

MEDICAL SOCIETY OF VICTORIA INC

CONSTITUTION

1) Name of the Society

The name of the Society is Medical Society Of Victoria Inc ("Society").

2) Definitions

In this Constitution, unless a contrary intention is defined:

"Act" means the *Associations Incorporation Act 1981* (Vic);

"Annual ballot" means the ballot of Ordinary members of the Society

(a) to exercise certain voting rights in the election of Councillors; and

(b) to elect Independent members of the Council;

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

"Board" means the Board of directors of the Society;

"Chief Executive Officer" means a person who may be appointed to the role by the Board;

"Company" means Australian Medical Association (Victoria) Limited, ABN 43 064 447 678;

"Council" means the Council of the Society;

"Councillor" means an Ordinary Member who has been elected to the Council of the Society;

"Director" means an Ordinary Member who has been elected by Council to the Board;

"Doctor-in-Training" means an Ordinary Member who possesses provisional or general medical registration under the Registration Legislation, and is employed and generally training towards a specialist registration;

“Federal Council” means the Council of the National AMA;

“Fellow” means a person who has been elected to Fellowship of the National AMA;

“General Meeting” means a meeting of the Society’s Members;

“Hospital” means an institution providing medical, surgical and/or nursing care for sick or injured people located in Victoria;

“Member” means a subscribing person as defined under ‘Members’ below;

“Medical Student” means a person who is studying for the initial academic qualification which leads to registration as a provisionally registered medical practitioner;

“National AMA” means the Australian Medical Association Limited; ABN 37 008 426 793;

“Registration Legislation” means the relevant Act regulating the registration of medical practitioners in Victoria from time to time;

“Registration Authority” means a body empowered under the Registration Legislation to register, suspend or deregister medical practitioners;

“Retired” means withdrawn from an employed medical occupation;

“Section” means a membership group with a particular or distinctive professional or other interest;

“Standing Orders” are the rules governing debate at Council;

“Subdivision” means an allocation to a membership group of relative commonality by geographical area or vocational type;

“Subscription” means the required payment prescribed for membership entitlements to become available;

“University” means a tertiary educational institution which has a regulated course for the teaching and examination of medical students;

“Vocation” means a Member’s employed occupation.

3) Objects of the Society

The objects of the Society are:

- (a) To promote, maintain, protect and advance the health of the people of Victoria;
- (b) To identify health issues affecting the people of Victoria and to propose, promote and advocate for actions to address those issues;
- (c) To advocate for improvements in medical facilities and services in Victoria including improvements in the funding, facilities and programs provided by government;
- (d) To take an active part in the promotion of health care programs for the benefit of the people of Victoria and to participate in the resolution of major social and community health issues;
- (e) To promote the science of medicine;
- (f) To promote best practice in medicine;

- (g) To circulate such information as may be thought desirable through or by means of a periodical journal which shall be the official journal of the Society, by other regular or occasional publications or circulars and on-line publications and content;
- (h) To collect and circulate statistics and other information relating to medical practice, health or health services or of relevance or interest to the medical profession and to decision makers in the area of health;
- (i) To act as the principal coordinating and negotiating body for the medical profession in Victoria and a forum for the medical profession at which consultation and communication takes place;
- (j) To promote, maintain, protect, advance and extend the honour and standing of the medical profession and the professional and academic independence of the members of the profession;
- (k) To advance exemplary professional conduct and efficiency, to promote fair and honourable practice, to discourage or prevent malpractice or professional misconduct and to ensure the highest clinical, ethical and scientific standards in the delivery of health care to the community;
- (l) To consider, originate and promote improvements or alterations in the law relating to health, the practice of medicine and the medical profession, including petitioning the Parliament of the State of Victoria or of the Commonwealth (and the government departments thereof) and taking such other steps and proceedings as may be deemed expedient for carrying out this object;
- (m) To promote the unity of the medical profession between the various States and Territories of the Commonwealth of Australia and to enter into all such agreements and memberships, and generally take, adopt and carry into effect all such steps, as are by law authorised or required for such purposes;
- (n) To consider, advise, and, if necessary, make recommendations on any subject connected with the appointments of legally qualified medical practitioners to public institutions, positions and services;
- (o) To carry out such commercial or trading activities as are considered conducive to the achievement of the objects of the Society including by entering into arrangements or ventures where goods or services are provided to members of the medical profession including arrangements which exploit the intellectual property of the Society, including the AMA Victoria name;
- (p) To become a member of, subscribe to, affiliate with or enter into arrangements with any other organisation, whether incorporated or not, having objects altogether or in part similar to those of the Society or intended to advance the objects of the Society;
- (q) For the purposes only of achieving the above objects, including by ensuring the maintenance of a strong and active membership of the Society and the availability of financial resources to pursue those objects, provide services, advice, assistance and benefits to members of the Society including:
 - i. providing advice and services to, and acting on behalf of, members of the Society in matters relating to medical practice and medical services including commercial, legal, workplace and industrial relations matters; and
 - ii. providing courses of training, advice, welfare and support services and other benefits to members of the Society to support them in their personal and professional lives,

but subject always to the adherence with, and preservation of, the not-for-profit and charitable status of the Society.

4) Powers

The Society has the legal capacity and the powers of an individual and a body corporate as specified, except the power

- 1) to issue shares;
- 2) to distribute any of the Society's property among the members in kind or otherwise;
- 3) to do any act that is prohibited by a law of a State or Territory.

5) Restriction on use of income and assets

- 1) The income and property of the Society must only be used in promoting its Objects, other than as permitted by the Act.
- 2) No portion of its income or assets may be distributed directly or indirectly among its members.

6) Inconsistency

- 1) If the Society is a registered charity, the ACNC Act will override any rules in this Constitution which are inconsistent with the ACNC Act.

7) The ACNC Act

Despite any other provision in this Constitution, if:

- a) the Act or the ACNC Act prohibits a thing being done, the thing may not be done;
- b) the Act or the ACNC Act requires something to be done, authority is given for that thing; and
- c) a provision of this Constitution is or becomes inconsistent with the Act or the ACNC Act, that provision must be read down or, failing that, severed from this Constitution to the extent of the inconsistency.

8) Non-profit

- 1) The Society is a non-profit organisation and must not carry on business for the purpose of distributing profit to Members.
- 2) The income, property, profits and financial surplus of the Society, whenever derived, must be applied solely towards the promotion of the objects and purposes of the Society as set out in article 3 and no portion of it will be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profits or otherwise to Members, except that nothing in this Constitution will prevent the payment in good faith of:
 - 1) remuneration to any officer or employee of the Society or to any Member in return for services actually rendered to the Society;

- 2) supply of goods or services to the Society in the ordinary course of business by a Member;
- 3) reasonable allowance and travelling expenses to Directors; or
- 4) making a payment to a Member in carrying out the Society's objects and purposes.

MEMBERS

9) Members Qualification

No person may be a Member unless that person,

- 1) ordinarily resides in Victoria;
- 2) is principally engaged in practice in Victoria; or
- 3) if a Medical Student associate member is principally associated for the relevant tuition year with a Victorian campus of a University Medical School;
- 4) if a Doctor-in-Training is employed in Victoria;
- 5) has paid the relevant subscription.

10) Society's Obligation to National AMA

- 1) The Society does not pay any fees to National AMA.

11) The Members of the Society are divided into the following classes:

- 1) Ordinary members;
- 2) Retired practitioners;
- 3) Honorary members;
- 4) Associate members;
 - a) Medical Student associate members;
 - b) Such additional classes of non-voting members as may be prescribed by Regulations.

12) Membership Classes

- 1) Ordinary Members comprise registered medical practitioners under the Registration Legislation, who are
 - a) practising, or
 - b) non-practising.
- 2) Retired Practitioners comprise every previously registered medical practitioner who
 - a) has retired from medical practice; and
 - b) was at the time of retirement registered as a medical practitioner under the Registration Legislation.

3) Honorary Members

The Board

- a) may elect Honorary Members from time to time; and
- b) must inform Council when it elects such Honorary Members.

4) Associate Members

a) Student Associate Members:

Every Victorian medical student who is registered as a medical student under the Registration Legislation is eligible for admission as a student associate member of the Society.

b) Additional classes of membership:

- i) Additional classes of membership may be prescribed by regulation.
- ii) Such regulation shall set out:
 - (a) who is eligible;
 - (b) the rights of members of that class, including whether they may have voting rights; and
 - (c) whether a separate subscription is payable.

13) Joint Membership

On becoming an Ordinary Member, that Member also becomes a member of the Company.

14) Rights of Ordinary Members

Ordinary members are entitled to all the privileges of membership. These include the right:

- 1) to attend, speak and vote at any forthcoming:
 - a) General Meetings of the Society
 - b) Election;
- 2) after payment of subscription;
- 3) to receive an official journal of the Society;
- 4) to vote for and elect members of the Council;
- 5) to stand for election to the Council;
- 6) if, and only if, elected a member of the Council, to vote for members of the Board;
- 7) if, and only if, elected to the Council, to stand for election to the Board.

However this Constitution imposes some limitations on those rights in specific circumstances.

15) Rights of Honorary Members

Honorary members are considered as ordinary members but are not required to pay a subscription. A reference to ordinary members elsewhere in this Constitution includes honorary members.

16) Rights of Student Associate Members

Student associate members are entitled to

- 1) attend and speak, but in general not vote, at General Meetings of the Society;
- 2) receive an official journal of the Society;
- 3) be nominated, through the relevant Affiliated Medical Students Society, for membership of the Council;
- 4) if, and only if, nominated as a member of the Council, to exercise one (1) deliberative vote:
 - a) for members of the Board; and
 - b) at General Meetings of the Society,

but cannot be elected or appointed as a Director of the Society.

17) Applications for Membership

- 1) An eligible person may apply for membership.
- 2) The Board or its delegate may admit an eligible person to membership, subject to payment of the relevant subscription.
- 3) If the Board's delegate does not admit an otherwise eligible person to membership, the application must be referred to the Board.
- 4) The Board, if the whole number above three quarters of the Directors present and voting agree, may refuse an application if it reasonably forms the opinion that the applicant has engaged in conduct which
 - a) is derogatory to the medical profession; or
 - b) is not in the best interests of the Society; or
 - c) has caused damage to the Society.
- 5) The Board is not required to advise the applicant of the reasons for refusal of an application.

18) Subscriptions

- 1) The Board determines the annual subscription for each separate category of membership.
- 2) The Board may determine separate categories of subscription.
- 3) Each membership subscription is a combined subscription consisting of:
 - a) the subscription determined by the Board for the Society;
 - b) the subscription determined by the National AMA for its membership; and

- c) the subscription for other conjoint agreement arrangements as determined by the Board.

19) Date for Payment of Subscription

The subscription is payable on 1 January each year, but the Board may determine that the subscription may be payable in instalments or regular direct debit arrangements on dates fixed by the Board.

20) Levies

- 1) The Board may impose a levy on ordinary members for a specific purpose.
- 2) A levy cannot be imposed without the consent of the Council after a recommendation from the Board.
- 3) A levy is due and payable on the date set out in the resolution which imposed it.

21) Cessation of Membership

A person ceases to be a Member of the Society if

- 1) the Member ceases to satisfy any requirement for membership set out in article 9 of this Constitution;
- 2) the Member resigns in writing;
- 3) the Member's registration as a medical practitioner or as a student is cancelled;
- 4) the Member, if a student Member, ceases to be registered as a student medical practitioner;
- 5) the Member's membership is terminated under the provisions of this Constitution;
- 6) the Member has failed to pay the annual subscription required by the date specified in a notice to the member that the subscription is overdue.

22) Suspension of Membership

If a Member's registration as a Medical Practitioner or student is suspended by the Registration Authority, that person's membership of the Society is suspended for the period of suspension of registration.

23) Withdrawal of Membership

If the whole number above three quarters of the Directors present at a meeting of the Board forms the opinion that a Member has engaged in conduct which

- 1) is derogatory to the Society, the medical profession and/or the Registration Authority; or
- 2) is not in the best interests of the Society; or
- 3) has caused damage to the Society,
- 4) the Board shall
 - a) refer the matter to a Revocation Committee, formed from time to time as required, and

- b) advise the Member of such referral.

24) Membership of Revocation Committee

- 1) The Board will select the members of the Revocation Committee;
- 2) A Director cannot be a member of the Revocation Committee.
- 3) The Revocation Committee will consist of
three (3) Members, preferably comprising
 - a) past Presidents of the Society; then
 - b) Victorian Fellows of the National AMA; then
 - c) such Members deemed appropriate in the circumstances according to Regulation.
 - d) The Revocation Committee shall appoint its own secretary.
 - e) All members of the Revocation Committee must be present for it to be quorate.

25) Revocation Committee Procedure

The procedure to be followed by the Revocation Committee is set out in Regulations.

26) Penalties

- 1) The Revocation Committee must, at the conclusion of the procedure, if its members unanimously believe that the allegations are proved on the balance of probabilities, report that decision to the Board.
- 2) The Board may determine at its sole and complete responsibility
 - a) that the Member be expelled; or
 - b) that the Member's membership be suspended for a specified period; or
 - c) that no action be taken against the Member.

27) Readmission to Membership

The Board may require, as a condition of readmission of a person who was a Member, that the applicant pay any arrears of subscription due when membership ceased.

INTERNAL ORGANS AND RECOGNISED ORGANISATIONS AND SOCIETIES

28) Internal Organs

The internal organs of the Society are:

- 1) The Board;
- 2) The Council;
- 3) The Chief Executive Officer, if appointed, and the salaried staff of the Society;
- 4) Standing and Ad Hoc Committees and Working Groups of the Board or the Council;

- 5) The Subdivisions
- 6) The Sections

29) Affiliated Bodies

- 1) The Society also recognises:
 - a) Affiliated Academic Organisations;
 - b) Affiliated Professional Organisations;
 - c) Affiliated Medical Students Societies.
- 2) Affiliated bodies have a representative Council position according to prescribed regulations.

SUBDIVISIONS

30) Purpose

The purpose of a Subdivision is

- 1) to provide an opportunity for members within a specific locality or professional employment group to interact; and
- 2) to provide a mechanism for direct representation of members on the Council.

31) Membership of a Subdivision

- 1) Geographical Subdivisions comprise all Ordinary Members generally practising within, but upon request, living within, a geographical area according to the Regulations.
- 2) Vocational Subdivisions comprise all Ordinary Members practising within a similar vocational type according to the Regulations.

32) Members Allocated to a Subdivision

Every Ordinary Member, on admission, may apply for, or failing that, shall be allocated to a Geographical and a Vocational Subdivision according to Regulation.

33) Nomination of Subdivision

If a Member qualifies for membership of several Subdivisions, the Member may

- 1) on admission; or
 - 2) on payment of the annual subscription in any year; or
 - 3) on change in status or place of practice
- nominate their preferred Subdivision.

34) Alteration of Allocated Subdivision

An Ordinary Member may alter their Subdivision as their circumstances change by written application according to Regulation.

35) Participation in Subdivisions' Activities

A Member may only be a voting member of one (1) geographic and one (1) vocational Subdivision, but may request the opportunity to participate in activities organised by another Subdivision.

36) Geographic Subdivisions

The Board, after consulting the Council,

- 1) may determine the number, boundaries and continuation or cessation of geographical Subdivisions according to the Regulations;
- 2) at least every ten (10) years after that review the boundaries of the geographical Subdivisions.

37) Constitution and Rules of Subdivisions

The structure, rules, procedure, rights and responsibilities of Subdivisions are set out in the Regulations.

38) Financing of Subdivisions

The Board may approve the expenditure of the funds of the Society on the activities of the Subdivisions.

SECTIONS

39) Purpose

The purpose of a Section is to provide an opportunity for members with a particular or distinctive professional or other interest to interact.

For clarity, approved Sections at the time of adoption of this Constitution are

- 1) Section of General Practitioners (however engaged in the vocation);
- 2) Section of Psychiatrists (however engaged in the vocation);
- 3) Section of Retired Doctors.

40) Membership

A Member may at any time after admission apply for membership of a Section.

41) Adding or Removing Sections

The Board may, after consulting the Council,

- 1) approve additional Sections; and
- 2) determine that any Section shall cease to be a Section of the Society.

42) Constitution and Rules of Sections

The structure, rules, procedure, rights and responsibilities of Sections are set out in Regulations.

43) Financing of Sections

The Board may approve the expenditure of the funds of the Society on activities of the Sections.

44) Section may apply for Recognition as an Affiliated Organisation

A Section may at any time apply for recognition as an Affiliated Organisation provided it satisfies the Affiliated Organisation eligibility criteria.

AFFILIATED ORGANISATIONS

45) Affiliated Organisations

- 1) Any medical body drawn from medical practitioners resident in Victoria may apply for recognition as an affiliated organisation.
- 2) The body need not be incorporated.
- 3) The body may be a chapter, faculty or other local branch of a national medical body.
- 4) The body must have a quota of Society Members to obtain recognition.

46) Quota for Recognition

For the purposes of this Article, a quota is the greater of

- 1) 20 ordinary members of the Society; or
- 2) such number above 20 which is equal to 0.25 percent of the number of Ordinary Members of the Society.

47) Recognition of Affiliated Organisations

The Board upon the recommendation of the Council may recognise an applicant as an affiliated organisation according to Regulations.

48) Affiliated Academic Organisation

If the applicant is established as a University medical faculty, a Medical College or learned society or like body, it shall be designated on recognition as an Affiliated Academic Organisation.

49) Affiliated Professional Organisation

If the applicant is generally established for medico-political purposes, it shall be designated on recognition as an Affiliated Professional Organisation.

50) Cessation of Affiliation

An organisation ceases to be an Affiliated Organisation if:

- 1) no nominee of the organisation attends any Council meeting held during a period of two (2) consecutive years; or
- 2) the Board, whilst conducting a regular five-yearly review, concludes the organisation does not possess the necessary quota of Ordinary Members; or
- 3) the organisation, on request at any time, fails to provide evidence that it has a quota of Society Members or
- 4) the organisation is derogatory to the Society, the medical profession and/or the Registration Authority; or
- 5) the Board, with the agreement of Council, or on its own initiative, determines to withdraw recognition.

51) Affiliated Medical Students Societies

- 1) Any society of medical students may apply for recognition according to Regulation.
- 2) The society need not be incorporated.
- 3) The society must be recognised by an Australian University conducting a medical course in Victoria as the body representing the Victorian medical student body at that University.
- 4) The Board, after consulting the Council, may recognise the society as an Affiliated Medical Students Society.

52) Cessation of Recognition of Affiliated Medical Students Society

An Affiliated Medical Students Society ceases to be recognised if:

- 1) no nominee of the organisation attends any Council meeting held during a period of two (2) consecutive years; or
- 2) the society, on request, fails to provide evidence that it is recognised by the relevant University as the body representing medical students; or
- 3) the society is derogatory to the Society, the medical profession and/or the Registration Authority; or
- 4) the Board, after consulting the Council, determines to withdraw recognition.

GENERAL MEETINGS OF THE SOCIETY

53) General Meetings of Members

There are two (2) kinds of General Meetings:

- 1) The Annual General Meeting; and

- 2) An Extraordinary General Meeting.

54) Auditor to be Given Notice

The Society's auditor must be given notice of each General Meeting.

55) Quorum

The quorum for a General Meeting is twenty-five (25) ordinary members personally present within thirty (30) minutes after the time set out in the notice of the meeting. Once a General Meeting achieves its quorum, it must complete its agenda, unless three quarters of Members present and voting vote to adjourn the meeting under such terms as the meeting determines.

56) Adjournment if no Quorum

If a quorum is not achieved, the General Meeting is adjourned as close as practical to a similar date, time and place in the next week.

57) No Quorum at Adjourned General Meeting

If a quorum is not achieved at the adjourned General Meeting, the meeting is dissolved.

58) Notice of General Meetings

The period of notice for the Annual General Meeting of the Society is forty-two (42) days. The period of notice for an Extraordinary General Meeting of the Society is twenty-eight (28) days.

59) Form and Contents of Notice

- 1) Notice must be given in accordance with the procedure observed by the Company. To be clear, the Society permits use of electronic forms of notice.
- 2) The notice of meeting must specify a date, time and place of the meeting, as well as a facsimile number and an email address for the purpose of the receipt of proxy appointments, and a date and time by which proxies must be received.
- 3) The notice may specify other electronic means by which a Member may give a proxy appointment.

60) Deemed Date of Receipt

The date on which a notice sent is deemed to have arrived is the date the Company deems such notice to have arrived.

61) Notice if General Meeting Adjourned

New notice is required if a General Meeting is adjourned for four (4) weeks or more.

62) Place for General Meetings

A General Meeting may be held simultaneously at more than one (1) venue, including by the use of digital technology.

63) Proxies

A Member may appoint any other Member as the Member's proxy.

The provisions relating to proxies that apply to the Company apply to the Society.

64) Annual General Meeting

Subject to the Act, the Annual General Meeting shall be held in the same manner in which the Company holds an annual general meeting.

65) Power to Call Extraordinary General Meetings

The Board may call an Extraordinary General Meeting of the Society at any time.

66) Extraordinary General Meeting at Request of Members

Members may request the Board to call an Extraordinary General Meeting in accordance with the procedure observed by the Company.

67) Consequence of Failure to Call an Extraordinary General Meeting

If the Directors do not call an Extraordinary General Meeting when so requested by Members, following the same procedure observed by the Company, a proportion of the Members who have requested a meeting to call one at the expense of the Society.

68) Extraordinary General Meeting Called by Members

A proportion of Members may also call an Extraordinary General Meeting at their own expense in accordance with the procedure observed by the Company.

69) Members' Right to list a Resolution

A proportion of members also has the right to require a motion to be included on the agenda of the next General Meeting.

70) Presiding at General Meetings

The President shall usually preside at a General Meeting, but if the President is not available or declines to act (for the meeting or part of the meeting), the Members present must elect a person to preside.

71) Voting at General Meetings

Voting is carried out in accordance with the procedure observed by the Company.

72) Adjournment of a General Meeting after Commencement.

The person presiding may adjourn the General Meeting, and must do so if three quarters of the Members present and voting vote to adjourn the meeting under such terms as the meeting determines.

73) Business at Adjourned General Meeting

- 1) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- 2) A resolution passed at a General Meeting resumed after an adjournment is passed on the day it was passed.

COUNCIL

74) Role of the Society's Council

- 1) The role of the Council is
 - a) considered to be paramount related to policy development, providing recommendations to the Board;
 - b) to ensure that, in the formulation of policy and in making decisions, the Board has the opportunity to receive the widest possible range of views of Members;
 - c) to elect the Directors,
 - d) To consider or advise on Regulations prior to their being made by the Board.
- 2) The Council may establish committees and/or working groups which shall report to the Council.
- 3) The Council functions as the Society's council.

75) Society Council Membership

- 1) The Council consists of
 - a) The Directors, in their personal capacity only;
 - b) Such nominee(s) of each Subdivision such that no Member possesses more than 250 votes;
 - c) Such nominee(s) of each Affiliated Organisation such that no Member possesses more than 250 votes;
 - d) The elected Independent Members, but no Independent Member shall be able to exercise more than 250 votes;
 - e) Two (2) nominees of each Affiliated Medical Students Society, each of whom may exercise one (1) personal vote;
 - f) Five (5) Members elected by and from the Fellows of the National AMA resident in Victoria, each of whom may exercise one (1) personal vote;
 - g) Any Member who is a member of the Council of the National AMA but who is not otherwise a member of the Society's Council, each of whom may exercise one (1) personal vote;
 - h) Any Member who was a Director in the previous election year, but who is not now a Director, each of whom may exercise one (1) personal vote.

- 2) Each Director is a Member of the Society's Council in their personal capacity. For clarity, they relinquish any representative role on Council which enabled the Director to stand for election, and the Council representative position may be re-contested by other Members in the relevant Internal Organ.

76) Election of Fellows Representatives to Council

A separate ballot may be held at the same time to elect five (5) representatives of the Victorian Fellows of the National AMA to the Society's Council according to Regulation.

77) Number of Votes in Annual Ballot

Membership with the Society does not confer additional votes.

78) Independent Member of Council

- 1) A person is qualified as an Independent Member if that person receives a quota of Members' votes according to Regulation.
- 2) Any votes cast for an Independent Member who does not receive the required quota will be declared null and void.

79) Council Annual Election

- 1) An Annual Ballot of Ordinary Members of the Society must be held each year according to Regulation prior to the election of Directors at the Annual Election Meeting.
 - a) to determine how many votes, to a maximum of 250 votes per Councillor, a Subdivision or an Affiliated Organisation possesses for the election of the Directors;
 - b) to elect Independent Members of Council and to determine how many votes, to a maximum of 250 votes per Councillor, each elected Independent Member has in the election of the Directors.
- 2) The ballot may be conducted
 - a) by post; or
 - b) by any electronic means consented to by the Board on the recommendation of the Council.

80) Declaration of Result

On the completion of the Annual Ballot the Returning Officer must advise all Councillors of:

- 1) The names of the Fellows elected;
- 2) The names of the Independent Members elected to Council and their votes to a maximum and
- 3) How many nominees and votes each nominee of a:
 - a) Subdivision; and

- b) Section; and
- c) Affiliated Organisation

may exercise. All nominees are to have as close as possible to equal numbers, to a maximum of 250 votes per Councillor in any ballot for election of Directors at that year's Annual Election Meeting.

COUNCIL MEETINGS

81) Minimum Number of Council Meetings

At least four (4) Council meetings must be called each year, typically about quarterly. Council meetings may be associated with General Meetings as required.

82) Regular Meeting Dates

The dates and time for the regular meetings of the Council are determined in advance by the Board in consultation with Council.

83) Quorum for Council Meeting

The quorum for a Council meeting is one quarter of the Councillors then in office, rounded up to the next whole number, personally present.

84) Annual Meeting to Elect Directors

- 1) An Election Meeting of Council is held each year prior to the Annual General Meeting, to elect the Directors according to Regulation.
- 2) For clarity, the Election meeting may occur on the same day as the Annual General Meeting.
- 3) Proxies may be exercised provided that no Councillor will have more than 250 votes. Proxy votes causing a Councillor to exceed 250 votes will be scaled downwards proportionally by the Returning Officer according to the Regulations.

85) Period of Notice Required

At least seven (7) days' notice must be given for any Council meeting, or as otherwise stipulated in the Regulations.

86) Dispensing with Notice

If the Board determines that the immediate urgency of the matter for which a non-regular Council meeting is called necessitates shorter notice, the meeting may be called with shorter notice. For clarity, an election cannot be held under this provision.

87) Non-regular Council meetings

- 1) A non-regular Council meeting may be called by the President at any time.

- 2) A non-regular Council meeting must be called if at least one quarter of the Councillors then in office
 - a) request in writing that one be held; and
 - b) specify the purpose of that non-regular Council meeting.
- 3) Normal quorum requirements remain for non-regular Council meetings.

88) Special Notice if the business of a Non-regular Meeting of Council is the Election of a Director

If an election of a Director or Directors is to take place at a non-regular Council meeting

- 1) at least twenty-one (21) days' notice must be given; and
- 2) the meeting must have a notified agenda; and
- 3) the notice must state that an election is to take place according to Regulations; and
- 4) each Councillor must be advised of the number of votes they may exercise at that election, to a maximum of 250 votes.

89) Business at Non-regular Council Meetings

The only business which can be transacted at a non-regular Council meeting is the business for which it was called, unless three quarters of the Councillors present and voting determine to consider other Society business, other than an election for Directors.

PROCEDURE AT COUNCIL MEETINGS

90) Presiding at Council Meetings

The Chair of the Council, elected according to Regulation, shall normally preside at meetings of the Council. If the Chair is not present or is unwilling to chair a meeting or part of a meeting, the Council shall elect a Councillor to preside for the relevant part of the meeting, which may be its entirety. The President will not ordinarily be the Chair of the Council.

91) Standing Orders

A Council meeting will be conducted according to Standing Orders.

92) Alternates and Proxies

If an elected Councillor is unable to attend a Council meeting, the Councillor may appoint

- 1) an alternate Member from the affiliated or represented organisation; or
- 2) another Councillor as a proxy.

93) Rights of Council Alternates and Proxies

An Alternate or Proxy may exercise at that meeting for which they have been appointed all the powers of the Councillor who is unable to attend, unless Article 94 applies.

94) Appointment may Limit Powers

The instrument of appointment of an Alternate or Proxy may

- 1) require the person appointed to vote as directed, or
- 2) restrict the matters on which the person appointed may vote.

95) Minimum Notice of Appointment of Alternate or Proxy

An appointment of an Alternate or Proxy must be notified to the Chief Executive Officer or equivalent or delegate not less than one (1) hour before the commencement of the relevant Council meeting.

VOTING AT COUNCIL

96) Two (2) kinds of Voting

Voting at Council meetings is of two (2) kinds.

- 1) Voting in Elections for the Directors of the Society:
 - a) For the election of a Director or Directors,
 - i) at the annual Election Meeting of Council; and
 - ii) on a vote at any other Council meeting at which notice has been provided that a purpose of that meeting is to fill a casual vacancy on the Board,
 - b) the vote is by secret ballot and
 - c) Councillors may exercise their number of votes, to a maximum of 250 votes per Councillor, according to Regulation.
- 2) For all other Council votes, each Councillor has one (1) vote, unless appointed as a proxy for another Councillor according to Regulation, in which case the Councillor may exercise their own vote and any proxies votes they have received.

97) Secret Ballot at other Council Meetings

A secret ballot, other than for an election, may be held if five (5) Councillors request it, and Council agrees by simple ballot on a show of hands to agree to a secret ballot, but each Councillor may still only exercise one (1) vote.

98) Voting in the Election of the Directors

A ballot for the election of a Director shall be according to Regulation.

99) Voting Conditional on Payment of Subscription

A person cannot vote at a Council meeting, including as an alternate or proxy, if that person

- 1) has not paid the annual subscription; or

- 2) has not paid the agreed instalments due by the relevant date in accordance with an agreement with the Society.

For clarity, only financial Members can exercise a vote.

BOARD OF DIRECTORS

100) Role of Board

- 1) The Board is responsible for the finances, financial management, legal obligations and control of the Society and, unless restricted by a provision of this Constitution or the Act, may exercise all the powers of the Society to achieve its Objects and control its seal.
- 2) The Board does not have a primary role to develop policy, which is the role of the Council of the Society but has the full responsibility for the approval and the implementation of this policy.
- 3) If this policy is not accepted by the Board for legal or financial reasons, then it will advise and inform its decision to Councillors within two (2) weeks.

101) Remuneration of Directors

- 1) Each Director may be paid by the Society for service as a Director of the Society. The Board shall determine the amount for each specific position subject to a maximum fee payable to each Director as recommended by a Remuneration Committee established as a standing committee of Council, elected annually by Council.
- 2) There shall be three (3) members of the Remuneration Committee who
 - a) make recommendations to Council by August of the year preceding from whence the recommendation of any change related to the Director's remuneration applies; and
 - b) have previously been Directors of the Society; and
 - c) cannot whilst on the Committee be Directors of the Society; and
 - d) need not be members of the Council, and
 - e) may meet by teleconference or other digital modality.
- 3) After receipt of the recommendation of the Remuneration Committee of a maximum payment for each position of Director and the recommendation's approval by Council, the Board shall determine a maximum fee payable to each Director for the next calendar year.

102) Board may Delegate

The Board may by resolution by simple majority delegate any of its functions to a person, working group or committee. But a responsibility specifically given to the Board by this Constitution cannot be delegated.

103) Board may make Regulations

The Board may, by resolution approved by at least half of the Directors in office, make regulations to give effect to this Constitution.

104) Number

There are seven (7) Directors, comprising:

- 1) President;
- 2) Vice President;
- 3) Chair of the Finance, Audit and Risk Committee;
- 4) Four (4) Directors without portfolio elected by Council;
- 5) a minimum of three (3) Directors who are women and a minimum of three (3) Directors who are men;
- 6) a minimum of one (1) Doctor-in-Training who may be any one of the above.

105) Nominee to Federal Council

- 1) The Society does not nominate a member to the Federal Council.

106) Procedure for Election of Directors

- 1) All directors are usually elected by the Councillors at the Annual Election Meeting preceding the Annual General Meeting or as otherwise provided in this Constitution in the event of filling a casual vacancy.
- 2) The procedure for the election of Directors is set out in Regulations.
- 3) The election for each Director's position is a separate election as set out in Regulations.
- 4) Only one (1) position will be elected at a time and sequence according to the Regulations, such that there are seven (7) Directors, one of whom is President, one of whom is Vice President, and one of whom is Chair of the Finance, Audit and Risk Committee, and four (4) of whom are Directors Without Portfolio.
- 5) A Member may only hold one (1) Director's position at a time.

107) Term

- 1) All Directors are elected for a two (2) year term, but the office of Vice President is held by an elected Director for one (1) year.
- 2) A term expires by effluxion of time at the conclusion of the Annual Election Council meeting in the relevant year.
- 3) Directors take office on election at the conclusion of the Annual Election meeting of Council in the relevant year.

108) Term of Person Filling Casual Vacancy on the Board

A Member elected to fill a casual vacancy on the Board holds office for the remainder of the term for which the Director's predecessor was elected.

109) Eligibility for Election as a Director

- 1) All Councillors are eligible for election as a Director or to a specific office on the Board according to Regulation except as set out in the following articles.
- 2) Eligibility for election for a particular position is determined on the day before the date of the Annual Election Meeting.
 - 1) This does not apply to the position of Vice President, who is elected from elected Directors Without Portfolio at the particular election meeting which is taking place.
- 3) A nominee of an Affiliated Medical Students Society who is a Councillor is not eligible to be elected as a Director.
- 4) The nomination procedure is as set out in the Regulations.

110) Ineligible for Election as a Director if Previously Elected in Special Circumstances

A Councillor is ineligible to be elected as a Director if:

- 1) that Councillor is a Councillor solely because that Councillor was a Director in the previous election year, but is not now a Director; or
- 2) The Councillor has previously been elected a Director for a total of ten (10) consecutive years and has had less than four (4) years' absence from the Board.

111) Single Position

- 1) At a Council meeting at which an election of a Director or Directors takes place, a Councillor elected as a Director to a named position at that Council meeting is not eligible to stand for, or be elected to, any other position as a Director at that same Council meeting, even if they have nominated for a further position.
- 2) A Member may only occupy one (1) Director's position at any point of time.
- 3) This article does not apply to the election of Vice President.

112) Total Permissible Term would be exceeded

A Councillor is ineligible to be elected as a Director, or to a specific office on the Board, if at any time during the term for which that person would be elected, the Councillor would exceed the maximum number of consecutive years in office as follows:

- 1) President: two (2) years;
- 2) Vice President: four (4) one (1) year terms, either consecutively or cumulatively;
- 3) Combination of President and Vice President: six (6) years;
- 4) For all Directors, ten (10) consecutive years in any capacity, which will require an absence as a Director for at least four (4) years.

For clarity, any part term of less than six (6) months duration served by filling a casual vacancy as a Director does not contribute to service to be considered for this Article.

113) Partial Term after Election to Casual Vacancy Excluded

If a Councillor is elected to fill a casual vacancy in the position of President or Vice President, the period for which that person is elected at that election is disregarded in calculating maximum terms of office in those positions.

114) Eligibility to Stand for Vice President

The Vice President

- 1) is elected from those five (5) eligible elected Directors who are not the President or the Chair of the Finance, Audit and Risk Committee who have been elected at the current election or the election in the previous year;
- 2) holds office for the coming one (1) year.

115) No Dual Positions

- 1) If, at an election meeting, a current Director is elected to a new position on the Board other than the position currently held by that Director immediately before an election,
 - 1) the current Director will be deemed to have given proper notice of resignation; and
 - 2) to have resigned from the former role, effective upon election to that new position.
- 2) Where the current Director is a Director Without Portfolio, and is elected to a new, named position at an election meeting referred to in Article 106, the principles in Article 117(3) shall, as far as is practicable, apply.
- 3) In any other case, a casual vacancy on the Board shall arise and be filled in accordance with Articles 124 to 128.
- 4) This article does not apply to the election of Vice President.

116) Retiring Vice President

If the retiring Vice-President is not elected President or re-elected Vice President, and has only served one (1) year of the two (2) year term for which originally elected as Director without portfolio, the Vice-President reverts to Director without portfolio for the coming year.

For clarity, it is understood this will have implications for the Board's gender balance requirement.

117) Years of Election

- 1) The President and the Chair of the Finance, Audit and Risk Committee are normally elected in alternate years according to Regulation.
- 2) Elections will occur to provide for seven (7) Directors of the Society according to Regulation.
- 3) It is permissible to elect a Director for a one (1) year term if required to provide for seven (7) Directors of the Society according to Regulation.

118) Cessation of Directorship

- 1) Circumstances in which a Member ceases to be a Director are as set out in this Constitution and .
- 2) A Member ceases to be a Director if the Member ceases to be an Ordinary Member of the Society.

119) Removal of Director by Society

- 1) Usually, only a General Meeting can remove a Director.
- 2) Specifically, Directors cannot remove a Director, unless upon confirmed incapacity of the Director.
- 3) Usually, Council cannot remove a Director, unless there is such urgency that a non-regular meeting of the Council is convened to consider the matter prior to due calling of a General Meeting, and three quarters of the Councillors present and voting support the removal.

120) Director not affected by Actions of Nominating Body

- 1) A director who is a nominee of a Subdivision does not cease to be a director if:
 - 1) the Subdivision ceases to exist; or
 - 2) the Subdivision changes its nominee.
- 2) A Director who is a nominee of an Affiliated Organisation does not cease to be a Director if:
 - 1) the Affiliated Organisation ceases to be recognised; or
 - 2) the Affiliated Organisation changes its nominee.

121) Incapacity of President

- 1) If the Board by simple majority vote, from which the President must be excluded, considers that the President is incapable of performing the functions of the office of President, it shall refer the matter to a committee constituted in the same manner and with the same membership as the Revocation Committee (Article 24).
- 2) If the Revocation Committee confirms to the Board the incapacity of the President to perform the functions of the office, the Vice President shall assume the functions of the President and
 - a) shall be known as the Acting President; and
 - b) be entitled to benefit from the President's associated remuneration and conditions.
 - i) For clarity, the President remains a Director and entitled to remuneration and conditions as a non-Presidential Director.
- 3) The Vice President shall then be Acting President until such time as the Revocation Committee certifies to the Board, which must so notify Council, that
 - a) the President is capable of resuming the functions of the office of President for the remainder of the President's elected term, and the Acting Vice

President resumes office as Vice President with the associated non-Presidential remuneration and conditions; or

- b) the President ceases to be a Director, causing a casual vacancy to be filled according to Regulation.

122) Incapacity of other Director(s)

- 1) If the Board by simple majority vote, from which the Director(s) must be excluded, considers that the Director(s) is incapable of performing the functions of the office of Director, it shall refer the matter to a committee constituted in the same manner and with the same membership as the Revocation Committee (Article 24).
- 2) If the Revocation Committee confirms to the Board the incapacity of the Director to perform the functions of the named office, the Board shall elect a Director without portfolio to assume the functions of the named office and shall be known as the acting office bearer.
- 3) The acting office bearer shall then be in that role until such time as the Revocation Committee certifies to the Board, which must so notify Council, that
 - a) the Director is capable of resuming the functions of the office for the remainder of their elected term, and the acting office bearer resumes their previous office; or;
 - b) the Director ceases to be a Director, causing a casual vacancy to be filled according to Regulation.

123) Incapacity of Board

In the event of the loss of at least four (4) members of the Board, a temporary Interim Board, comprising such numbers of the Fellows representatives on the Council to re-establish a seven (7) member Board shall be established according to Regulations to operate the Society and manage the requisite election to re-establish the Board by filling casual vacancies created.

FILLING CASUAL BOARD VACANCIES

124) Filling Casual Vacancies - General Rule

If a person ceases to be a Director before the end of the period for which that Member was elected, an election must be held at the next Council meeting to fill the casual vacancy.

125) Filling Casual Vacancies – if Existing Director Intends to Stand

If the office in which the vacancy arose is filled by an existing director,

- 1) the vacancy in the position previously held by that director must also be filled at that Council meeting; and

- 2) notice of the possible contingent vacancies must be notified with the primary vacancy.

126) Filling Casual Vacancy Arising close to a Regular Council Meeting

If the casual Board vacancy occurs less than four (4) weeks before the next notified Council meeting, the election must take place at the Council meeting following the next notified Council meeting.

127) Filling Casual Presidential Vacancy Arising close to Annual Election

A vacancy in the position of President within three (3) months before the annual Council meeting at which the elections ordinarily take place is filled by the Vice President, and the Board elects one of the Directors without portfolio to fill the vacancy in the position of Vice President.

128) Filling Casual non-Presidential Board Vacancy Arising close to Annual Elections

- 1) If a vacancy in the Vice-Presidential Board position occurs within three (3) months before the annual Council meeting at which the elections ordinarily take place, the Board appoints a non-Presidential Board member to the office.
- 2) If a vacancy in the Chair of the Finance, Audit and Risk Committee Board position occurs within three (3) months before the annual Council meeting at which the elections ordinarily take place, the Board appoints a Board member to the office.
- 3) If a vacancy in any other non-Presidential Board position occurs within three (3) months before the annual Council meeting at which the elections ordinarily take place, the vacancy remains unfilled.

MEETINGS OF THE BOARD

129) Who may call a Board Meeting

A meeting of the Board shall be called by the Chief Executive Officer or other highest role staff member if:

- 1) decided by the Board; or
- 2) directed by the President; or
- 3) requested by the majority of Directors.

130) Period of Notice for a Board Meeting

At least 7 days' notice shall be given of a Board meeting, which must have an agenda and provision for the recording and archiving of minutes.

131) Dispensing with Notice for a Board Meeting

- A Board meeting may be held with less notice if
- 1) the President; or

- 2) three-quarters of the other Directors consider that the business of the meeting is urgent.

132) Electronic Meetings are Permissible

Meetings of the Board may be held electronically if each Director participating can communicate with every other participant.

133) Board Resolution without a Meeting

A document

- 1) setting out a resolution;
- 2) signed by all the Directors entitled to vote; and
- 3) stating that they all agree with the resolution;

is as effective as a resolution passed at a face-to-face Board meeting.

134) Board Voting

- 1) Every Director entitled to vote on a resolution, with no declared conflict of interest in the matter under discussion, has one (1) vote.
- 2) The person presiding does not have a casting vote.
- 3) In the event of a tied vote, the status quo remains.
- 4) A Director may request their opposition or abstention on a vote be recorded, but ordinarily it would not be recorded.

135) Board Quorum

The quorum at a Board meeting is the first whole number greater than one half of the number of Directors in office at the time.

For clarity, the usual quorum number will be four (4), all of whom may be the same gender.

136) Effect of Vacancy on Right to make Decisions

The right of the Board to make decisions is not affected by a vacancy in the number of Directors in office.

137) Board member Presiding at a Board meeting

- 1) The President is entitled to preside at a Board meeting.
- 2) If the President is
 - a) is unable or unwilling to preside; or
 - b) is absent from the meeting
 - c) the Board member to preside shall be the Vice President.
- 3) If the Vice President is
 - a) unable or unwilling to preside; or
 - b) absent from the meeting

- 4) then a Director elected by the Board for that part of the meeting affected shall preside.

138) Effect of Defect in Appointment

A Board decision that has been put into effect is not affected by the later discovery that

- 1) there was a defect in the appointment of a Director participating; or
- 2) that a person participating was disqualified from being a Director.

139) Directors with Personal Interests in Matters

The Act sets out the responsibilities of a Director who has a material personal interest in a matter.

140) Chief Executive Officer

The Board may appoint a Chief Executive Officer on such terms as it thinks fit.

141) Society Secretary

The Board shall appoint a Society Secretary according to the Regulations.

142) Attendance at Board meetings

The Chief Executive Officer, or equivalent, is entitled to attend all Board meetings, except that part of a Board meeting considering matters relating to the position of the Chief Executive Officer or equivalent.

143) Delegation to the Chief Executive Officer

The Board may by resolution delegate to the Chief Executive Officer, or equivalent, such of the powers of the Directors as are not required by this Constitution to be dealt with by the Directors.

FINANCIAL AND LEGAL MATTERS

144) Financial Records

The duties of the Directors and the Society in relation to making and keeping financial records are as set out in the Act.

145) Auditor

The responsibility of the Society in relation to audit and the auditor are as set out in the Act.

146) Common Seal

The Common Seal of the Society shall only be affixed to a document in accordance with a resolution of the Board. Each such resolution shall be recorded in a Register kept for that purpose.

147) Witnessing Affixing of the Seal

The sealing must be witnessed by two (2) Directors, who must also sign the document to which the Common Seal is affixed.

148) Board Minutes

The Board must ensure that minutes, including relevant background material, are taken, authenticated and kept of all

- 1) General Meetings;
- 2) Board meetings; and
- 3) Board resolutions without a meeting

in the same way the Company keeps such records.

149) Indemnity

Every Director and Officer of the Society (including all members of all organs of the Society, as referred to in this Constitution) shall be indemnified by the Society to the extent permitted by the Act in respect of all acts done or omitted to be done in the proper exercise of the duties of that person as a Director or Officer of the Society.

150) Liability of Members Limited to Amount of Guarantee

By becoming a Member of the Society, each Member guarantees that

- (1) if the person is a Member at the time of winding up; or
- (2) if the person has been a Member at any time during the previous year

that Member will pay the sum of Two Australian Dollars (A\$2.00) towards the debts and winding up costs of the Society.

151) Disposal of Assets on Winding up

- 1) If the Society is wound up, its remaining assets must not be distributed to its Members.
- 2) Any assets remaining on winding up must be given to an entity or entities which
 - 1) have similar objects to those of the Society; and
 - 2) which also prohibit distribution of profit, income or assets to their Members.
- 3) The entity or entities must be determined
 - 1) by the Members in General Meeting, or, if that is not done,
 - 2) by resolution of the Board approved by more than half of all the Directors in office.

TRANSITIONAL PROVISIONS

152) This article overrules any other provision of this Constitution

- 1) As instructed by Members at the Special General Meeting of 15 May 2018, it is anticipated that a new Constitution will come into effect in 2019.
- 2) All Directors elected at the 2018 Annual Election Meeting for a two (2) year term comprising five (5) known Directors shall remain as Directors unless they resign or are no longer qualified to be a Society Director.
- 3) The President shall remain President until the conclusion of his two (2) year term unless the President resigns or is no longer qualified to be a Society Director.
- 4) It is specifically noted that in the absence of the departure(s) of a current male Director who is about midway through their current two (2) year term from the Board for any reason, the provisions of Article 104 (5) for men and Article 104 (6) are satisfied.
- 5) At the Council meeting to elect Directors following the adoption of this Constitution, which may be an Annual Election Meeting, as notified, following the adoption of this Constitution,
 - (a) The Chair of Council will be elected for a one (1) year term;
 - (b) The Chair of the Finance, Audit and Risk Committee will be elected for a two (2) year term;
 - i) It is specifically noted that this position will only be open for current, non-Presidential, Directors Without Portfolio who are men about midway through their two (2) year term of elected office, but all women Members of the Society.
 - (c) One (1) or two (2) Directors Without Portfolio will be elected for a two (2) year term, who will be a woman (women) to satisfy Article 104 (5) for women;
 - i) It is specifically noted that the election for Chair of the Finance, Audit and Risk Committee will influence the number of Directors Without Portfolio that shall be required to obtain a total of seven (7) Directors on the Board.
 - ii) It is specifically noted that one or both of the women Director's elected at this Article 152(5)(c) could be Doctors-in-Training; and
 - (d) The Vice President will be elected for a one (1) year term from the five (5) then available Directors Without Portfolio.
- 6) At the next Annual Election Meeting, anticipated to be in 2020,
 - a) The President will be elected for a two (2) year term;
 - b) The Chair of Council will be elected for a one (1) year term;
 - c) The Chair of the Finance, Audit and Risk Committee will complete the two (2) year term; and
 - d) Three (3) Directors without portfolio will be elected for a two (2) year term unless through vacancy this would result in there being fewer than seven (7) Directors, then further Director(s) will be elected for a one (1) year term;

- e) The Vice-President will be elected for a one (1) year term from the Directors Without Portfolio.

153) Deletion of Transitional Provisions

Article 152 and this article 153 are deleted one (1) month after the Annual Election in the year following the adoption of this Constitution.

CONSTITUTION

of

MEDICAL SOCIETY OF VICTORIA INC

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