



Reference: POPI code of conduct
Contact person: Milford Chuene
Tel: 012 431 0523
Fax: 012 431 0623
E-mail: m.chuene@medicalschemes.com
Date: 4 February 2014

Circular 6 of 2014: The Protection of Personal Information Act (POPI)

1. The Protection of Personal Information Act 4 of 2013 (POPI) was recently signed into law by the Honorable President of the Republic of South Africa. POPI has however not been brought into force yet. A regulator is required to be appointed and Regulations passed before the law can take effect. POPI will apply to the processing of personal information by or on behalf of responsible parties. The Council for Medical Schemes (CMS) is aware that POPI will apply to the regulated entities falling within the scope and ambit of the Medical Schemes Act 131 of 1998 and has taken steps to engage with the relevant authorities in this regard.
2. POPI prescribes conditions for the lawful processing of personal information. All regulated entities will be obliged to comply with these conditions.
3. Chapter 7 of POPI provides for codes of conduct to govern the use of personal information within certain sectors and industries. Section 60 of POPI provides that the Information Regulator may issue codes of conduct. Section 60(2) provides that:

A code of conduct for the sector or industry must:

- (a) incorporate all the conditions for the lawful processing of personal information or set out obligations that provide a functional equivalent of all the obligations set out in those conditions; and
- (b) prescribe how the conditions for the lawful processing of personal information are to be applied, or are to be complied with, given the particular features of the sector or sectors of society in which the relevant responsible parties are operating.

(3) A code of conduct may apply in relation to any one or more of the following:

- (d) any specified industry, profession or vocation or class of industries, professions or vocations.

4. Section 61 of POPI provides for the process for issuing codes of conduct under Section 60. The Regulator may issue codes of conduct on own initiative but only after consultation with the affected stakeholders or a body representing such stakeholders or on the application (in a prescribed form) by a body which, in the opinion of the regulator, is sufficiently representative of any class of bodies, industry, profession or vocation.
5. The CMS, in consultation with the medical schemes industry, intends to develop a code of conduct as contemplated by Section 60 of POPI. To this end, all entities regulated by the Medical Schemes Act are invited to provide preliminary comments on the envisaged code of conduct, in particular on the following:
 - 5.1. areas that should be addressed by the code;
 - 5.2. specific areas of concern; and/or
 - 5.3. any specific provisions of POPI that the code should address.
6. In view of POPI having been signed into law, industry comments should reach the CMS on or before Friday, 28 February 2014. They should be directed to Mr. Milford Chuene in the Legal Services Unit on m.chuene@medicalschemes.com or be faxed to 012 431 0623.
7. The draft code of conduct will in due course be referred to industry for further comments before it is submitted to the information regulator for approval.

Yours sincerely



Craig Burton-Durham
Head: Legal Services
Council for Medical Schemes