

# INFORMATION ON DATA PROTECTION

Thank you for your interest in our company. For reasons of better legibility alone, we have – within the framework of this Privacy Policy – refrained from using masculine, feminine and other language forms at the same time. All references to persons apply to all genders: m/f/d. Apart from these and other things, we take your rights to privacy, data protection and informational autonomy very seriously. In this Information on Data Protection, we are pleased to inform you in accordance with the General Data Protection Regulation (EU regulation 2016/679, in short: "GDPR") of the following:

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## **1. GENERAL INFORMATION**

### **1.1. Who are we?**

We are AOP Orphan Pharmaceuticals AG, Wilhelminenstr. 91/II f, 1160 Vienna (Austria), Tel.: + 43 1 503 72 44, Fax: +43 10 503 72 44 5, E-Mail: [office@aoporphan.com](mailto:office@aoporphan.com) and are represented by our executive board, consisting of Dr. Rudolf Widmann, Mag. Andreas Steiner and Dr. Günther Krumpl.

We have also appointed a data protection officer in accordance with Article 37 paragraph 4 GDPR:

**Christian Zange, AOP Orphan Pharmaceuticals AG**  
Wilhelminenstraße 91/II f, 1160 Vienna Austria  
e-mail: [data-protection@aoporphan.com](mailto:data-protection@aoporphan.com)

**1.2. To whom do we transfer the data? And are they transferred out of the European Union?**

We transfer your data to affiliated companies and external service providers which support us with regard to the following activities: storage and administration of data, IT support, organization of events, taking photos of employees, payroll accounting, legal consultancy, management consultancy, recruitment process. In doing so, we ensure that these service providers are carefully selected, contractually bound in accordance with data protection regulations and regularly audited. Among these service providers are also companies that process your data outside the European Union or have their headquarters there. In the case of these companies, we only select companies that process the data at locations for which there is an adequacy decision by the Commission (Article 45 GDPR). If this requirement is not met, we only commission these service providers if they provide appropriate safeguards (Article 46 GDPR), for example by concluding the EU standard contractual clauses.

**1.3. What are your rights?**

You have various rights under the GDPR which are listed below. In particular, you have the right to be informed about your personal data being processed and to have such data corrected or deleted, to restrict the processing, to object to the processing of your personal data, and to data portability. Furthermore, you have the possibility to lodge a complaint with the competent supervisory authority. We do, however, point out that these rights may be subject to certain conditions which we need to and will have to insist on.

**2. INFORMATION FOR APPLICANTS**

**2.1. We process your data. Which data? Where do we get them? For how long? And do we have to or are we allowed to do that at all?**

2.1.1. During the application phase, we collect the data you provide, usually including: your name, your contact data, your other data from the application, and, if applicable, our findings from the job interview and the trial workday. The legal basis for this is Article 6 paragraph 1 sentence 1 lit b GDPR, according to which the processing of application data is permissible even without the consent of the applicants if this is necessary for the decision on the establishment of an employment relationship.

2.1.2. In the event that an employment relationship is established between us, we will store your application data until any statutory retention obligations have been fulfilled. These retention periods are as follows:

<b>Data category</b>	<b>Retention period</b>
Data concerning income tax and tax liability, § 132 para. 1 BAO:	7 years
Data on social security contribution liability, Section 68 ASVG:	3 or 5 years
Liability for severance payment claims and company pensions after transfer of business, § 6 para. 2 AVRAG:	5 years
Records and reports on work-related accidents, § 16 ASchG:	5 years
Records regarding the supply of temporary workers, § 13 (3) AÜG:	5 years
Data concerning your entitlement to the issuance of a recommendation letter, § 1478 ABGB:	until you have waived your right, otherwise 30 years

2.1.3. In the event that unfortunately no employment relationship is established, we will store your application data for six months after receipt of the respective rejection. The legal basis for this is Article 6 paragraph 1 lit f GDPR. According to this provision, processing is lawful in order to safeguard the legitimate interests of the controller or of a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. We derive our legitimate interest from Section 15 (1) of the Equal Treatment Act (GIBG). According to this provision, any claim for compensation based on the GIBG must be asserted within a period of six months. In the application procedure, the period begins with the receipt of the rejection. In our opinion, if we are not aware of any complaint six months after the rejection, it cannot be assumed that such a complaint exists, so that we may store the data until then in order to safeguard our legitimate interests (defense against any claim for compensation). If you assert a violation of the prohibition of discrimination, we may store data until the end of the process – to protect our legitimate interests as well (defense against a claim for compensation).

2.1.4. If we receive your consent, we will store your data until you revoke such consent, of which you can notify us at any time with effect for the future (see above under "Who are we?").

- 2.1.5. There is no legal obligation to collect this data during the application phase. However, it is possible that the absence of some or all of the data may occasionally lead to inquiries or, in the case of permanent absence, to the impossibility of employment.

### 3. INFORMATION FOR EMPLOYEES

#### 3.1. We process your data. Which data? Where do we get them? For how long? And do we have to or are we allowed to do that at all?

- 3.1.1. During and after the employment relationship is established, we usually collect the following data: Surname, first name, maiden name, date of birth, place of birth, country of birth, contact data, state of health (in particular with regard to any disabilities), nationality, sex, insurance number (social security card, if applicable), marital status, employee number (social insurance fund), personnel number, date of entry, permanent establishment, job title, job description, status, main/part-time employment, data for tax registration, account data, health insurance fund, sick note information, business e-mail address, business mobile phone, access data for various clients and hardware. The legal basis for this is Article 6 paragraph 1 sentence 1 lit b GDPR, according to which the processing of employee data is permitted even without the consent of the employees if this is necessary for the performance or termination of the employment relationship.

- 3.1.2. We will store your data – if necessary – for the entire duration of your employment, but in any case until the conclusion of any statutory storage obligations. These retention periods are as follows:

Data category	Retention period
Data concerning income tax and tax liability, § 132 para. 1 BAO:	7 years
Data on social security contribution liability, Section 68 ASVG:	3 or 5 years
Liability for severance payment claims and company pensions after transfer of business, § 6 para. 2 AVRAG:	5 years
Records and reports on work-related accidents, § 16 ASchG:	5 years
Records regarding the supply of temporary workers, § 13 (3) AÜG:	5 years
Data concerning your entitlement to the issuance of a recommendation letter, § 1478 ABGB:	Until you have waived your right, otherwise 30 years

3.1.3. We are also obliged to collect the above-mentioned data with regard to labor and social security law regulations. Consequently, the absence of this data may mean that we are unable to perform the employment relationship with you properly.

### **3.2. What happens if we take or need photographs of you?**

3.2.1. It is possible that we may ask you to take or use a photograph of you. If you agree to this, we will take the photograph, link it to your name and, if necessary, publish it on one of our internet or intranet sites, on social networks and printed works, as well as company brochures.

3.2.2. The legal basis for this is your consent pursuant to Article 6 paragraph 1 sentence 1 lit a GDPR, which you may revoke at any time with effect for the future, for example by sending an informal message to one of the above-mentioned contact channels (see above under "Who are we?").

3.2.3. The prohibition under Article 9 paragraph 1 GDPR does not preclude processing either, because we ensure, among other things, that your consent also includes, where appropriate, permission to process data within the meaning of Article 9 paragraph 1 GDPR, so that the exception under Article 9 paragraph 2 lit a GDPR applies in this respect.

### **3.3. How do we process your data for tax recording, payroll accounting and other tax-related activities?**

We have commissioned an external tax consultancy firm for the purposes of tax recording, payroll accounting and other tax-related activities. Insofar as data is processed by this firm, this does not constitute data processing, but rather a transfer of functions, which in turn is justified by Article 6 paragraph 1 sentence 1 lit f GDPR. With regard to your rights of objection, please refer to the section "What are your rights?".

### **3.4. How do we process your data within the scope of time recording?**

3.4.1. We process the data at the beginning, end and possible breaks of your daily working time as well as during breaks and link this information to your name.

3.4.2. The legal basis for this is Article 6 paragraph 1 sentence 1 lit c GDPR.

3.4.3. We store this information until the end of the respective retention period (see above in Section 3.1.2).

## **4. INFORMATION FOR CUSTOMERS/SUPPLIERS**

### **4.1. How do we process your data during and after the initial contact?**

4.1.1. During the first contact we collect the data you provide us with. These data usually are: name, contact data, possibly offer-related data, possibly data on your position in your company or with your employer. Only you know the reasons for contacting us – the reaction to this describes the purpose of the processing. Insofar as a specific contractual relationship is involved, whether in connection with its initiation, performance or termination, the legal basis for processing is Article 6 paragraph 1 sentence 1 lit b GDPR. In this case, we store the data in any case until the end of the statutory retention period, which is generally seven years. In all other cases, the legal basis is Article 6 paragraph 1 sentence 1 lit f of the GDPR, according to which the processing of personal data may be carried out without the consent of the person concerned if the processing is necessary to safeguard the legitimate interests of the controller or of a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular if the data subject is a child. Communication outside a contractual relationship is in our mutual interest. We store your data until the purpose resulting from the legitimate interest is fulfilled.

4.1.2. If a contractual relationship is established between us, we will then process your data for the purpose of performing and, if necessary, terminating the contractual relationship. This usually results in further data, especially order-related data. In this respect, the legal basis for the processing is Article 6 paragraph 1 sentence 1 lit b GDPR. In this case, we store the data in any case until the end of the statutory retention period, which is generally seven years.

### **4.2. How do we address you in advertising?**

4.2.1. We will use the above-mentioned data ("How do we process your data during and after the initial contact?") as well as order-related communication content to approach you in advertising. The promotional address includes all communication channels which you have made known to us through your contact details. In terms of content, the promotional approach in the exercise of our specific trade includes every statement made by us with the aim of promoting the sale of our goods or the provision of our services. This includes in particular, but not exclusively, regular and irregular newsletters, invitations, customer satisfaction surveys and offers for specific products and services.

4.2.2. The legal basis for this is Article 6 paragraph 1 sentence 1 lit f GDPR. According to this provision, we may process your data if this is necessary to safeguard our legitimate interests, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data. Our legitimate interest is the interest in direct advertising as described in Section 4.2.1. The fact that our interest in direct advertising is worthy of recognition in the context of Article 6 paragraph 1 sentence 1 lit f GDPR is made clear at the end of the General Data Protection Regulation in its Recital 47. It states: *"The processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest."* We also derive our interest from the fact that we have already had a legal relationship or may still have one, so that it corresponds to your widespread expectation nowadays that you will be addressed in advertising. Your interests are sufficiently protected, as we hereby inform you comprehensively and acknowledge your unconditional right to object and have set up the necessary technical procedures for this purpose. You have the right to object to this processing at any time, either by sending an informal message to one of the above-mentioned contact channels ("Who are we?") or by activating the *"unsubscribe link"* at the end of any promotional message you receive from us.

4.2.3. With regard to the storage period, Section 4.1 ("How do we process your data during and after the initial contact?") applies accordingly. If you object to the processing for advertising purposes, the data will not be used for this purpose.

4.2.4. There is no legal obligation to process these data for the purpose of advertising.

### **4.3. What happens in the case of a company sale by way of a legal division (in German *"Abspaltung"*) or merger (*"Verschmelzung"*)?**

4.3.1. It is possible that our company or parts of it may be altered/changed under corporate law. Among other things, we have the possibility to reorganize ourselves by selling parts of our company (legal division) or by merging with other companies (merger). In the case of a legal division, we remain as a company, transfer part of our assets to one or more other, already existing or new legal entities. In the case of a merger, we transfer our entire company to another legal entity, either already existing or to be newly established.

4.3.2. Regardless of which option we choose for the corporate change, there is the possibility that the data we have collected from you will be transferred to the new entity, if necessary, also for consideration. There is even the possibility that this is the main reason for the change under corporate law and a significant, price-determining factor.

4.3.3. However, your consent is not required for the transfer of your data as described in Section 4.3.2. This is because the principle of data protection law, according to which any processing of personal data requires a basis for authorization, is not applicable to this transfer. This is because this legal principle, which derives from Article 5 paragraph 1 lit a GDPR, requires the processing of your data. Disclosure/Processing by means of transmission, dissemination or another form of provision would be a possibility. But the elements "transmission", "dissemination" and "provision in another form" require that the data be transferred from the controller, i.e. us, to a legal entity other than the controller. And in the event of a legal division or merger, the new legal entity would – with regard to your data – not be a third party in terms of Article 4 point 10 GDPR.

#### **4.4. What happens in the event of the company being sold by way of an asset deal?**

4.4.1. It is possible that our company or parts thereof may also be altered in other ways under corporate law. In this case there would be the possibility of a so-called asset deal. An asset deal is the acquisition of a company by transferring its respective assets.

4.4.2. If, at the time of the transfer of your data, we still have contractual obligations in connection with your use of our offers, the processing of your personal data in connection with the asset deal is justified by Article 6 paragraph 1 sentence 1 lit f GDPR. According to this provision, the processing of personal data is permissible if it is necessary to safeguard the legitimate interests of the controller or of a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular if the data subject is a child. In this case, there is such an interest in processing. The question of whether such an interest exists must be measured by reference to the purpose of the processing and must take into account legal, economic and moral interests on the one hand and be interpreted broadly in the light of fundamental (EU) rights on the other. Here, our interest is that the users of our offers continue to be served after the asset deal. Of course, this is also in your interest. You can object to this processing at any time by sending an informal message to one of the contact channels mentioned above ("Who are we?").

4.4.3. If we – at the time of the transfer of your data – have already fulfilled all contractual obligations in connection with your use of our offers, the transfer of your data will only take place if there are post-contractual obligations or if it is likely that you may still have requests (e.g. service requests on your part). Because in that case the processing of your personal data associated with the asset deal is justified by Article 6 paragraph 1 sentence 1 lit f GDPR.

In that case, the interest is based on the fact that there is a transfer interest in the possible fulfilment of post-contractual obligations and requests on your part.

- 4.4.4. We reserve the right to additionally request your consent if other cases of data transmission for the purpose of implementing a reorganization under corporate law come into consideration. In this respect, we process data which originate from your contact details known to us in order to ask you for your consent to be contacted via advertising. The legal basis for this processing is Article 6 paragraph 1 sentence 1 lit c GDPR. According to this provision, we may process your data if this is necessary to fulfil a legal obligation to which we are subject. The legal obligation to which we are subject results from Article 7 paragraph 1 GDPR or Article 5 paragraph 1 GDPR. According to these regulations we are legally obliged to document the obtaining of a consent. This is only possible if we collect your data for verification purposes. We store the data for as long as this is necessary for verification purposes. If you confirm your consent, the retention period ends only after your consent has been revoked, plus the period until any civil law claims become time-barred, i.e. generally after thirty years.

## **5. INFORMATION FOR TEST PERSONS**

### **5.1. How do we process your data in a study/trial?**

- 5.1.1. In the course of our clinical study/trial we cannot exclude the possibility that data about you may be collected and processed. In doing so we may – possibly – process
- a) personal data by which you can be directly identified (e.g. name, date of birth, address, social security number, photographs, etc.);
  - b) pseudonymised personal data. These are data in which all information that allows direct conclusions to be drawn about the specific person is either removed, replaced by a pseudonym or made unrecognizable. However, despite compliance with these measures, it cannot be completely ruled out that a prohibited re-identification may occur;
  - c) anonymized data, where a traceability to the concrete person can be excluded.

We or our subcontractors (e.g. investigators) may collect this data directly from you, either by means of a survey, by evaluating the medical examinations of your person or by evaluating medical documents that you have made available to us or that we have obtained from third parties about you on the basis of a release from confidentiality and corresponding consent from you.

- 5.1.2. We process these data in order to conduct the clinical study/trial, which includes the collection, storage, evaluation and, if necessary, transmission. With regard to the transmission, the following applies additionally: Access to the data by which you can be directly identified (see 5.1.1 lit a) is granted to the medical personnel involved in the study/trial (e.g., investigator and other staff of the trial site).
- 5.1.3. The legal basis for the processing described under 5.1.1 and 5.1.2 is your consent within the meaning of Article 6 paragraph 1 sentence 1 lit a GDPR. You may revoke your consent to the collection and processing of your data at any time without giving reasons. After your revocation, no further data about you will be collected. However, the data collected until revocation may continue to be processed within the scope of this clinical trial.
- 5.1.4. We will store your data for twenty-five years, beginning with the completion or discontinuation of the clinical trial. The legal basis for this is Article 6 paragraph 1 sentence 1 lit c GDPR together with Section 46 paragraph 2 Austrian Medicinal Products Act (AMG) and Article 58 of Regulation (EU) No. 536/2014.

## **5.2. How do we handle the transfer of your data to controllers and processors in third countries?**

- 5.2.1. In the context of this clinical trial, sometimes, but not always, a transfer of pseudonymised data to countries outside the EU (third country) may be anticipated.
- 5.2.2. In these cases, we only transfer the data to those controllers or processors who process the data in places for which there is an adequacy decision by the Commission (Article 45 GDPR). If this requirement is not met, we only transfer the data if the data controllers or processors provide appropriate safeguards (Article 46 GDPR), for example by agreeing to the EU standard contractual clauses.

## **5.3. Under which conditions do we transfer data to authorities, if applicable?**

- 5.3.1. In addition to Section 5.1.2, we would like to point out the following: In addition to the medical personnel involved, authorized and sworn to secrecy domestic and/or foreign health authorities and the respective competent ethics committees may inspect these data to the extent that this is necessary to verify the proper conduct of the clinical trial and, if applicable, to protect the life and health of the trial or study participants.
- 5.3.2. The legal basis is Article 6 paragraph 1 sentence 1 lit c GDPR in conjunction with the relevant mandatory legal provision. As a rule, but not always, this will be Section 46 paragraph 5 Austrian Medicinal Products Act (AMG).

#### **5.4. What do you need to know to exercise your rights under the GDPR?**

- 5.4.1. According to the GDPR, you are entitled to the rights of information, correction, deletion, restriction of processing, data portability and objection, provided that this does not make the objectives of the clinical trial impossible or seriously impair them and provided that this is not contradicted by other legal provisions (see "What are your rights?").
- 5.4.2. However, contrary to Section 5.3.1 and Section 1.3, the following shall be noted: You are not entitled to the right to delete your data processed within the scope of this clinical trial/study as provided for in the GDPR due to regulations under the Austrian Medicinal Products Act and the Austrian Medical Devices Act. In addition, the right to data transferability is not applicable in the case of a clinical trial according to the Austrian Medicinal Products Act.

## **6. INFORMATION FOR EVENT PARTICIPANTS**

### **6.1. What happens during the process of inviting to the event?**

- 6.1.1. During the initial contact we collect the data you provide us with. These are usually: name, contact data, job-related data, status data on the event. Only you know the reasons for contacting us; the reaction to this describes the purpose of the processing. Insofar as a concrete contractual obligation is involved, in this case participation in our event, whether in connection with its initiation, performance or termination, the legal basis for processing is Article 6 paragraph 1 sentence 1 lit b GDPR. In this case, we store the data until the end of the statutory retention period, which is generally seven years. In all other cases, the legal basis is Article 6 paragraph 1 sentence 1 lit f of the GDPR, according to which the processing of personal data may be carried out without the consent of the data subject if the processing is necessary to safeguard the legitimate interests of the controller or of a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular if the data subject is a child. Communication outside a contractual relationship is in our mutual interest. We store your data until the purpose resulting from the legitimate interest is fulfilled.
- 6.1.2. If a contractual relationship is established between us regarding the participation in an event, we will subsequently process your data for the purpose of performing and, if necessary, terminating the contractual relationship. This usually results in further data, especially order-related data. In this respect, the legal basis for the processing is Article 6

paragraph 1 sentence 1 lit b GDPR. In this case, we store the data until the end of the statutory retention period, which is generally seven years.

## **6.2. How are event photos taken? What is the legal basis?**

- 6.2.1. We may have entrusted our own employees and external service providers with the task of taking photographs and/or making films at the respective event. These photographs and/or films are to be published for advertising purposes on our internet and intranet sites, profiles on social networks, newsletter programs and other media.
- 6.2.2. There is no legal obligation to collect this data. As long as we do not take photographs and/or make films, you will not be visible on them.
- 6.2.3. The legal basis is your consent within the meaning of Article 6 paragraph 1 sentence 1 lit a GDPR together with Article 7 GDPR. Prior to any photography and/or filming, our employees or the employees of external service providers will expressly ask you whether you agree to this. Only if you do so will we take a photograph and/or film recording of you. We would like to point out that you can revoke this consent at any time by sending an informal message to one of the contact channels mentioned above ("Who are we?").
- 6.2.4. We would like to point out that your consent may also include the processing of special categories of personal data within the meaning of Article 9 paragraph 1 GDPR, so that the processing prohibition pursuant to Article 9 paragraph 1 GDPR does not apply (see Article 9 paragraph 2 lit a GDPR).