



POPI made Practical

Provided by Elsabe Klinck as a service to SASCI Members on 14 September 2021

Personal information can be processed on one of two grounds, with a person's consent, or, where a law so requires or permits.

There has been a number of practical issues relating to the POPI Act that have caused some uncertainty:

1. The **sharing of patient information between practitioners**: This is permitted by law (the National Health Act's section 15), and no patient consent is needed between, for example, a referring- and a referred-to practitioner. The recipient practitioner also does not have to give any POPI assurances (e.g., in the form of a letter or confirmation) to the practitioner sending the information. Section 15 just require that the sharing of personal, identifiable information (including images) must be in the interest of the patient, and necessary to be shared.
2. Patients also do not need to sign a consent for the **practitioner to process their personal- and health information**. This processing is permitted by section 32 of the POPI Act. It is also a requirement of the HPCSA Ethical Rules, and certain information must be processed under the medical schemes regulations to issue valid claims.
3. The **presentation of case studies** at journal clubs or CPD events must be preceded by the patient consenting to the "further processing" of their information, if the information was initially created for treatment, and not for any other purpose. This consent must be specific, and, according to the Information Regulator a blanket consent cannot be obtained from all patients for in case their information may be use sometime in the future.
4. Patient information may be "accessed" on the authority of the **National Health Act for the purposes of "study, teaching or research"**, but it must be undertaken with the "authorisation of the user (i.e., the patient), the head of the health establishment concerned and the relevant health research ethics committee. If the information being accessed is anonymised, no user (patient) consent is necessary, but ethics *committee* permission is required for all research.

Please do visit Elsabe Klinck and Associates for more information www.elsabeklinckassociates.co.za



SASCI is a Special Interest Group of the SA Heart Association

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