



PAIA / POPIA MANUAL

DECEMBER 2021

CONTENT

PROMOTION OF ACCESS TO INFORMATION MANUAL

1. Introduction
2. Introduction to the Information Manual
3. Section 10 Guide
4. Legal, Regulatory and Ethical Obligations to Protect Certain Categories of Information.
5. Information, which is held by Resthill Memory Care
6. Information which may be provided automatically upon request.
7. Manner of access to automatically available records and information.
8. Manner of access to other records.
9. Grounds for refusal of access to records.
10. Appealing any refusal to grant access to any record.
11. Payment of fees and methods of payment.

PROTECTION OF PERSONAL INFORMATION ACT

1. Information security
2. Personal information we collect
3. How we use your information
4. Disclosure of information
5. Transfer of information
6. Access to your personal information
7. Changes to the statement
8. Information pertaining to the Information Officer of Resthill Memory Care

I. PROMOTION OF ACCESS TO INFORMATION MANUAL

1. Introduction:

Resthill Memory Care (Pty) Limited is a licensed private health establishment, for the provision of treatment and care to mental health care users as defined in the Mental Health Care Act, 2002. Currently the health establishment is licensed with the National Department of Health in accordance with Regulation 158 of the Health Act, 1977, read together with Regulation 42 of the General Regulations of the Mental Health Care Act, 2002. The establishment is primarily for the care of people living with dementia, and has 27 beds, in two residential establishments. The business registration number is 2016/011465/07 (4 April 2016) , and the physical address is 105 Pretorius Street, Laezonia, Centurion 0026. The health establishment employs the services of the following employees, some of whom are registered with the applicable statutory bodies:

- Managing Director.
- Nursing Services Manager.
- Professional nurses (those categories stated in the Nursing Act).
- Administrative staff.
- Support Staff
- Grounds Keepers
- Care Givers.

The hospital is governed by a Board of Directors, who is responsible for the enunciation of internal policy.

2. Introduction to the Information Manual

The following ‘Information Manual’ is published in terms of section 51 of the Promotion of Access to Information Act, so as to establish the means by which any person may access that information as held by the private health establishment. This Manual is published in the spirit of open democracy, transparency and accountability, whilst being sensitive to the rights of mental health care users and their right to medical and personal privacy. For this reason the establishment states those legal, ethical and mandatory obligations pertaining to privacy and confidentiality, and the manner in which some information may be withheld from certain categories of persons.

More specifically section 17 of the National Health Act, 2003, requires the health establishment to set up control measures to prevent the unauthorised access to those records, which are the possession of the mental health care user. Within this Information manual the following information can be found:

- (a) The postal and street address, phone and fax number and electronic mail address of the head of the body;
- (b) A description of the guide referred to in section 10 and how to obtain access to it.

- (c) The latest notice in terms of section 52 (2), if any, regarding the categories of record of the body which are available without a person having to request access in terms of this Act;
- (d) A description of the records of the body which are available in accordance with any other legislation;
- (e) Sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records and the categories of records held on each subject; and such other information as may be prescribed.

The head of Resthill Memory Care must, during office hours and upon request, make available for public inspection a copy of this Information Manual to any person requesting such. In this regard, he/she may not charge a fee for a public inspection thereof, but he/she may in respect of a copy of the manual charge a fee as prescribed in Item 1 of Part III of Annexure A and the actual postage if a copy must be posted.

3. Section 10 Guide.

The South African Human Rights Commission has in accordance with section 10 of the Promotion of Access to Information Act published a reference guide for the accessing of information as applicable to all Information Manuals registered within the Republic of South Africa. The guide is available at the offices of the South African Human Rights Commission. Any questions in relation to the Information manual of Resthill Memory Care can be directed to the Human Rights Commission of South Africa.

The PAIA Unit (Promotion of Access to Information) at the South African Human Rights Commission can be contacted at the following address:

The Research and Documentation Department

Private Bag X2700

HOUGHTON 2014

Telephone +27 11 484 8300

Fax +27 11 484 0582/1360

Website www.sahrc.org.za

e-mail PAIA@sahrc.org.za

4. Legal, Regulatory and Ethical Obligations to Protect Certain Categories of Information.

Resthill Memory Care is governed by numerous pieces of legislation, some of which place strict obligations on the health establishment to protect certain categories of information as being private and confidential. In addition to this law/s, registered health professionals and nurse professionals are also bound by those ethical rules applicable to their profession to protect certain categories of information as being private and confidential. For the benefit of those persons requesting access to information the following legislation is cited as being applicable (although not exclusively):

- The National Health Act, 2003 [Act No. 61 of 2003], section 14.
- The Mental Health Care Act, 2002 [Act No. 17 of 2002], section 13.
- The Health Professions Act [Act 56 No of 1974]
- The Nursing Act [Act No 33 of 2005]

- The Medical Schemes Act, 1989 [Act No of 1989]
- The Promotion of Access to Information Act [Act No. 2 of 2000], Chapter 4

Section 14 of the National Health Act, 2003, specifically states that all information concerning a mental health care user, including information pertaining to his or her health status, treatment or stay in Resthill Memory Care is confidential. Furthermore, no person is authorised to disclose such information unless authorised by the mental health care user in writing, or if ordered to do so by a court of law.

Similarly, section 13 of the Mental Health Care Act, 2002, states that no person or health establishment may disclose any information which a mental health care user is entitled to keep confidential in terms of any other law.

Certain categories of minors as stated in the Children's Act (those under the age of 18yrs of age) are also under those specified circumstances entitled to medical and personal privacy, and accordingly such information may also be subject to restrictions on publication and disclosure even if access is requested by a parent of legal guardian.

5. Information, which is held by Resthill Memory Care

Records, which are kept at Resthill Memory Care in accordance with legislation include (but are not limited to the following):

- a. Medical /personal information and records as required by the National Health Act, 2003, and the Mental Health Care Act, 2002.
- b. Medical/financial information and records as required by the Medical Schemes Act, 1989.
- c. Records as required in terms of the Companies Act, 1973 [Act No. 6 of 1973].
- d. Records as required in terms of the Income Tax Act, 1962 [Act No. 58 of 1962]
- e. Records as required in terms of the Employment Equity Act, 1998 [Act No. 55 of 1998]
- f. Records required in terms of the Promotion of Access to Information Act, 2000.

For a complete list of those records, which are available from Resthill Memory Care, please request such from the Information Officer at the contact details provided.

6. Information which may be provided automatically upon request.

In accordance with section 52(1)(a) certain categories of information may be automatically available, without having to apply in accordance with the Promotion of Access to Information Act. Those records include (but are not limited to):

1. Administrative Forms pertaining to Admission.
2. Rules and Conditions Pertaining to Admission.
3. Information Booklets and Pamphlets, as made available to mental health care users.
4. Any information which is offered free of charge to members of the public, as per section 52(1)(a)(iii).

For a complete list of the available information automatically available, as well as information as to the manner in which such information may be accessed, please request such from the Information Officer at the contact details provided.

7. Manner of access to automatically available records and information.

Information which may be automatically available as stated in paragraph 6 above, and which is in terms of section 52(1) of the Promotion of Access to Information Act may be requested by completing the prescribed Form E (available from reception) and submitting such to the Information Officer at the contact details provided.

8. Manner of access to other records.

Any person requesting access to information, which is held by Resthill Memory Care, must do so in the prescribed manner. Please note, for the purposes of this section Resthill does not employ treating health care practitioners and any request pertaining to information, which is held by such treating practitioner, must be requested from him or her directly.

The person requesting information from Resthill must complete the following process.

1. Any request for access to information held by the private health establishment, must in terms of section 53(1) must be made on the prescribed form. (Form C).
2. All relevant detail on Form C must be provided, as well as detailed information pertaining to what record is being requested.
3. Upon receipt of such a request, and where such request is made by a person other than a personal requester (not the mental health care user him or herself), Resthill may require the payment of a prescribed fee of R50.00 (Fifty Rand) [As per section 54(1)]
4. In accordance, with Form C the requester must clearly state the capacity in which he or she is making the request, as well as the right he or she seeking to exercise or protect. In addition to which, the requester must clarify the reason why such record is necessary in the exercise or defence of that right.
5. If a request is being made on behalf of a mental health care user, then Resthill will require written confirmation from that user him or herself, authorising the identified person to make such a request on his or her behalf.
6. Attorneys or legal representatives requesting information pertaining to mental health care users, and on whose behalf they are acting, will be required to supply proof of authorisation by the mental health care user him or herself. This may be in the form of a specific Power of Attorney (or a written authorisation).
7. Any and all requests for copies of records may be subject to a prescribed fee, and Resthill reserves the right to request a deposit from the requester in this regard, prior to the facilitation or processing of any request.
8. A list of the prescribed fees is available upon request from Resthill. Once the request is received by the Information Officer and upon the payment of any fee (if applicable), Resthill may take up to 30 days to process such. In the event, that access is required urgently, then such must be stated in the application and clearly marked for the attention of the Information Officer.
9. The requester shall be informed in writing whether his or her request for access to information/record has been granted or refused.

With reference to medical information, read together with paragraph 4 of this Information Manual, requesters are advised to take note of the following additional requirements and conditions:

1. In terms of the general law, as stipulated in section 14 of the National Health Act, 2003, all information pertaining to a mental health care user's health status, treatment and stay in Resthill is confidential. For this reason, any and all requests for access to such information must be made by the mental health care user him or herself.
2. In the event that the mental health care user is not able to make such a request him or herself, then a legally authorised person must make such a request.
3. In terms of section 61 of the Promotion of Access to information Act, if the Information Officer is of the opinion that the disclosure of the record to the relevant person (the mental health care user, or any legally authorised person acting on his or her behalf) might cause harm to his or her (the mental health care user) physical or mental health, or well being, then he or she may prior to granting such access, consult with the mental health care user's treating health care practitioner.
4. If the treating health care practitioner referred to above is of the opinion that the disclosure of record concerned, would be likely to cause harm to the mental health care user's physical or mental health, or well being, then the Information officer may only grant access to the record if the requester proves to him or her that adequate provision has been made for such counselling or arrangements as are reasonably practicable before, during or after the disclosure of the record to limit, alleviate or avoid such harm to the mental health care user.
5. Furthermore, before such access is given to the requester him or herself, Resthill will require such access to be first given to the person responsible for such counselling or arrangements. '

9. Grounds for refusal of access to records.

The following may be grounds for the lawful denial of access to records. This list is not exhaustive, and in the event that a request is denied, then Resthill undertakes to provide written reasons for such a denial.

- Any refusal made in terms of section 61(2) and (3) of the Act.
- Any refusal based on the mandatory protection of privacy of a third party who is a natural person. Section 63.
- Any refusal made in terms of the mandatory protection of commercial information of a third party. Section 64.
- Any refusal made in terms of the mandatory protection of certain confidential information of a third party. Section 65.
- Any refusal based on the mandatory protection of safety of individuals, and the protection of property. Section 66.
- Any refusal based on the mandatory protection of records privileged from production in legal proceedings. Section 67.
- Any refusal based on commercial information pertaining to Resthill Memory Care. Section 68.

- Any refusal based on based on any other provision of law, requiring medical and personal privacy.

10. Appealing any refusal to grant access to any record.

Any requester, who has been denied access to any record for whatever reason, has the right to appeal such a decision by making application to a Court within his or her jurisdiction. Such appeal must be made within 30 days (thirty) of the notification of refusal by the Information Officer. In accordance with the provisions of the Promotion of Access to Information Act, the court/s to be used for such application are the Constitutional Court, the High Court and any other court of a similar status.

11. Payment of fees and methods of payment.

1. If any person wishes to have a copy of this Information manual then Resthill may charge R1.10 (One Rand and ten cents) per A4 size page thereof.
2. The request fee payable by a requester, other than a personal requester, referred to in section 54(1) of the Act is R50.00 (Fifty Rand).
3. The following fees are also applicable:

a.		For every photocopy of an A4 size page or part thereof	R1.10
b.		For every printed copy of an A4 size page or part thereof held on a computer or in electronic machine-readable form	R0.75
c.		For a copy in a computer-readable form on Compact disc	R70.00
d.	i.	For a transcription of visual images for an A4 size page or part thereof	R40.00
	ii.	For a copy of visual images	R60.00
e.	i.	For transcription of an audio record, for an A4-size page or part thereof	R20.00
	ii.	For a copy of an audio record	R30.00

4. The access fees payable by a requester referred to in section 54(7) of the Act are as follows:

a.		For every photocopy of an A4 size page or part thereof	R1.10
b.		For every printed copy of an A4 size page or part thereof held on a computer or in electronic machine-readable form	R0.75
c.		For a copy in a computer-readable form on Compact disc	R70.00
d.	i.	For a transcription of visual images for an A4 size page or part thereof	R40.00
	ii.	For a copy of visual images	R60.00
e.	i.	For transcription of an audio record, for an A4-size page or part thereof	R20.00
	ii.	For a copy of an audio record	R30.00

5. The fee applicable for searching for a record, as per section 54(2) of the Act, shall be R30.00 for each hour or part thereof as reasonable required for such a search
6. Resthill is also entitled by virtue fo the Value-Added Stax Act, 1991 (Act No 89 of 1991). To charge the prescribed VAT amount to all fees prescribed in the regulations of the Promotion of Access to Information Act.
7. The actual postal fee is payable when a copy of a record must be posted to a requester. Resthill in order to ensure privacy and confidentiality, will register that copy to the requester, so as to ensure that only he or she may access such.

II PROTECTION OF PERSONAL INFORMATION ACT

1. Privacy statement

Your privacy is very important to Resthill Memory Care (Pty) Limited. Resthill has developed this statement to help you to understand how we collect, communicate and use any personal information that you submit to us. For purposes of this statement, “personal information” shall be defined as detailed in the Protection of Personal Information Act 4 of 2013 (“POPI”).

2. Personal information we collect

Resthill collects and processes your personal information mainly to provide health services and products to you and to help improve our offering to you.

The type of personal information we collect will depend on the purpose for which it is collected and used, the specific purpose for which the information is collected will be apparent from the context in which the information is requested.

We collect information directly from you, for example when you require services from us or when you submit enquiries to us or contact us we’ll ask for personal information, such as your name and surname, identity or passport number, Resthill account number, postal or street address, title, contact numbers or e-mail address.

Where possible, we will inform you what information is voluntary or mandatory for you to provide to us and the consequences for failing to provide the requested information.

We will only retain your personal information as long as necessary for the fulfilment of those purposes as have been identified by us

3. How we use your information

Resthill processes the abovementioned personal information only for the purposes which it was collected, as authorised by law or as agreed with you, for example:

- To respond to your enquiry.
- To provide services to you.
- To provide access to restricted pages on this website.
- To comply with legal requirements or industry codes.

- To compile non-personal statistical information about browsing habits, click-patterns and access to the Resthill website

4. Disclosure of information

Resthill may disclose your personal information to third parties on the following basis:

- Where we have your consent; or
- Where we are required to do so by law; or
- To our service providers who are involved in the delivery of products or services to you, where we have agreements in place to ensure that they comply with these privacy terms.

We may compile, use and share any information that does not relate to any specific individual and retains all rights to non-personal statistical information collected and compiled by us.

5. Transfer of information

We will ensure that anyone to whom we pass your personal information agrees to treat your information with similar protection as provided for in South African laws.

6. Information security

Resthill shall take all reasonable steps to secure the content of the Resthill website and the information provided by and collected from users from a wide variety of security breaches such as unauthorized access and/or disclosure, etc. However, Resthill does not make any warranties or representations that content shall be 100% safe or secure, but Resthill will have applied all necessary due care and diligence towards preserving the security of information.

Subject to the provisions of sections 43(5) and 43(6) of the ECT Act (Electronic Communications and Transactions Act No25 of 2002) - <http://www.acts.co.za/> - and the requirements for a valid electronic invoice issued by the South African Revenue Service from time to time, if applicable, Resthill is under no legal duty to encrypt any content or communications from and to users and is also under no legal duty to provide digital authentication of any pages on the Resthill website.

Users may not deliver or attempt to deliver, whether on purpose or negligently, any damaging code, such as computer viruses, robots or spyware, to the Resthill website or the server and computer network that support the Resthill website.

Notwithstanding criminal prosecution, any person who delivers or attempts to deliver any damaging code to the Resthill website, whether on purpose or negligently, shall, without any limitation, indemnify and hold Resthill harmless against any and all liabilities, damages, risks and losses that Resthill and its partners/affiliates may suffer as a result of such delivery, attempt or damaging code.

Users may not develop, distribute or use any device or program designed to breach or overcome the security measures of the restricted pages, products and services on the Resthill website. Resthill reserves the right to claim damages from any and all persons involved, directly and indirectly, in the development, use and distribution of such devices or programs.

Users who commit any of the offences detailed in sections 85 to 88 of the ECT Act - <http://www.acts.co.za/>-shall, notwithstanding criminal prosecution, be liable for all resulting liabilities, losses, destruction or damages suffered and/or incurred by Resthill and its partners/affiliates due to or related to these illegal actions.

7. Access to your personal information

You may correct any of your personal information that we hold by sending an email to care@resthill.co.za

8. Changes to the statement

Resthill reserves the right to amend this privacy statement at any time, without prior notice, by posting the amended statement on our website.

9. Information pertaining to the Information Officer of Resthill Memory Care

Full name of health establishment	Resthill Memory Care (Pty) Limited
Information Officer	Esmarie Venier
Designation	Director
Address	205 Pretorius Street, Laezonia, Centurion 0026
Postal Address	PostNet Suite 241, Private Bag x2, Raslouw, 0109
Telephone	012 501 0605
	083 461 4321
e-mail	care@resthill.co.za