co.za](mailto:popia2@pediater.co.za) ] as contemplated in terms of section 1 or 17; or

private body means the head of a private body as contemplated in section 1, of the [Promotion of Access to Information Act](#);

### **“Minister”**

means the Cabinet member responsible for the administration of justice;

### **“operator” [FOR INSTANCE OUR ACCOUNTANTS]**

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;

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### **“person”**

means a natural person or a juristic person;

### **“personal information”**

means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

information relating to the education or the medical, financial, criminal or employment history of the person;

any identifying number, symbol, e-mail 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; and

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;

### **“prescribed”**

means prescribed by regulation or by a code of conduct;

### **“private body”** means—

a natural person who carries or has carried on any trade, business or

profession, but only in such capacity;

a partnership which carries or has carried on any trade, business or profession; or

any former or existing juristic person, but excludes a public body;

### **“processing”** [THIS IS ANYTHING WE DO WITH DATA]

means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

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 restriction, degradation, erasure or destruction of information;

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### **“professional legal adviser”**

means any legally qualified person, whether in private practice or not, who lawfully provides a client, at his or her or its request, with independent, confidential legal advice;

### **“Promotion of Access to Information Act” [PAIA – THE OTHER SIDE OF THE ‘INFORMATION COIN’ – THE ONE IS ‘PROTECTION’ THIS ONE IS ‘ACCESS’]**

means the [Promotion of Access to Information Act](#), 2000 (Act No. 2 of 2000);

### **“public body”**

means—any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or

any other functionary or institution when—

exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation;

### **“public record”**

means a record that is accessible in the public domain and which is in the possession of or under the control of a public body, whether or not it was created by that public body;

### **“record”**

means any recorded information—

regardless of form or medium, including any of the following:

Writing on any material;

(ii) 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;

(iii) label, marking or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means;

(iv) book, map, plan, graph or drawing;

(v) photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;

in the possession or under the control of a responsible party;

whether or not it was created by a responsible party; and

regardless of when it came into existence;

### **“Regulator”**

means the Information Regulator established in terms of section 39;

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### **“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;

can be used or manipulated by a reasonably foreseeable method to identify the data subject; or

can be linked by a reasonably foreseeable method to other information that identifies the data subject, and “re-identified” has a corresponding meaning;

### **“Republic”**

means the Republic of South Africa;

### **“responsible party” [THE PRACTICE, WE]**

means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;

### **“restriction”**

means to withhold from circulation, use or publication any personal information that forms part of a filing system, but not to delete or destroy such information;

### **“special personal information”**

means personal information as referred to in section 26; [this information may not be acquired or even processed by us, it includes religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information – yes, you read health...]

### **“this Act”**

includes any regulation or code of conduct made under this Act [POPIA]; and

### **“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.

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**In What Follows We Will Wherever Possible Adhere to The Definitions as Set Out Above.**

### **What Kind of Personal Information Do We Collect?**

This Practice collects the minimum Personal Information of the Patient and his/her Parents or Legal Guardian [or employee or prospective employee] in order to enable us not only to treat the patient [interact with employee/would be employee] but also fulfil any legal obligations in as far as third parties are concerned or for other legal and accounting purposes.

**We process the following personal information of you and retain it as part of our records:**

Name, identity number, date of birth, age, contact details, address, nationality and gender;

Name and contact details of next-of-kin or legal guardian;

Health status and disability;

Funder (e.g. medical scheme) information;

Diagnostic information;

Medical services provided including copies of scripts;

X-ray or other medical images and reports and photographs where necessary for diagnostic or treatment purposes;

Pathological Records;

Billing and payment detail and history;

Patient documentation, which includes consent forms, invoices and correspondence with us.

In certain instances, you may object to the processing of your personal information, if it is reasonable to do so, unless we may do so in terms of the law [also see paragraph [What rights do you have regarding your Personal Information we keep?]]. This objection must occur in the form prescribed by POPIA. This does not affect the personal information already processed. If you object and we agree with your objection, your personal information will only be processed as provided for in the law. If you exercise this right and, if the circumstances make it reasonable and lawful for us to do so, we may terminate our relationship with you.

### **What do we need Your Personal Information for?**

To respond to your questions, send you information about our services, verify your identity and provide you with our services.



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### How do we gather Personal Information from you or someone under your legal dominion?

Primarily through forms you complete at the practice or are legally completed on behalf of a minor.

If you have been a patient or used our services or specifically requested us to get in touch with you.

Data you provide us with during consultations or over any electronic media, i.e. telephonic, web site, Face Book, WhatsApp or other social media and e-mail etc.

When you provide information about another person or entity, we accept that you have their consent in terms of this Policy and that you are legally entitled to share this information.

Kindly note that any interaction between this Practice and you creates data and that the confidentiality of personal information during any contact from your side over insecure modes, here with specific reference to electronic communication, could be compromised and that this practice can not be held liable for information thus being obtained by third parties.

Furthermore, it must be noted that although this practice has made provision for data security, both physical and electronic, no data communication is 100% secure.

### How Do We Use, Or Process Your Personal Information? You Are Again Reminded That Your Consent in Processing Your Personal Information Lies at The Foundation Of Using It!

We send administrative information to you and use it for internal administrative purposes in order to provide you with the best possible service.

We respond to your inquiries and use it to make appointments and remind you of such as well as inoculations, check-ups, consultations, and sundry medical services.

Update our records and keep your contact details up to date.

To engage in our contractual relationship with you and to comply with our legal obligations towards yourself or third parties which include Medical Aid Scheme Administrators, Pathology Laboratories, and other Health Care Practitioners.

### What Kind of Security Do We Provide For Your Personal Information?

We are legally obliged to provide adequate protection for your personal information in our possession and to prevent or discourage unauthorized access and use of it.

Measures in place at the practice include electric fencing, CCTV coverage, armed security services, safe storage, controlled access, alarms and fire protection, password protected servers, up to date malware and virus protection as well as encrypted cloud storage.

Regarding security on our web site we refer you to our treatment of cookies at [www.pediater.co.za](http://www.pediater.co.za) furthermore the Privacy Policy of our Internet Service Provider, hosting the domain pediater.co.za, is [here](#).

The disclaimer on our web site refers to our policy regarding external links, [kindly see here](#).

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Our security controls and related processes are constantly under review for this purpose.

Our security policies also cover the Retention and disposal of information, Investigating and reacting to data breaches, Access to personal information and Secure communications;

We ensure that anyone to whom we pass your personal information contracts to treat your information with the same level of protection as we are required to.

When we contract with third parties [operators], we impose per contract appropriate security, privacy, and confidentiality responsibilities on them to safeguard that your personal information is handled in terms of POPIA.

### Accuracy of Your Personal Information

The onus is by law on you to provide us with any change in your Personal Information in order to keep our records up to date.

### What rights do you have regarding your Personal Information we keep?

Your principal rights under data protection law are:

- the right to access - you can ask for copies of your personal data;
- the right to rectification - you can ask us to rectify inaccurate personal data and to complete incomplete personal data;
- the right to erasure - you can ask us to erase your personal data;
- the right to object to processing - you can object to the processing of your personal data;
- the right to complain to a supervisory authority - you can complain about our processing of your personal data; and
- the right to withdraw consent - to the extent that the legal basis of our processing of your personal data is consent, you can withdraw that consent.

These rights are subject to certain limitations and exceptions.

You may exercise any of your rights in relation to your personal data [by written notice to us at [popia1@pediater.co.za](mailto:popia1@pediater.co.za)].

### International transfers of your personal data

We may transfer your personal data from South Africa across borders with your prior written consent.

We will make an adequacy determination with respect to the data protection laws of each of the relevant country. Transfers to the relevant country will be protected by appropriate safeguards, namely the use of standard data protection clauses adopted or approved by the competent data protection authorities in that country. We will provide you with a copy or a link to it.

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### Amendments

We may update this policy from time to time by publishing a new version on our website.

You should check the relevant page occasionally to ensure you are happy with any changes to this policy.

### Concerns and Complaints about the Processing of Your Personal Information

All enquiries, requests or concerns regarding this Policy or relating to the processing of your personal information should be addressed to the [Information Officer](#). If you believe that we process your personal information contrary to this Privacy Policy or in contravention of the law, please contact the [Information Officer](#) immediately.

You may also lodge a complaint with the Information Regulator at [infoereg@justice.gov.za](mailto:infoereg@justice.gov.za) / +27 (0)10 023 5207 / +27 (0)82 746 4173.