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Lawyers

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September 2017

**THE SOCIETY OF HOSPITAL PHARMACISTS OF  
AUSTRALIA LIMITED**

ACN 004 553 806  
ABN 54 004 553 806

**CONSTITUTION**

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A public company limited by guarantee under the  
*Corporations Act 2001* (Cth)

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# THE SOCIETY OF HOSPITAL PHARMACISTS OF AUSTRALIA LIMITED

ACN 004 553 806  
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## CONSTITUTION

### 1 PURPOSES OF THE SOCIETY

#### 1.1 Overriding Purpose

The Overriding Purpose of the Society is to improve health outcomes from medicines use within hospitals and/or other healthcare facilities or settings (including the home) where pharmacists, the membership and other health professionals practise, through the use of pharmacist expertise in medicine management.

#### 1.2 Principal Purposes

In support of the Overriding Purpose, the Principal Purposes of the Society are to:

- 1.2.1 promote the safe and effective use of medicines by individuals and the wider community throughout all steps of the medicines management pathway and its background processes, by contributing the expertise of pharmacists and the membership;
- 1.2.2 support pharmacists and the membership to work ethically, responsibly, competently and to high professional standards when delivering healthcare and providing advice to individuals and the wider community;
- 1.2.3 contribute to the work of government and regulatory bodies in the development of laws, policies and practices to improve safety and the controls regarding the review, supply and preparation of medicines used in healthcare;
- 1.2.4 provide information to healthcare team members to use medicines safely and to support the safe administration and use of medicines by individuals;
- 1.2.5 provide information to others about the professional contributions that can be made by pharmacists and the membership to improve health outcomes and to provide relevant input to improve the systems of healthcare delivery;
- 1.2.6 develop practice standards for supporting the safe and effective use of medicines, throughout the medicines management pathway, especially in hospitals and other healthcare settings;
- 1.2.7 promote and develop educational opportunities for pharmacists, the membership and others involved in medicines use to improve the quality of care delivered to individuals and/or to improve the safe and effective use of medicines by the wider community;
- 1.2.8 promote competency frameworks and peer review for pharmacists, the membership and others to enable them to improve their contribution to the safe and effective use of medicines for the individual, the wider community or by a healthcare facility;
- 1.2.9 foster, coordinate and support research that contributes to the body of knowledge about the use of medicines, service delivery models and the systems of healthcare to improve health outcomes with a focus on medicines management;
- 1.2.10 promote closer relationships and co-operation between Members and other healthcare providers, professional, consumer and carer organisations, government bodies and others to improve the safe and effective use of medicines;
- 1.2.11 promote and develop the effective, safe and culturally appropriate use of medicines by Aboriginal and Torres Strait Islander persons;
- 1.2.12 do all lawful things consistent with, necessary or desirable to support and further the Overriding Purpose.

### 1.3 Excluded purposes

The Society does not have the object or purpose of acting as a trade union for its Members.

### 1.4 Company powers as a body corporate

1.4.1 Solely to carry out the Purposes, the Society may, in any manner permitted by the Act:

- (a) exercise any power;
- (b) take any action; and
- (c) engage in any conduct or procedure,

which under the Act a public company limited by guarantee may exercise, take or engage in if authorised by its constitution.

1.4.2 Without limiting clause 1.4.1, the Society may pursue the Purposes by:

- (a) raising money to further the Purposes and secure sufficient funds to pursue the Purposes; and
- (b) receiving any funds and applying those funds in a manner that best attains the Purposes.

## 2 CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE SOCIETY

### 2.1 Income applied for the Purposes

2.1.1 The income and property of the Society:

- (a) must be applied solely towards the Purposes; and
- (b) must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise.

2.1.2 Clause 2.1.1 does not prevent the Society from paying a Member or Officer a reasonable and proper amount with the Board's prior approval in good faith for:

- (a) goods or services supplied to the Society;
- (b) interest on money lent to the Society;
- (c) rent for premises let to the Society; or
- (d) research under a merit-based grant or award to contribute to pharmacy practice.

### 2.2 Charitable purposes only

Despite anything to the contrary in this Constitution, the Society is established:

- 2.2.1 solely to be a not-for-profit, charitable institution; and
- 2.2.2 to pursue not-for-profit, charitable Purposes solely in Australia only.

### 2.3 Winding up

Subject to clause 2.4, the Society's surplus assets, after satisfying all liabilities on wind up or dissolution:

- 2.3.1 must not be paid or given to Members or former Members (unless the Member is an institution to which clause 2.3.2 applies); and
- 2.3.2 must be paid to one or more funds, authorities or institutions which:

- (a) have charitable purposes similar to the Purposes;
- (b) prohibit their income and property from being paid to members on at least the terms of this clause 2;
- (c) are registered under the ACNC Act if the Society had been;
- (d) are income tax exempt under the Tax Act if the Society had been;
- (e) can receive deductible gifts under the Tax Act if the Society could and on the same basis; and
- (f) are selected at or before wind up or dissolution:
  - (1) by resolution of the Board;
  - (2) failing clause 2.3.2(f)(1), by application to the Victorian Supreme Court.

## **2.4 Gift fund**

The Society must establish and maintain a gift fund as follows:

- 2.4.1 the gift fund is for pursuing the Purposes;
- 2.4.2 the gift fund must receive all gifts of money or property received by the Society for the Purposes;
- 2.4.3 any money received because of gifts referred to in clause 2.4.2 must be credited to the gift fund's account;
- 2.4.4 the gift fund must not receive any other money or property; and
- 2.4.5 if the Society is wound up or has its deductible gift recipient endorsement revoked (whichever occurs first), the gift fund's surplus assets must be paid or transferred to one or more funds, authorities or institutions determined according to clause 2.3.2 which is endorsed as a deductible gift recipient on the same basis as the gift fund.

## **3 MEMBERSHIP**

### **3.1 Limited liability of Members / guarantee**

- 3.1.1 A Member's liability is limited to the guaranteed amount in clause 3.1.2.
- 3.1.2 If the Society is wound up, each Member and former Member in the previous year must contribute up to \$20 towards:
  - (a) the Society's liabilities contracted before the person ceased to be a Member; and
  - (b) costs, charges and expenses to wind up and adjust the rights of the contributories among themselves.

### **3.2 Categories of Members and eligibility**

The Members of the Society comprise the categories of Members with the eligibility and rights set out in the table below and such other voting or non-voting categories whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status will be determined by the Board.

Category	Eligibility	Rights
Full Pharmacist Member	Either: (a) a pharmacist who has general registration to practise pharmacy in Australia (b) a person who is qualified to practise pharmacy in a country other than Australia and who is a member of a recognised professional association of pharmacists in a country other than Australia; or (c) a person who is qualified to practise pharmacy from a country without a recognised professional association of pharmacists	Voting (see clause 3.4.1) and the right to nominate for and be nominated to become an Elected Director
Provisional Pharmacist Member	An individual who has provisional registration to practise pharmacy in Australia under an intern training program (or equivalent) in Australia	Voting (see clause 3.4.1)
Student Member	A pharmacy student, being an individual studying BPharm or MPharm at a tertiary education institution in Australia approved by the Pharmacy Board of Australia which leads to registration to practise pharmacy in Australia	Non-voting (see clause 3.4.2)
Technician Member	A pharmacy technician or assistant, being an individual who is qualified by training or experience to carry out functions and activities (under the supervision of a pharmacist) that do not require the exercise of professional judgement by a pharmacist in a hospital or other medical establishment	Voting (see clause 3.4.1)
Former/Retired Member	A Member who is permanently no longer practising or holding general registration to practise	Non-voting (see clause 3.4.2)
Organisational Member	An organisation which has as one of its purposes to either improve health outcomes or prevent and control diseases	Non-voting (see clause 3.4.2)
Honorary Member	Closed to new members.	Non-voting (see clause 3.4.2). However, if the individual was in a voting category before being appointed as an Honorary Member he or she retains the rights associated with that category of membership.
Associate Member	Closed to new members.	Non-voting (see clause 3.4.2)
Life Member	Closed to new members.	Voting (see clause 3.4.1) but with no right to nominate for, or be nominated to become and elect an Elected Director. No obligation to pay membership fees

### 3.3 Limit on number of Members

The number of Members is unlimited unless the Members set a limit in general meeting.

### 3.4 Member rights and obligations

3.4.1 Voting Members have the right to receive notice of, participate in the requisition of, attend, speak at, vote at and join in the demand for a poll at general meetings if they have paid their membership fee.

- 3.4.2 Non-voting Members have the right to receive notice of and attend the annual general meeting, but may not participate in the requisition of, speak at, vote at or join in the demand for a poll at that meeting.

### **3.5 Rights not transferrable**

A person's membership rights and privileges:

- 3.5.1 apply only whilst the person is a Member; and
- 3.5.2 are personal and may not be transferred or transmitted.

### **3.6 Membership period and fees**

The Board may determine:

- 3.6.1 the membership period (including common expiry dates) and the timing for membership to be renewed;
- 3.6.2 fees payable by Members, including any application fee to apply for membership, any joining fee to be admitted as a Member and any membership fees (including the extent to which they are to be paid up-front with an application for membership); and
- 3.6.3 whether fees are refundable or non-refundable,

except that Honorary Members will not be required to pay fees or renew membership.

### **3.7 Register of Members, including closure of register**

- 3.7.1 The Society must maintain a register of Members in accordance with the Act and the ACNC Act which contains the following details for current and recent former Members:
- (a) name;
  - (b) addresses for notices; and
  - (c) membership start and end dates.
- 3.7.2 The Board may establish Regulations which regulate closure of the register for up to 60 days per year.
- 3.7.3 Separate to the register, the Society may maintain a database of personal Member details which are not used for notices.

### **3.8 Change of Member details**

A Member must notify the Society if the Member's addresses for notices change within 28 days of the change.

## **4 BECOMING AND CEASING TO BE A MEMBER**

### **4.1 Admission of Members**

- 4.1.1 The Board may admit in its absolute discretion a person as Member upon application by that person in accordance with any procedure, form and other requirement (including the payment of fees) specified in the Regulations.
- 4.1.2 The applicant must meet the eligibility criteria pursuant to clause 3.2 for the category of membership applied for.
- 4.1.3 The Board must consider all membership applications within a reasonable time after their receipt but need not provide reasons for admitting or refusing to admit a person as Member.



4.1.4 Successful applicants become Members when they are added to the register of Members.

## **4.2 Resignation of Members**

4.2.1 A Member may resign as Member by written notice to the Society.

4.2.2 The resignation takes effect when the Society receives the Member's notice or on a later date specified in the notice.

## **4.3 Ceasing to be a Member**

A person automatically ceases to be a Member if the person:

4.3.1 does not renew the membership by the due date;

4.3.2 has not paid the membership fees for 30 days after the due date;

4.3.3 becomes untraceable for 3 months because the Member cannot be contacted using the address on the register of Members;

4.3.4 dies;

4.3.5 becomes bankrupt or makes any arrangement or composition with the Member's creditors generally; or

4.3.6 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

## **4.4 Disciplining Members**

The Board may at any time terminate a person's membership or warn, fine, censure, suspend for up to 6 months or expel a Member if the Member:

4.4.1 engages in Terminable Conduct, subject to:

(a) the decision being made by three-quarters majority of all Directors whether they are all present and voting;

(b) the Member being afforded a reasonable opportunity to respond, in accordance with any Regulations, to the Board's allegations; and

(c) the Member's appeal rights (if any) set out in the Regulations;

4.4.2 refuses or neglects to comply with the provisions of this Constitution or the Regulations;

4.4.3 is found guilty by a court of an indictable offence; or

4.4.4 has a debt to the Society which remains unpaid for 14 days or more.

## **5 GENERAL MEETINGS**

### **5.1 Convening meetings — annual / special**

5.1.1 General meetings other than annual general meetings are called special general meetings.

5.1.2 The Board must convene and hold annual and special general meetings of the Members if required by the Act and the ACNC Act.

5.1.3 The Board or 3 Directors may convene special general meetings of the Members.

5.1.4 The Members may call and, if the Board fails to do so, hold a special general meeting as provided for by the Act and the ACNC Act.

## 5.2 Ordinary and special business

- 5.2.1 The ordinary business of an annual general meeting is to:
- (a) consider the Board's, financial and auditor's report;
  - (b) declare the Director election results;
  - (c) appoint an auditor if that office has or will become vacant at the meeting; and
  - (d) consider any other matter required by the Act or the ACNC Act.
- 5.2.2 Special business means:
- (a) for an annual general meeting — business which is not ordinary business according to clause 5.2.1; and
  - (b) for a special general meeting — all business specified in the notice of meeting.
- 5.2.3 The notice of meeting must specify the general nature of any special business, unless the Act or the ACNC Act requires otherwise.

## 5.3 Notice of meeting

- 5.3.1 At least 21 days' notice of any general meeting must be given specifying the place, date and time of the meeting, unless section 249H(2) of the Act or the ACNC Act requires or permits some other period of notice.
- 5.3.2 Notice of every general meeting must be given in writing in accordance with clause 11.6 to:
- (a) every Director;
  - (b) every Member entitled to attend who has supplied an address for notices to the Society; and
  - (c) the Society's auditor.
- 5.3.3 No other person is entitled to receive notices of general meetings.
- 5.3.4 A general meeting and any resolution passed at the meeting is not invalid merely because of:
- (a) the accidental omission to give notice of the meeting; or
  - (b) the non-receipt of any such notice.

## 5.4 Postponement

- 5.4.1 The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members.
- 5.4.2 Clause 5.4.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 5.1.3 or by court order.

## 5.5 Quorum

- 5.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.
- 5.5.2 The quorum for the duration of a general meeting is 40 voting Members present in person or by proxy.
- 5.5.3 If a quorum is not present within 30 minutes of the time scheduled to start the general meeting:

- (a) the meeting, if requisitioned by Members, is dissolved; and
- (b) in any other case, the meeting is adjourned to such other place, date and time as the Board determines and notifies to Members (if required to do so by clause 5.7).

5.5.4 If a quorum of 20 voting Members present in person or by proxy is not present within 30 minutes of the time scheduled to start the adjourned general meeting, the meeting is dissolved.

5.5.5 For the purposes of this clause 5.5, a person who attends as both a member and a proxy is only to be counted once in determining if a quorum is present.

## **5.6 Meeting chair**

5.6.1 The President may chair a general meeting.

5.6.2 If the President is not present and willing to act the Vice-President may chair.

5.6.3 If the President and Vice-President are not present and willing to act:

- (a) the Directors present may choose one of their number to chair the meeting;
- (b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair.

5.6.4 In addition to powers conferred by law, the meeting chair may:

- (a) determine the meeting's conduct and procedures to ensure proper and orderly discussion or debate;
- (b) make rulings without putting a question to the vote, or terminate discussion or debate and require that matter to be put to a vote;
- (c) refuse to allow debate or discussion on any matter which is not ordinary or special business; and
- (d) refuse any person admission to a general meeting (including for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

5.6.5 All procedural decisions by the meeting chair are final.

## **5.7 Adjournment**

5.7.1 The meeting chair:

- (a) may, with the consent of any general meeting at which a quorum is present; and
- (b) must, if so directed by the meeting,

adjourn the meeting to some other time or place.

5.7.2 The adjourned meeting may only transact unfinished business from the original meeting.

5.7.3 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## **5.8 Voting – show of hands / poll**

5.8.1 A resolution put to the vote of the general meeting must be decided by a show of hands unless a poll is demanded pursuant to clause 5.8.3.

- 5.8.2 A declaration by the meeting chair that a resolution has on a show of hands been carried, carried unanimously, carried by a particular majority or lost, and an entry to that effect made in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 5.8.3 A poll must be held on a resolution before the general meeting if demanded on or before the meeting chair declaring the result by:
- (a) at least 10 Members present in person and entitled to vote; or
  - (b) Members representing 10% or more of all Members entitled to vote.
- 5.8.4 The demand for a poll may be withdrawn.
- 5.8.5 If a poll is demanded:
- (a) when electing a meeting chair under clause 5.6 or on a question of adjournment, it must be taken immediately;
  - (b) otherwise, it must be taken at the general meeting at which it is demanded (or at its adjournment), in such manner as the meeting chair directs.
- 5.8.6 In the event of an equality of votes the meeting chair has a second or casting vote.
- 5.8.7 Any dispute regarding voting must be referred to the meeting chair, whose decision is final.

## 5.9 Proxies

- 5.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which that Member may attend and vote.
- 5.9.2 A proxy must be a Member.
- 5.9.3 For the instrument appointing a proxy to be valid, it must be:
- (a) in writing and signed by the appointor;
  - (b) in the form complying with section 250A of the Act or some other Board approved form; and
  - (c) lodged with the Society at least 48 hours before the time for holding the meeting or adjourned meeting.
- 5.9.4 A vote given according to the proxy instrument is valid despite:
- (a) the death, or unsoundness of mind, of the appointor; or
  - (b) revocation of the instrument or of the authority under which the instrument was executed,
- if no knowledge in writing of that fact was received by the Society before commencing the meeting or adjourned meeting at which the instrument is used.

## 5.10 Use of technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

### **5.11 Ballot by postal, electronic or other means**

- 5.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by ballot, unless the Act or the ACNC Act requires a special or ordinary resolution to be passed at a general meeting.
- 5.11.2 The Board may determine in the Regulations:
- (a) the form of the ballot;
  - (b) the polling date;
  - (c) the method for responding to the ballot, whether it be conducted by postal ballot, electronic ballot, or other means; and
  - (d) whether voting on the ballot is to be secret.

## **6 BRANCHES**

### **6.1 Establishment of Branches**

The Board may establish geographical branches for the overriding purpose of facilitating the work of the Society.

### **6.2 Governance of Branches**

Without limiting clause 6.1, Regulations may set out:

- 6.2.1 the principal purposes of each Branch in facilitating the work of the Society;
- 6.2.2 the membership of the Branch;
- 6.2.3 the procedures for holding annual and special Branch meetings of Branch members;
- 6.2.4 the composition, powers (including powers to delegate) and responsibilities of the Branch committee or its sub-committees;
- 6.2.5 the manner of election or appointment to the Branch committee;
- 6.2.6 the composition of the Branch executive (if any);
- 6.2.7 the office bearers of the Branch;
- 6.2.8 the terms for which persons hold a Branch office;
- 6.2.9 the procedure for Branch member meetings and Branch committee meetings; and
- 6.2.10 any other matter pertaining to the regulation of the Branch.

### **6.3 Continuation of existing Branches**

On the adoption of this Constitution, the following Branches continue as Branches established by the Board under clause 6.1:

- 6.3.1 Australian Capital Territory Branch;
- 6.3.2 New South Wales Branch;
- 6.3.3 Queensland Branch;
- 6.3.4 South Australia and Northern Territory Branch;

- 6.3.5 Tasmania Branch;
- 6.3.6 Victoria Branch; and
- 6.3.7 Western Australia Branch.

## 7 BOARD

### 7.1 Structure of board / Number of directors

The Board will comprise up to ten Directors as follows:

- 7.1.1 one Director per Branch who is a Full Pharmacist Member of that Branch to be elected by the voting Members from all Branches in every third year (**'Elected Directors'**). The Board will determine in which year elections are to be held so that, as far as possible, elections are held for one third (rounded up or down, as determined by the Board) of the positions (as determined by the Board) in any year; and
- 7.1.2 further Directors appointed by the Board in accordance with clause 7.3 (**"Appointed Directors"**) so that the total number of Directors is 10 or less.

### 7.2 Election of directors

- 7.2.1 Nominations of candidates for election as a Director in respect of a Branch must be signed by the candidate and a proposing voting Member belonging to the same Branch, contain a consent to act as a Director signed by the candidate, and must be received by the date fixed for the receipt of nominations.
- 7.2.2 If there is only one candidate nominated for election in respect of a Branch, that candidate will be declared elected at the annual general meeting.
- 7.2.3 If there is more than one candidate nominated for election in respect of a Branch, balloting lists must be printed containing in alphabetical order the names of the candidates nominated and sent to each voting Member at least 28 days before the annual general meeting.
- 7.2.4 The returning officer appointed by the Board must declare the election result at the annual general meeting.

### 7.3 Appointment of directors

- 7.3.1 Subject to this Constitution, the Board must determine any other procedures or matters in relation to the conduct of the appointment of Appointed Directors and has the power to make Regulations for that purpose.
- 7.3.2 Unless the Board resolves otherwise, the Company Secretary:
  - (a) is responsible for the conduct of the selection process of Appointed Directors; and
  - (b) may decide all matters in relation to the conduct of the selection process, subject to this Constitution and the Regulations.
- 7.3.3 The Regulations pursuant to clause 7.3.1 must be consistent with the following:
  - (a) The Company Secretary must convene the Nominations Committee for the purpose of conducting the selection process.
  - (b) The Nominations Committee may, but is not required to, interview all candidates for becoming an Appointed Director.
  - (c) The Nominations Committee must recommend candidates to be appointed as Appointed Directors on the basis of their skills, background and expertise deemed necessary or

desirable by the Board (including, without limitation, to complement the Elected Directors) for the effective operation of the Board.

- (d) At the board meeting preceding each annual general meeting, the Board may appoint Appointed Directors after considering the recommendations from the Nominations Committee conducting the selection process.
- (e) The meeting chair must announce the Appointed Directors at the annual general meeting. Appointments take effect at the end of the annual general meeting at which the appointments are announced.

#### **7.4 Eligibility to be a Director**

A person is eligible to become a Director if he or she:

- 7.4.1 in the case of Elected Directors — is a Full Pharmacist Member;
- 7.4.2 is over the age of 18 years;
- 7.4.3 consents in writing to become a Director;
- 7.4.4 is not prohibited or disqualified or otherwise prevented from being a director of a company under the Act or a responsible person of a registered charity under the ACNC Act; and
- 7.4.5 is not an employee of the Society.

#### **7.5 Limits on period of office as a Director**

- 7.5.1 If a Director has served 9 years or more continuously following the date this constitution is adopted, then the Director may finish serving his or her current term of office but does not become eligible to be elected or appointed (whether or not to a casual vacancy) until he or she has not been a Director for a subsequent continuous period of 2 years.
- 7.5.2 If a Director has served 18 years or more, whether or not continuously under this or any prior constitution, then the Director may finish serving his or her current term of office but is not eligible to serve as a Director for the remainder of his or her lifetime.

#### **7.6 Term of office of Directors**

- 7.6.1 An Elected Director holds office:
  - (a) from immediately after the annual general meeting at which his or her election was declared;
  - (b) for a term of three years between annual general meetings;
  - (c) until the end of the third annual general meeting after the one at which his or her election was declared.
- 7.6.2 An Appointed Director holds office:
  - (a) from immediately after the annual general meeting at which after his or her appointment was declared;
  - (b) for a term of one, two or three years, as determined by the Board at the time of appointment, between annual general meetings;
  - (c) until no later than the end of the first, second or third annual general meeting, as determined by the Board at the time of appointment, after the one at which his or her appointment was declared.

- 7.6.3 The Board may appoint an Appointed Director for some other shorter term than under clause 7.6.2 if the Board so determines at the time of appointment.

## **7.7 Casual vacancies**

- 7.7.1 If a casual vacancy occurs for any Elected Director office, the Board may appoint another eligible person from the relevant Branch in his or her place until the end of the next annual general meeting. The Members from the relevant Branch must then elect a person to fill the Elected Director in accordance with clause 7.2. The person elected will serve only for the balance of the term of the original Elected Director.
- 7.7.2 If a casual vacancy occurs for any Appointed Director office, the Board may appoint another eligible person in his or her place until the end of the next annual general meeting.
- 7.7.3 The Board may continue to act despite vacancies on the Board. However, if there are less than five Directors, the Board may only:
- (a) act in the case of emergencies;
  - (b) appoint persons to fill casual vacancies; or
  - (c) convene a general meeting.

## **7.8 Office bearers**

The Board may elect and remove the following office bearers from the Directors as follows:

- 7.8.1 President — to be elected from the Elected Directors who are Full Pharmacist Members;
- 7.8.2 Vice-President — to be elected from the Elected Directors who are Full Pharmacist Members;
- 7.8.3 Treasurer; and
- 7.8.4 such other office bearers determined by the Board.

## **7.9 Resignation of directors**

- 7.9.1 A Director may resign as Director by written notice to the Society.
- 7.9.2 The resignation takes effect when the Society receives the Director's notice or on a later date specified in the notice.

## **7.10 Ceasing to be a director**

- 7.10.1 The Members may remove any Director in accordance with the Act.
- 7.10.2 A directorship automatically ceases if the Director:
- (a) dies or is physically incapable of fulfilling his or her duties as a Director;
  - (b) in the case of an Elected Director, ceases to:
    - (1) be a Full Pharmacist Member; or
    - (2) for a period of more than 12 months, reside in the region of his or her Branch when last elected;
  - (c) becomes disqualified from being a director pursuant to the Act or ACNC Act;
  - (d) is absent without permission of the Board from three consecutive Board meetings (excluding urgent meetings);



- (e) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

### 7.11 Director remuneration and reimbursements

Despite clause 2.1.1:

- 7.11.1 the Directors may be paid reasonable remuneration for undertaking the ordinary duties of a Director, provided that the Directors may not increase the reasonable remuneration by 10% or more per annum except with the approval of the voting Members at a general meeting. The Directors must not otherwise be paid any other remuneration for those duties;
- 7.11.2 the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Society's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board; and
- 7.11.3 the Directors may be paid for any service rendered to the Society in a professional or technical capacity outside the scope of the ordinary duties of a Director where:
  - (a) the service and amount payable is on reasonable and proper terms; and
  - (b) the provision of that service has the Board's prior approval.

### 7.12 Transitional arrangements

On the adoption of this Constitution ("**Adoption Date**"), and despite anything to the contrary in this Constitution:

- 7.12.1 the "Federal Council" under the former Constitution will become the Board under this Constitution;
- 7.12.2 the following "Federal Councillors" under the former Constitution, being members of the Branch identified below, are to serve until the end of the specified annual general meeting held after the Adoption Date as shown in the following table:

Name	Branch	AGM after Adoption Date at which the person retires
Emily Diprose	ACT	Third AGM
Sasha Bennett	NSW	First AGM
Lisa Pont	NSW	Fourth AGM
Ian Coombes	Qld	First AGM
Trudy Teasdale	Qld	First AGM
Steve Morris	SA/NT	Fourth AGM
Peter Fowler	Tas	First AGM
Michael Dooley	Vic	First AGM
Greg Weeks	Vic	First AGM
Deirdre Criddle	WA	Third AGM

- 7.12.3 despite clause 7.3, for the purposes of transitioning to the new Board structure under this Constitution, immediately following the First AGM the Board may appoint until the Second AGM up to two Appointed Directors. The persons may be chosen from the Directors in the above table who retire and were not re-elected at the First AGM; and

- 7.12.4 despite clause 7.6.1, the Elected Directors elected from the Queensland, Victoria and Tasmania Branch at the first AGM after the Adoption Date will hold office until the end of the fifth AGM after the Adoption Date.

## **8 BOARD POWERS**

### **8.1 Management vests in Board**

- 8.1.1 The Board is responsible for the governance, business and affairs of the Society. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Society's powers which are not by the Act, the ACNC Act or this Constitution required to be exercised by the Members in general meeting.
- 8.1.2 The powers under clause 8.1.1 are subject to:
- (a) this Constitution;
  - (b) the Act and the ACNC Act; and
  - (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.
- 8.1.3 A resolution under clause 8.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

### **8.2 Power to delegate**

- 8.2.1 The Board may delegate its powers and functions in writing to:
- (a) an Officer or employee of the Society; or
  - (b) a committee under clause 10.
- 8.2.2 The Board may amend or revoke the terms of its delegation at any time.

### **8.3 Power to appoint Chief Executive Officer**

- 8.3.1 The Board may appoint a Chief Executive Officer on such terms and conditions as the Board determines from time to time.
- 8.3.2 The Board may remove a Chief Executive Officer, subject to the terms of any agreement between the Society and the Chief Executive Officer.
- 8.3.3 The Chief Executive Officer is entitled to attend Board meetings and general meetings, if so directed by the Board from time to time.
- 8.3.4 The Chief Executive Officer will have the responsibilities determined by the Board.

### **8.4 Power to appoint Company Secretary**

- 8.4.1 The Board must appoint at least one Company Secretary on such terms and conditions as the Board determines from time to time.
- 8.4.2 A Company Secretary may attend Board meetings and general meetings, if so directed by the Board from time to time.
- 8.4.3 The Company Secretary will have the responsibilities set out in the Act and the ACNC Act.

### **8.5 Power to make Regulations**

- 8.5.1 The Board may from time to time make, vary and rescind Regulations in relation to the Society.

- 8.5.2 The Regulations for the time being in force, and which are not inconsistent with this Constitution, are binding on Members and have full effect accordingly.

## **9 BOARD MEETINGS**

Subject to this clause 9, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

### **9.1 Number of meetings**

The Board must meet at least six times per year.

### **9.2 Convening meetings**

The Company Secretary must arrange a Board meeting:

- 9.2.1 at the request of the President; or
- 9.2.2 on the requisition of three or more Directors.

### **9.3 Notice of meeting**

- 9.3.1 At least five days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.
- 9.3.2 The notice must specify the business to be transacted. The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least three days' before the meeting.
- 9.3.3 The decision of the meeting chair as to whether business is routine is conclusive.

### **9.4 Quorum**

- 9.4.1 The quorum for a Board meeting is five. A meeting at which a quorum is present may exercise all powers and discretions of the Board.
- 9.4.2 If a Board meeting is adjourned due to lack of quorum, the President must set a further date for the adjourned meeting.

### **9.5 Meeting chair**

- 9.5.1 The President may chair a Board meeting.
- 9.5.2 If the President is absent the Vice-President may chair.
- 9.5.3 In the absence of the President and the Vice-President, the Directors may appoint a meeting chair from among their number.

### **9.6 Voting**

- 9.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.
- 9.6.2 In the event of an equality of votes the meeting chair does not have a second or casting vote.

### **9.7 Use of technology**

The Board may hold a technology enabled meeting if:

- 9.7.1 all Directors (other than any Director on leave of absence) have access to the technology to be used for the meeting; and

- 9.7.2 those Directors participating by technological means can hear, or can hear and read the communications of all other participating Directors.

## **9.8 Circulating resolutions**

- 9.8.1 A written resolution signed or approved by technological means (other than any Director on leave of absence) is taken to be a decision of the Board passed at a Board meeting convened and held.
- 9.8.2 The written resolution may consist of:
- (a) several documents in the same form, each signed by one or more Directors and, such a resolution takes effect when the last Director signs such a document; or
  - (b) permanent records indicating the identity of each Director, the text of the resolution and the Director's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect when the last Director indicates his or her approval.

## **9.9 Conflicts and personal interests**

- 9.9.1 A Director who has a material personal interest in a matter that relates to the affairs of the Society must give the other Directors written notice of the interest unless the ACNC Act or section 191(2) of the Act require otherwise.
- 9.9.2 A Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter, unless permitted to do so under the ACNC Act or section 195 of the Act.

## **9.10 Minutes**

- 9.10.1 The Board must ensure that minutes of all proceedings of general, Board, committee meetings (and meetings of any other Board entity) are recorded in a minute book within one month after the relevant meeting is held.
- 9.10.2 The minutes must be signed by the meeting chair at which the proceedings took place or by the meeting chair of the next succeeding meeting.
- 9.10.3 Minutes entered and signed are prima facie evidence of the proceedings to which they relate.

## **9.11 Validity of acts / procedural defects**

- 9.11.1 An act or decision of the Board will not be invalid by reason only of a defect or irregularity in connection with the election or appointment of a Director.
- 9.11.2 For entered and signed minutes, unless the contrary is proved:
- (a) the meeting is deemed to have been convened and held;
  - (b) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and
  - (c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

## **10 COMMITTEES**

### **10.1 Board's power to establish committees**

The Board may establish committees as follows:

- 10.1.1 a committee will comprise two or more committee members, of which at least one must be a Director;

- 10.1.2 the committee members otherwise need not be a Director or Member;
- 10.1.3 the committee has the purpose set out in its charter approved by the Board, and may undertake the powers and functions delegated to it by the Board; and
- 10.1.4 in the absence of any provision in the committee charter, meetings and proceedings of any committee are governed by the provisions of clause 9.

## **10.2 Standing committees**

The Board must establish and maintain the following standing committees:

- 10.2.1 the Nominations Committee whose purpose is to conduct the selection process for Appointed Directors under clause 7.3.

## **11 ADMINISTRATION**

### **11.1 Change of name**

The Members may change the Society's name by special resolution in accordance with the Act.

### **11.2 Amendment of Constitution**

- 11.2.1 The Members may amend this Constitution by special resolution in accordance with the Act and the ACNC Act.
- 11.2.2 If the Society is registered under the ACNC Act, a special resolution under clause 11.2.1 (unless the special resolution states otherwise) does not take effect if it would cause the Society to lose any of its registrations under the ACNC Act.

### **11.3 Accounts**

The Board must cause:

- 11.3.1 proper accounting and other records to be kept in accordance with the requirements of the Act and the ACNC Act, and
- 11.3.2 financial statements to be made and laid before each annual general meeting as required by the Act and the ACNC Act.

### **11.4 Audits**

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Act and the ACNC Act.

### **11.5 Records and inspection**

A Member (other than a Director) is not entitled to inspect any document of the Society, except as provided by law or authorised by the Board.

### **11.6 Service of notices**

- 11.6.1 Notices must be in writing and may be given by the Society to any Member:
  - (a) in person;
  - (b) by sending it by post to the Member at the Member's registered address; or
  - (c) by sending it to the address, facsimile number, e-mail address or other address supplied for receiving notices.

- 11.6.2 A notice sent by post is deemed to have been given 6 business days after it was posted. A notice sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

## 11.7 Indemnity of Officers

- 11.7.1 To the Relevant Extent, the Society indemnifies current and former Officers out of its assets against any Liability incurred by the Officer in or arising out of:
- (a) the conduct of the Society's affairs or business; or
  - (b) the discharge of the Officer's duties,
- unless the Liability arises out of conduct involving a lack of good faith.
- 11.7.2 To the Relevant Extent, the Society may execute any deed in favour of any current or former Officer to confirm the indemnities conferred by clause 11.7.1 in relation to that person to the extent the law does not preclude the Society from doing so.
- 11.7.3 Clause 11.7.1 applies whether or not any deed is executed under clause 11.7.2.
- 11.7.4 In this clause 11.7 and clause 11.8:
- (a) "**Liability**" includes cost, charge, loss, damage, expense or penalty; and
  - (b) "**To the Relevant Extent**" means to the extent the Society is not precluded from doing so by law (including the Act).

## 11.8 Insurance

To the Relevant Extent:

- 11.8.1 the Society may pay or agree to pay premiums for directors and officers insurance to insure current or former Officers against any Liability incurred by the Officer in or arising out of:
- (a) the conduct of the Society's affairs or business; or
  - (b) the discharge of the Officer's duties; and
- 11.8.2 the Society may execute any deed in favour of any current or former Officer to take out insurance referred to in clause 11.8.1, on such terms as the Board considers appropriate.

## 11.9 Seal

- 11.9.1 The Board will determine whether or not the Society is to have a seal and, if so, will provide for the safe custody of such seal.
- 11.9.2 The seal, if any, of the Society may only be affixed to any instrument with the authority of the Board.
- 11.9.3 The affixing of the seal must be attested by the signatures of persons authorised by the Board for that purpose.

## 11.10 Definitions

In this Constitution:

"**ACNC Act**" means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth);

"**Act**" means the *Corporations Act 2001* (Cth);

"**Appointed Director**" means a Director appointed for the purposes of clause 7.1.2;

- “**Board**” means the board of Directors of the Society with a quorum to transact business;
- “**Branch**” means a branch for a geographic region established under clause 6;
- “**Company Secretary**” means a company secretary appointed under clause 8.4;
- “**Constitution**” means this constitution of the Society;
- “**Director**” means a person for the time being who performs the role of director of the Society;
- “**Elected Director**” means a Director elected for the purposes of clause 7.1.1;
- “**Member**” means a person who is a member of the Society pursuant to clauses 3 and 4;
- “**Minute Book**” has the same meaning as in the Act and includes any record of information in written, digital or other form approved by the Board
- “**Nominations Committee**” means the committee established under clause 10.2.1;
- “**Officer**” has the meaning given in the Act;
- “**Overriding Purpose**” means the overriding purpose set out in clause 1.1;
- “**President**” means the Director and office bearer under clause 7.8.1.
- “**Principal Purposes**” means the principal purposes set out in clause 1.2;
- “**Purposes**” means the Overriding Purpose and the Principal Purposes but excludes the excluded purposes set out in clause 1.3;
- “**Regulations**” means regulations made by the Board under clause 8.5;
- “**Society**” means the company named on page 1 of this Constitution;
- “**Tax Act**” means the *Income Tax Assessment Act 1997* (Cth);
- “**Terminable Conduct**” means an act, practice or conduct of a Member which, in the reasonable opinion of the Board:
- (a) constitutes unethical conduct, unprofessional conduct or professional misconduct;
  - (b) would be likely to have the purpose or effect of bringing discredit to the Society or the pharmacy profession;
  - (c) is prejudicial to the Society or the pharmacy profession; or
  - (d) is of a kind similar to the above which is set out in the Regulations.
- “**Vice President**” means the Director and office bearer under clause 7.8.2.

### 11.11 Interpretation rules

Unless the contrary intention appears in this Constitution:

- 11.11.1 words importing the singular include the plural, and words importing the plural include the singular;
- 11.11.2 words importing a gender include every other gender;
- 11.11.3 words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);

- 11.11.4 a reference to a person includes that person's successors, legal personal representatives and permitted transferees;
- 11.11.5 a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- 11.11.6 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 11.11.7 headings, bold text and the table of contents are for convenience only and do not affect its interpretation; and
- 11.11.8 a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy or attorney.

#### **11.12 Application of Act**

- 11.12.1 This Constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the Society.
- 11.12.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Act has the same meaning in this Constitution as in that section.

#### **11.13 Application of ACNC Act**

This Constitution is to be interpreted subject to the ACNC Act.