

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

PALLIATIVE CARE AUSTRALIA INCORPORATED

CONSTITUTION

2015

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

PALLIATIVE CARE AUSTRALIA INCORPORATED	1
PART I – PRELIMINARY	3
NAME	3
REGISTERED OFFICE	3
INTERPRETATION	3
PART II – PURPOSE, OBJECTS, AND POWERS OF THE ASSOCIATION	4
PRINCIPAL PURPOSE AND OBJECTS	4
POWERS OF THE ASSOCIATION	6
FUNDS	6
INCOME AND PROPERTY AND GIFT FUND	6
PART III – MEMBERSHIP	7
CEASING MEMBERSHIP	7
PART IV – THE BOARD	8
MEMBERSHIP OF THE BOARD	8
ELECTION OF MEMBERS OF THE BOARD	9
VACATION OF OFFICE	9
DISQUALIFICATION FROM OFFICE	10
POWERS OF THE BOARD	10
BOARD MEETINGS DEFINED	10
MEETINGS OF THE BOARD	11
BOARD COMMITTEES	11
DISCLOSURE OF INTEREST IN CONTRACTS	12
LEAVE OF ABSENCE	12
NATIONAL POLICY ADVISORY COMMITTEE	12
FINANCE COMMITTEE	13
GENERAL COMMITTEES	13
PART V – CHIEF EXECUTIVE OFFICER	13
PART VI – FINANCES	14
BANKING AND FINANCE	14
EXPENDITURE	14
BANK ACCOUNTS	14
ACCOUNTS	14
FINANCIAL YEAR	15
BORROWING	15
ANNUAL SUBSCRIPTION AND FEES	15
AUDITOR	15
AUDIT	15
PART VII – GENERAL MEETINGS	16
ANNUAL GENERAL MEETINGS	16
GENERAL MEETINGS	17
MEETINGS DEFINED	17
NOTICE OF GENERAL MEETING	18
BUSINESS AND QUORUM AT GENERAL MEETINGS	18
PRESIDING OFFICER	18
ADJOURNMENT OF GENERAL MEETINGS	19
DETERMINATION OF QUESTIONS ARISING AT GENERAL MEETINGS	19
VOTES	19
TAKING OF POLL	19
WHEN POLL TO BE TAKEN	19
PART VIII – MISCELLANEOUS	20
LIABILITY	20
NOTICE	20
SEAL	20
BYLAWS	20
PUBLIC OFFICER	20
ALTERATION OF CONSTITUTION	20
CUSTODY OF BOOKS	21
INSPECTION OF BOOKS	21
PATRON	21
WINDING UP OR CANCELLATION	21
INDEMNITY	21

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

PART I – PRELIMINARY

NAME

- 1) The name of the Association is Palliative Care Australia Incorporated.

REGISTERED OFFICE

- 2) The Registered Office of the Association shall be in the Australian Capital Territory at a place determined by the Board from time to time.

INTERPRETATION

3)

- a) In these Rules, unless the contrary intention appears:

“Act” means the Associations Incorporation Act 1991 of the Australian Capital Territory;

“Affiliate Member” means a national not-for-profit single entity or federated organisation having aims consistent with the Objects and Principal Purposes of the Association admitted from time to time by the Board;

“Association” or “The Association” means Palliative Care Australia Incorporated;

“Board” means the Board of Governance of the Association;

“Chief Executive Officer” means the Chief Executive Officer of the Association as appointed under Rule 57 of this Constitution;

“Committee” means a Committee or Sub Committee appointed by the Board;

“Constitution” means this document;

“General Meeting” includes the Annual General Meeting or an extraordinary meeting or any meeting of the Members of the Association;

“Honorary Members” means a person appointed as an Honorary Member from time to time by the Board in recognition of their outstanding contributions to palliative care in Australia over a sustained period;

“Member” means a member of the Association no matter which category of member they are;

“Members” means the sum of all categories of Members of the Association;

“Palliative Care” is specialised health care of dying people aiming to maximise quality of life, and assist families and carers during and after death. The provision of palliative care services includes grief and bereavement support for the family and other carers during the life of the patient and continuing after death. Palliative care has been comprehensively defined by the World Health Organisation;

“Public Officer” means a person appointed by the Board to be a public officer in accordance with section 57 of the Associations Incorporation Act 1991;

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

“Rules” means this constitution;

“Secretary” means the Honorary Secretary being a person holding office under this constitution as secretary of the Association;

“State/Territory Member” means those State/Territory Members referred to in Rule 13(a);

“The President” means the President of the Association elected under Rule 25 c);

“The Vice President” means the Vice President of the Association elected under Rule 25 c);

“The Principal Purpose” means the Purpose referred to in Rule 4;

The “Gift Fund” means the fund referred to in Rule 11;

“Treasurer” means the Honorary Treasurer being a person holding office under this constitution as treasurer of the Association; and

“Voting Members” means those Members entitled to vote as set out in Rule 81.

- b) In these rules:
- i) a reference to a function includes a reference to a power, authority and duty, and
 - ii) a reference to the exercise of a function includes, where the function is a power, authority or duty,
 - iii) a reference to the exercise of the power or authority or the performance of the duty.
- c) Words and expressions in this constitution shall be interpreted in accordance with the provisions of the Legislation Act 2001(as amended) of the Australian Capital Territory.

PART II – PURPOSE, OBJECTS, AND POWERS OF THE ASSOCIATION

PRINCIPAL PURPOSE AND OBJECTS

- 4) The Principal Purpose of the Association is to promote the prevention or control of disease in human beings.
- 5) The Objects for which the Association is established are to provide a national voice for Palliative Care in Australia, and generally to foster and promote the principles of Palliative Care for people with a progressive and terminal illness and their families, among service providers, care givers and the community at large; and particularly:
- a) to provide a national forum for the exchange of ideas and information on matters relating to Palliative Care, and to encourage the dissemination of such information to the general community and to professional and volunteer care givers through education and community awareness programs;
 - b) to consult with government and health authorities on the needs of those with a progressive and terminal illness, and their families and carers, and generally to act as advocate for the rights of service users;
 - c) to assist in the identification of areas of need in the care of terminally ill people and their families, and to initiate action to fulfil those needs;
 - d) to assist in the development of appropriate standards for Palliative Care in Australia, and to promote the maintenance of these standards among Members and service providers;
 - e) to provide advice to, and support the development of, emerging Palliative Care organisations and existing Palliative Care programs throughout Australia through their member associations;
 - f) to liaise and cooperate with organisations with similar objectives in the Asia-Pacific region

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

and throughout the world.

- 6) For the purpose of carrying into effect the foregoing Principal Purpose and Objects the Association may, subject to the Rules:
- a) receive subscriptions from Members;
 - b) accept moneys by means of grants, gifts, bequests or otherwise provided that the Association shall not seek funds in any State or Territory without the consent of the Member organisation (if any) in that State or Territory;
 - c) invest any moneys so obtained and hold investments of the same;
 - d) receive, obtain and hold lands, moneys, securities and other property real or personal;
 - e) execute any special trusts in connection with moneys or property received obtained and held by the Association;
 - f) apply the capital and income of the funds and property of the Association or any part thereof, subject to such trusts (if any), for or towards the foregoing Principal Purpose and Objects;
 - g) print and publish or assist in or promote the printing and publishing of any newspapers, periodicals, books, monographs, articles, leaflets or any other undertaking that the Association may think desirable for the promotion of its Principal Purpose and Objects and distribute such publications as it may think fit;
 - h) enter into any arrangement or agreement with any other association or company, whether incorporated or not, having Principal Purpose and Objects similar to the Association;
 - i) borrow and lend money in such manner as the Association may think fit, and guarantee loans as the Association may think fit;
 - j) purchase or otherwise acquire and undertake all or any of the property, assets, liabilities and engagements of any other association or company having Principal Purpose and Objects altogether or in part similar to the Association;
 - k) purchase, apply for or otherwise acquire copyrights, privileges, exemptions, certificates, licences, patents, trademarks or the like which may be deemed necessary or convenient for any or all of the Principal Purpose and Objects of the Association and transfer and otherwise deal with the same;
 - l) insure against all risks, liabilities and eventualities as may seem advisable and apply the proceeds of any claim under any insurance in such manner for such purpose as shall be thought fit to carry into effect the foregoing Principal Purpose and Objects;
 - m) employ such officers and employees as the Association may deem necessary and pay such sums to such officers whether by way of remuneration or bonus as the Association may deem reasonable and proper;
 - n) do all such other lawful things as are incidental or conducive to the attainment of the foregoing Principal Purpose and Objects;
 - o) carry out any or more of the foregoing Principal Purpose and Objects independently or exclusively of the remainder of such Principal Purpose and Objects;
 - p) carry out any or the entire Principal Purpose and Objects of the Association in any part of the Commonwealth of Australia or elsewhere.

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

POWERS OF THE ASSOCIATION

7) Subject to these Rules, the Association has all the powers of a natural person.

FUNDS

8)

- a) The funds of the Association will be derived from sources as the Board determines from time to time.
- b) If upon the winding-up or dissolution of the Association there remains after satisfaction of all the debts and liabilities any property or funds, the property and funds shall not be paid to or distributed amongst the Members of the Association. They shall be given or transferred to such one or more institutions having objects similar to those of the Association and which prohibit the distribution of their income and property among their Members to an extent not less than imposed on the Association by the preceding rule. Such institutions shall be determined in accordance with the Act.

INCOME AND PROPERTY AND GIFT FUND

9) The income and property other than the Gift Fund of the Association shall be applied solely towards the promotion of the Principal Purpose and Objects of the Association. No portion of the income and property of the Association shall be paid or transferred directly by way of dividend, bonus or otherwise to Members PROVIDED THAT nothing in Rule 9 shall prevent:

- a) the payment in good faith of reasonable and proper remuneration to any officers or servants of the Association or to any Board Members of the Association in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual way of business;
- b) the payment of interest at a rate not exceeding the rate for the time being fixed by the Rules on money borrowed from any Member of the Association;
- c) reasonable and proper rent for premises demised or let by any Member of the Association;
or
- d) the payment of government funds in good faith to Members of the Association for services that have been contracted with the relevant government department.

10) No Board Member of the Association shall be appointed to any salaried office of the Association or any office of the Association paid by fees and no remuneration or other benefits in money or money's worth shall be given by the Association to any Board Member except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Association.

11) There shall be established a Gift Fund which shall be separately maintained and used solely for the Principal Purpose and all gifts of money and property made for the Principal Purpose shall be credited to the Gift Fund. All monies received as a result of these gifts shall also be credited to the Gift Fund.

12) If the Gift Fund is wound up or if the endorsement (if any) of the organisation as a deductible

gift recipient is revoked, any surplus assets of the Gift Funds remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made.

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

gift recipient is revoked, any surplus assets of the Gift Funds remaining after the payment of liabilities attributable to it shall be transferred to a fund, authority or institution to which income tax deductible gifts can be made.

PART III – MEMBERSHIP

13) Members of the Association shall be:

a) The following State/Territory Members:

- i) Palliative Care ACT Inc.
- ii) Palliative Care New South Wales Inc.
- iii) Palliative Care Northern Territory Inc.
- iv) Palliative Care Queensland Inc.
- v) The Palliative Care Council South Australia Inc.
- vi) Tasmanian Association for Hospice and Palliative Care Inc.
- vii) Palliative Care Victoria Inc.
- viii) Palliative Care Western Australia Inc;

- b) Affiliate Members Including but not limited to the Australian and New Zealand Society of Palliative Medicine Inc; and
- c) Honorary Members.

14) State/Territory Members shall advise the Chief Executive Officer of the Association of the name of the person appointed as its authorised representative to attend General Meetings and vote on its behalf.

15) Joining fees and annual membership fees shall be determined by the Board from time to time.

CEASING MEMBERSHIP

16) The Board may by resolution at a Board Meeting expel a Member or suspend a Member for a specified period if the Board is of the opinion that the Member concerned:

- a) has refused or neglected to comply with this Constitution; or
- b) has been guilty of conduct unbecoming a Member and/or prejudicial to the interests of the Association.

17) If the Board passes a resolution under rule 16 expelling the Member the Chief Executive Officer must, as soon as practicable, serve on the Member concerned written notice:

- a) setting out the resolution and the grounds on which it is based;
- b) stating that the Member may address the Board at a Board Meeting (to be held not earlier than 14 and not later than 60 days after service of the notice);
- c) stating the time, date and place of the Board Meeting; and
- d) informing the Member that he she or it may do one or more of the following:

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

- i) attend the Board Meeting;
 - ii) give to the Board prior to the Board Meeting a written statement seeking the revocation of the resolution; and/or
 - iii) not later than 48 hours before the date of the Board Meeting lodge with the Chief Executive Officer a notice to the effect that he she or it wishes to appeal to the Association at a General Meeting against the expulsion.
- 18) A resolution of the Board under Rule 16 to expel a Member will not take effect unless, where the Member concerned exercises a right of appeal to the Association in General Meeting under Rule 17(d)(iii) and, at the resulting General Meeting the Association confirms the earlier resolution of the Board.
- 19) At the Board Meeting held under Rule 17(b), the Board must:
- a) give to the Member concerned an opportunity to be heard;
 - b) give due consideration to any written statement submitted by the Member concerned; and
 - c) by resolution determine whether to confirm or revoke the earlier resolution.
- 20) If the Chief Executive Officer receives a notice under Rule 17(d)(iii) he or she must notify the Board which must thereupon convene a General Meeting to be held within 3 months after the date on which the Chief Executive Officer receives the notice.
- 21) At a General Meeting convened under Rule 67:
- a) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution;
 - b) the Member concerned must be given a reasonable opportunity to be heard; and
 - c) the Members present will vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 22) If at the General Meeting a simple majority of the Members vote in person or by proxy in favour of the confirmation of the resolution then the resolution is confirmed however, in any other case, the resolution is revoked.
- 23) For the purpose of this Constitution a Member ceases to be a Member if the Member resigns by giving written notice to that effect to the Chief Executive Officer.
- 24) For the purposes of this Constitution a Member ceases to be a Member if their membership fees (if any) are 60 days or more in arrears.

PART IV – THE BOARD

MEMBERSHIP OF THE BOARD

- 25)
- a) The Board shall consist of no more than 8 persons elected by the membership of the Association at its Annual General Meeting. Only individuals who hold membership of a State/Territory Member are eligible for election to the Board.
 - b) Board Members shall be elected for three year terms and are eligible to be re-elected

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

PROVIDED that Board Members may not serve more than two consecutive terms.

- c) The Board may, from time to time, elect one of its number to any of the following positions:
- i) President
 - ii) Vice President
 - iii) Secretary
 - iv) Treasurer

provided that no more than one position may be filled by one Board Member, until the next General Meeting.

- d) The President may not at the same time also be the President of a Member.
- e) Subject to this Constitution each elected or appointed Board Member shall hold office up to and including the Annual General Meeting next following the date of his/her election or appointment, and is eligible for re-election or to be re-appointed.
- f) In the event of a casual vacancy occurring in the office of Board Members, the Board may appoint a member of a State/Territory Member to fill the vacancy, and the member so appointed shall hold office, subject to these Rules for the remainder of the term of the Board Member whose position was filled by the appointee of the Board.
- g) The Board shall have the power to co-opt one Member. A co-opted Member shall hold office for up to three years and is eligible to be re-appointed PROVIDED that the co-opted Member does not serve more than two consecutive terms. A co-opted Member shall be entitled to vote at Board meetings.

ELECTION OF MEMBERS OF THE BOARD

26)

- a) At each Annual General Meeting one third of the Board Members shall stand for re-election. The one third of the Board Members who are the longest serving shall be those required to stand for re-election. Where there is an equality of length of service the Board Member required to stand for re-election shall be determined by lot.
- b) Nominations of candidates for election as Members of the Board at the Annual General Meeting:
- i) shall be made in writing, signed by two Members of a State/Territory Member and accompanied by the written consent of the candidate; and
 - ii) shall be delivered to the Chief Executive Officer of the Association.
- c) If the number of nominations for the Board received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- d) If the number of nominations for the Board exceeds the numbers of vacancies to be filled, a ballot shall be held.
- e) In the event that the number of nominations received for the Board are less than the positions to be filled, the Board may fill the vacancy, and the Member so appointed shall hold office up to and including the Annual General Meeting next following the date of his/her appointment, and is eligible for re-election or to be re-appointed.

VACATION OF OFFICE

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

27) For the purposes of these Rules, the position of a Board Member becomes vacant if the Member:

- a) dies;
- b) becomes bankrupt or applies to take or takes advantage of any law relating to bankrupt or insolvent debtors or compounds with his/her creditors;
- c) becomes of unsound mind;
- d) resigns his/her office by writing under his/her hand addressed to the Chief Executive Officer;
- e) fails, without leave granted by the Board, to attend three consecutive meetings of the Board.

DISQUALIFICATION FROM OFFICE

28) A person who has been convicted, whether in or outside the Australian Capital Territory, of:

- a) an indictable offence in relation to the promotion, formation or management of a body corporate, or
- b) an offence involving fraud or dishonesty punishable by imprisonment for a period of 3 months or more,

shall not, within a period of 5 years after the person was convicted or released from imprisonment in respect of the offence, whichever is later, without leave of the Supreme Court accept an appointment or act as the Public Officer, Chief Executive Officer or a Member of the Board.

POWERS OF THE BOARD

29) The Board of the Association will, subject to the Act and this Constitution:

- a) control and manage the business and affairs of the Association;
- b) exercise all such powers and functions as may be exercised by the Association other than those powers and functions which are required under this Constitution to be exercised in accordance with the meetings of the Members;
- c) have power to perform all such acts and things as appear to the Board to be necessary for the proper management of the business and affairs of the Association.

31) Board Members may not be paid remuneration. Board Members may be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Board or any committee of the Board or general meetings of the Association or otherwise in connection with the business of the Association as is approved by the Board

BOARD MEETINGS DEFINED

32) For the purposes of this Constitution, a meeting of the Board shall mean:

- a) a meeting of Board Members assembled in person on the same day at the same time and place; and/or
- b) the Board Members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

notwithstanding they (or one or more of them) are not physically present in the same place, and a Board Member participating in the meeting under (b) shall be deemed to be present (including for the purposes of constituting a quorum) and entitled to vote at the meeting.

MEETINGS OF THE BOARD

- 33) Board Members may meet together for the dispatch of business adjourn and otherwise regulate their meetings as they think fit.
- 34) The Board shall meet at least four times in any calendar year, face to face or electronically.
- 35) Resolutions arising at any meeting must be passed by a simple majority.
- 36) The President or Chairperson of the meeting shall have a casting vote.
- 37) The President or the Chief Executive Officer may, and the Chief Executive Officer shall on the request of the President, at any time summon a meeting of the Board.
- 38) One half or more of the Board Members may, and the Chief Executive Officer on the request of one half or more of the Board Members shall, at any time summon a meeting of the Board.
- 39) The Board Members may vote on any proposed resolution by any electronic means including fax, email, or any other written form of communications. Resolutions considered in this manner must be passed by a number of votes being not less than one half of the Board Members.
- 40) The quorum necessary for the transaction of the business of the Board Members is one-half of the Board Members.
- 41) The Board Members may act notwithstanding any vacancy in their body so long as their number is not reduced below three. If their number is reduced below three, the continuing Board Members may act for the purpose of summoning a meeting of Members of the Association or for obtaining an instrument in writing from Members appointing a new Board Member, but for no other purpose.
- 42) The President shall preside at Board Meetings. If a President is not appointed or if at any meeting the President is not present within five minutes after the time appointed for holding the same, or is unwilling to act, the Vice-President shall preside, or if the Vice-President is not present, or is unwilling to act, then the Board Members present may choose one of their number to preside over the meeting. Any such person presiding may exercise any vote to which that person might otherwise be entitled and shall have a casting vote.
- 43) All acts done by any meeting of the Board or Board Committee, or by any person acting as a Board Member, (notwithstanding that it is afterwards discovered that there was some defect in the appointment of any persons acting as Board Members, or that they or any of them were disqualified), shall be as valid as if every such person had been duly appointed and was qualified to be a Board Member.
- 44) At a meeting of the Board each Board Member shall have one vote except for the President or chairperson of the meeting who shall also have a casting vote.

BOARD COMMITTEES

- 45) The Board may delegate any of its powers to committees including any Member, or Members, of the Board as it thinks fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that are imposed on it by the Board. Co-option of Members by any such Board committee shall be approved by the Board.
- 46) A Board committee may elect a chairperson of its meetings. If no chairperson is elected, or if at

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

any meeting the chairperson is not present within five minutes after the time appointed for holding the meeting, the Members present may choose one of their number to be chairperson of the meeting. The quorum necessary for the transaction of the business of the committee shall be one-half of the number of positions on the committee.

- 47) A Board committee may meet and adjourn as it thinks proper. Questions arising at any meeting of a committee shall be determined by a number of votes being not less than one-half of the number of positions on the committee.
- 48) The Members of a Board committee may vote on any question by telephone, fax, email, or any other communications equipment. Questions considered in the above manner must be determined by a number of votes being not less than one-half of the Members of the committee voting in favour of the decision.
- 49) All acts done by any meeting of the Board or Board Committee, or by any person acting as a Board Member, (notwithstanding that it is afterwards discovered that there was some defect in the appointment of any persons acting as Board Members, or that they or any of them were disqualified), shall be as valid as if every such person had been duly appointed and was qualified to be a Board Member.
- 50) At a meeting of the Board each Board Member shall have one vote except for the President or chairperson of the meeting who shall also have a casting vote.

DISCLOSURE OF INTEREST IN CONTRACTS

51)

- a) A Member of the Board who has a monetary or personal interest in any contract or arrangement made or proposed to be made with the Association shall disclose his or her interest at the first meeting of the Board at which the contract or arrangement is first considered, if his or her interest then exists, or in any other case, at the first meeting of the Board after the acquisition of his interest.
- b) If a Member of the Board acquires an interest in a contract or arrangement after it is made or entered into he or she shall disclose his or her interest at the first meeting of the Board after he or she becomes so interested.
- c) A disclosure under sub-section (a) and (b) shall be recorded in the minutes of the Board, and the Member:
- i) shall not take part, after the disclosure in any deliberation or decision of the Board with respect to the contract of which the disclosure relates; and
 - ii) shall be disregarded for the purposes of constituting a quorum of the Board for any such deliberation or decision.

LEAVE OF ABSENCE

- 52) The Board may grant leave of absence to a Board Member upon such terms and conditions as the Board determines.

NATIONAL POLICY ADVISORY COMMITTEE

53)

- a) There shall be a National Policy Advisory Committee to advise the Board on palliative care issues.

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

- b) Membership of the National Policy Advisory Committee shall consist of two Members appointed by each of the State/Territory Members and the Affiliate Members.
- c) Board Members are non-voting participants.
- d) The National Policy Advisory Committee shall meet no less than twice a year. Such meetings may be in person or by any electronic means available.
- e) Provided half of the State/Territory Members are present, half of the number of Members of the committee appointed under Rule 53(b) shall constitute a quorum.

FINANCE COMMITTEE

54)

- a) There shall be a Finance Committee to advise the Board on financial, accounting, taxation and audit issues.
- b) Membership of the Finance Committee shall consist of the President, Chief Executive Officer and Treasurer.
- c) The Finance Committee shall meet no less than twice a year. Such meetings may be in person or by any electronic means available.

GENERAL COMMITTEES

55)

- a) The Board may at any time appoint a general committee (that is not a Board Committee) and shall prescribe the powers thereof.
- b) The Board may co-opt as Members of a committee such persons as it thinks fit, whether or not those persons are Board Members or Members of the Association. Half of the Members of a committee constitute a quorum at a meeting of the committee.

PART V – CHIEF EXECUTIVE OFFICER

56)

- a) The Board shall from time to time appoint a Chief Executive Officer for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- b) The Chief Executive Officer shall not be a Board Member.
- c) A Chief Executive Officer shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (if any) (whether by way of salary, contract fee, commission, participation in profits, or partly in one way and partly in another) as the Board determines.
- d) The Board may, upon such terms and conditions and with such restrictions as they think fit, confer upon a Chief Executive Officer any of the powers exercisable by them.
- e) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Board.
- f) The Chief Executive Officer shall cause the following to happen:
 - i) keep and maintain a register of Members;

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

- ii) keep minutes of resolutions and proceedings of each meeting of Members and each meeting of the Board and record the names of all persons present or deemed present (as the case may be) at such meetings;
- iii) collect and receive all money due and receivable by the Association;
- iv) make all payments authorised by the Association; and
- v) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

PART VI – FINANCES

BANKING AND FINANCE

57)

- a) The monies of the Association shall consist of:
 - i) membership subscriptions (if any) received;
 - ii) payments received for or in connection with the provision of goods or services provided by the Association;
 - iii) monies given or bequeathed to the Association;
 - iv) amounts received from the disposal of assets of the Association; and
 - v) any other money received by the Association.
- b) All money received by the Association shall be deposited as soon as practicable and without deduction to the credit of the Association's account with a financial institution.

EXPENDITURE

- 58) Subject to this rule, the Association may apply the monies referred to in the preceding rule for any of the following purposes:
- a) payment or discharge of the expenses, charges and obligations incurred by the Association in, or in connection with, the performance of its functions; and
 - b) in making any other payments that the Association is authorised or required by law or this Constitution to make.

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed jointly by any 2 persons authorised to do so by the Board.

BANK ACCOUNTS

- 59) The Association may open and maintain an account or accounts with one or more financial institutions.

ACCOUNTS

- 60) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Association and shall do all things necessary to ensure that all payments out of its monies are correctly made and properly authorised and that adequate control is maintained over the

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

assets of or in the custody of the Association and over the incurring of liabilities by the Association.

FINANCIAL YEAR

61) The financial year of the Association is the period beginning 1 July in each year and ending on 30 June in each following year.

BORROWING

62) The Board may borrow and raise money in such manner and on such terms as the Board may think fit, and secure the repayment of money so raised or borrowed, or a payment of a debt or liability of the Association, by giving mortgages, charges or securities upon, or over all or any of the real or personal property of the Association.

ANNUAL SUBSCRIPTION AND FEES

63) The fee structure applicable to each category of Member of the Association shall be determined by the Board from time to time and are due and payable on 1 July in the applicable year.

AUDITOR

64)

- a) At each Annual General Meeting of the Association, the Members present shall appoint a person who is not a Board Member or the Chief Executive Officer or the Public Officer of the Association as the auditor of the Association.
- b) A person so appointed shall hold office until the Annual General Meeting next after that at which he or she is appointed and is eligible for re-appointment.
- c) If an appointment is not made at the Annual General Meeting, the Board shall appoint an auditor of the Association for the then current financial year of the Association.
- d) If a casual vacancy occurs in the office of auditor during the course of a financial year of the Association, the Board may appoint a person as the auditor and the person so appointed shall hold office until the next succeeding Annual General Meeting.

AUDIT

65)

- a) As soon as practicable after the end of June each year the Board shall cause to be prepared a report of the operations for the Association in that year together with financial statements in respect of that year and submit them to an auditor who shall report to the Association:
 - i) whether the statements are based on proper accounts and records;
 - ii) whether the statements are in agreement with the accounts and records of the Association and show fairly the financial transactions and the state of affairs of the Association;
 - iii) whether the receipt, expenditure and investment of monies and the acquisition and disposal of assets by the Association during the year have been in accordance with this Constitution; and

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

- iv) as to such other matters arising out of the statements as the auditor considers should be reported to the Association.
- b) The Auditor shall inspect and audit the accounts and records of financial transactions of the Association and records relating to assets of, or in the custody of the Association and shall forthwith draw the attention of the Association to any irregularity disclosed by the inspection that in the opinion of the auditor is of sufficient importance to justify his or her doing so.
- c) The auditor is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Association relating directly or indirectly to the receipt or payment of monies by the Association or to the acquisition, receipt, custody or disposal of assets by the Association.
- d) The Auditor:
 - i) has a right of access to the accounts, books, vouchers and documents of the Association; and
 - ii) may require from the Board Members, the Chief Executive Officer, the Public Officer and staff of the Association such information and explanations as may be necessary for the performance of his duties as auditor;

PART VII – GENERAL MEETINGS

ANNUAL GENERAL MEETINGS

66)

- a) The Association shall, in each year, hold an Annual General Meeting.
- b) State/Territory Members shall be represented at the Annual General Meeting by the President/Chair of the State/Territory's governing body OR by another Member of the State/Territory Member's governing body PROVIDED that such a person shall not be an employee or staff Member of the State/Territory Member.
- c) Affiliate Members shall be represented at the Annual General Meeting by the President/Chair of the Affiliate Member's governing body or by another Member of Affiliate Member's governing body PROVIDED that such a person shall not be an employee or staff Member of the Affiliate Member.
- d) Attendance at the Annual General meeting is open to Members of the Board, Members and staff of Members and staff of the Association.
- e) The Annual General Meeting shall be held on such day (being not later than five months after the close of the financial year of the Association) as the Board may determine.
- f) The Annual General Meeting shall be in addition to any other general meetings that may be held in the same year.
- g) The Annual General Meeting shall be specified as such in the notice convening it.
- h) The ordinary business of the Annual General Meeting shall be:
 - i) to confirm the minutes of the last preceding Annual General meeting and of any general meetings held since that meeting;
 - ii) to receive reports from the Board and the auditor during the last preceding financial year;

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

- iii) to elect the Board Members; and
- iv) to appoint the auditor.
- i) Any other business shall be special business.

GENERAL MEETINGS

67)

- a) The Board, whenever it thinks fit, may convene a General Meeting of the Association.
- b) A General Meeting shall be convened in the same manner as nearly as possible as that in which the Annual General Meeting is convened by the Board.

68) The Board must, on the written request of Members entitled to at least 20% of the total number of votes entitled to be cast at a General Meeting convene a General Meeting.

69) The Members making the request:

- a) must state the objects of the meeting;
- b) be signed by the Members concerned;
- c) be served on the Chief Executive Officer; and
- d) may consist of several documents in a like form each signed by the Member concerned.

70) If the Board fails to hold a General Meeting within two (2) months after the date on which the request was served on the Chief Executive Officer, the Members concerned may convene a General Meeting to be held not later than one (1) month after that date by giving notice to all Members.

71) A General Meeting convened by Members under Rule 69 will be convened in the same manner as nearly as possible as that in which those meetings are convened by the Board.

72) Attendance at General Meetings is open to Members of the Board, Members and staff of all Members and staff of the Association.

MEETINGS DEFINED

73) For the purposes of this Constitution, a meeting of Members shall mean:

- a) a meeting of Members assembled in person on the same day at the same time and place; and/or
- b) the Members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion notwithstanding they (or one or more of them) are not physically present in the same place, and a Member participating in the meeting under (b) shall be deemed to be present (including for the purposes of constituting a quorum) and entitled to vote at the meeting.

74) If all of the Members have signed a document containing a statement that they are in favour of a resolution of the Members in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Members held on the day on which the document was signed and at the time at which the document was last signed by a Member or, if the Members signed the document on different days, on the day on which, and at the time at

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

which, the document was last signed by a Member.

- 75) For the purposes of Rule 74, two or more separate documents containing statements in identical terms each of which is signed by one or more Members shall together be deemed to constitute one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.

NOTICE OF GENERAL MEETING

76)

- a) The Board shall give to Members and the auditor at least 21 days' notice of holding of the Annual General Meeting or any General Meeting of the Association.
- b) The Board may, if it thinks fit, send out a further notice subsequent to sending out a notice under this Rule to defer the date of the general meeting the subject of the first notice, specifying a date not more than 21 days after the date specified in the first notice.
- c) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any Member shall not invalidate the proceedings at any meeting.

BUSINESS AND QUORUM AT GENERAL MEETINGS

77)

- a) All business that is transacted at General Meetings and all business that is transacted at the Annual General Meeting, with the exception of that specifically referred to in this Constitution as being ordinary business of the Annual General Meeting, shall be deemed to be Special Business.
- b) No item of business shall be transacted at a General Meeting, unless a quorum of Members entitled under these Rules to vote is present during that time when that meeting is considering that item.
- c) Half the State/Territory Members constitute a quorum for the transaction of the business of a General Meeting.
- d) If within thirty minutes after the appointed time for the commencement of a General Meeting a quorum is not present the meeting, if convened at the request of Members, shall be dissolved; and in any other case it shall stand adjourned to the same day in the next week, at the same time and place unless another place is specified by the Chairperson or presiding officer at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.

PRESIDING OFFICER

78)

- a) The President, or in his or her absence, the Vice-President, shall preside at every General Meeting of the Association.
- b) If the President and the Vice President are absent from a General Meeting or otherwise unwilling to serve, the Members present shall elect one of their number to preside thereat.

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

ADJOURNMENT OF GENERAL MEETINGS

79)

- a) The presiding officer of a General Meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- b) Where a meeting is adjourned for fourteen days or more, the same notice of the adjourned meeting shall be given, as in the case of the original meeting.

DETERMINATION OF QUESTIONS ARISING AT GENERAL MEETINGS

80) A question arising at a General Meeting of the Association shall be determined on a show of hands, and unless before, or on the declaration of the result of the show of hands, a poll is demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried, or carried unanimously, or carried by a particular majority or lost, and an entry to that effect in the Association's minute book at the Association is evidence of the proportion of the votes recorded in favour of, or against, that resolution.

VOTES

81)

- a) Upon any question arising at a General Meeting of the Association, (whether on a show of hands or on a poll) a Member has the following number of votes:
 - I. State/Territory Member: 10 votes;
 - II. Affiliate Member: 1 vote; and
 - III. Honorary Member: non-voting.
- b) All votes shall be given personally.
- c) In the case of an equality of voting on a question the Chairperson of the meeting is entitled to exercise a second or casting vote.
- d) To be eligible to vote personally, or as an authorised representative, at a General Meeting of the Association, a person must be a Member of the Association, or an authorised representative of a Member of the Association prior to the date of the General Meeting, and have attained the age of eighteen years.

TAKING OF POLL

82) At a meeting a poll may be demanded by the presiding officer, or by Members entitled to exercise not less than 3 votes. Where a poll is demanded, it shall be taken at that meeting in such a manner as the presiding officer may direct, and the result of the poll shall be deemed to be the resolution of the meeting on that question.

WHEN POLL TO BE TAKEN

83) A poll that is demanded on the election of a presiding officer, or on a question of adjournment, shall be taken forthwith, and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the presiding officer may direct.

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

PART VIII – MISCELLANEOUS

LIABILITY

84) Members of the Association have limited liability. A Member of the Association is not liable to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of winding up the Association.

NOTICE

85) Any notice or other document under this Constitution may be made or given by the person wishing to serve the notice or document and will be sufficiently served or delivered:

- a) if served or delivered personally on the recipient or recipients; or
- b) if posted by pre-paid post addressed to the recipient or recipients at his, her or its address set out in the Register of Members;
- c) if faxed by fax to the fax number last provided to the Association by the Member;
- d) if sent by email, to the email address last provided to the Association by the Member.

86) Service or delivery by post of any notice or document under this Constitution will be deemed to have been made or given at 12:00 noon on the second business day following posting. Service by fax or by email will be deemed to have been made upon transmission having been completed.

SEAL

87) The Association may have a Common Seal which shall remain in the custody of the Chief Executive Officer.

88) The Common Seal shall not be affixed to any instrument except by the authority of the Board and the affixing thereof shall be attested by the signatures either of two Board Members or of one Board Member and such person as the Board may appoint for that purpose.

BYLAWS

89) The Board shall have the power to make bylaws not inconsistent with this Constitution for the purpose of carrying out the objects of the Association and conducting the business of the Association.

PUBLIC OFFICER

90) The Public Officer shall be appointed by the Board (and may be a Board Member) and, until otherwise determined by the Board shall be the Chief Executive Officer.

ALTERATION OF CONSTITUTION

91) Subject to the Act, this Constitution may only be altered, repealed, added to or amended by a resolution of a three-quarters majority of votes cast by Voting Members present and voting at a Special General Meeting of Members.

92) Twenty eight days' notice in writing must be given of the time and place of the meeting to consider the motion to amend the Constitution.

93) The Public Officer must within 1 month after the passing of a special resolution altering the Constitution, lodge with the Registrar notice in writing of the special resolution setting out

**CONSTITUTION OF
PALLIATIVE CARE AUSTRALIA INCORPORATED**

particulars of the alteration, together with the declaration signed by at least 2 Members of the Board to the effect that the special resolution was passed in accordance with the Act, together with the prescribed fee.

CUSTODY OF BOOKS

94) Subject to the Act, and this Constitution, the Chief Executive Officer shall keep in his or her custody or under his or her control all records, books and other documents relating to the Association

INSPECTION OF BOOKS

95) The records, books and other documents of the Association may only be inspected by a Member with the prior consent of the Board and subject to any conditions imposed by the Board.

PATRON

96) The Board may appoint, and may remove, a patron or patrons of the Association.

WINDING UP OR CANCELLATION

97) If the Association is wound up or has its incorporation cancelled then its assets are to be disposed of in accordance with the Act PROVIDED THAT no funds may be returned to Members and PROVIDED FURTHER that no funds are to be distributed to any organisation that does not contain a similar restriction on the distribution of its funds as are required by Rule 8(b) of this Constitution.

INDEMNITY

98) Every person who is or has been a Board Member, officer, former Council member, member of staff or agent of the Association shall be indemnified out of the property of the Association including property held by the Association on trust against any liability (including a liability for legal costs) incurred in that person's capacity as Board Member, officer, member of staff or agent in defending any proceedings whether civil or criminal to the full extent permitted by the Act.

99) The Association may pay or agree to pay a premium for a contract of insurance insuring a person who is or has been a Board Member, officer, former Council member, member of staff or agent of the Association against liability incurred by the person in that capacity, including a liability for legal costs.