



PalliativeCare
VICTORIA
Living, dying & grieving well

CONSTITUTION

Approved by the Registrar of Incorporated Associations

CONSTITUTION

PALLIATIVE CARE VICTORIA INC.

Registered Incorporation No. A0022429M

1. NAME

The name of this incorporated association is **Palliative Care Victoria Inc.**

2. DEFINITIONS AND INTERPRETATION

2.1 DEFINITIONS

In this Constitution, unless the contrary intention appears:-

"Act" means the Associations Incorporation Act 1981 (Vic.) and any amendment thereto and the Regulations;

"Association" means Palliative Care Victoria Inc, incorporated under the Act;

"Board" means the Board of Directors acting as a Board of governance of the Association under the Act;

"Constitution" means this constitution as amended from time to time;

"Director" means an officer or other member elected to the office of Director of the Association by the members of the Association or appointed to the Board in accordance with the provisions of this Constitution;

"Chief Executive Officer" means a person appointed in accordance with clause 35;

"financial year" means the year ending on 30 June;

"general meeting" means an annual general meeting or a special general meeting of members convened in accordance with clauses 12 and 13, respectively;

"Gift Fund" means a fund established for the receipt by the Association of gifts and deductible contributions of money and property from members and the public at large;

"member" means a person registered as a member organisation, an individual member or an individual life member in the register of members of the Association in accordance with clause 9.5;

"officer" means a Director holding the office of Chairperson, Vice-Chairperson, Treasurer;

"official representative" means, in relation to a member organisation, the person duly authorised by his or her organisation notified in writing to the address of the Secretary from time to time, to represent his or her organisation as a member of the Association for the purposes of this Constitution;

"Organisation" means company, firm, partnership, association, institution or other entity

whether incorporated or not;

"palliative approach" is a term that is used to describe care that aims to improve the quality of life for individuals with an eventually fatal condition, and their families, by reducing their suffering through early identification, assessment and treatment of pain, physical, psychological, social, cultural and spiritual needs.

"palliative care" has the same meaning as the meaning agreed by the World Health Organisation, which is as follows:

Palliative care is an approach that improves the quality of life of patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual. Palliative care:

- provides relief from pain and other distressing symptoms;
- affirms life and regards dying as a normal process;
- intends neither to hasten or postpone death;
- integrates the psychological and spiritual aspects of patient care;
- offers a support system to help patients live as actively as possible until death;
- offers a support system to help the family cope during the patient's illness and in their own bereavement;
- uses a team approach to address the needs of patients and their families, including bereavement counselling, if indicated;
- will enhance quality of life, and may also positively influence the course of illness;
- is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and includes those investigations needed to better understand and manage distressing clinical complications.

"Regulations" means regulations under the Act;

"relevant documents" has the same meaning as in the Act; and

"Secretary" means, the person who holds office as the Secretary to the Association and if no such person has been appointed by the Board, the Chief Executive Officer.

2.2 INTERPRETATION

Words or expressions contained in this Constitution must be interpreted in accordance with the provisions of the Act, the Interpretation of Legislation Act 1984 (Vic.) and the Income Tax Assessment Act 1997 (Cth), as amended from time to time.

3. ALTERATION OF CONSTITUTION

This Constitution and the statement of principal purposes of the Association in clause 4 may only be altered by special resolution of a general meeting of the Association or in accordance with the Act.

4. STATEMENT OF PRINCIPAL PURPOSES

The principal purposes for which the Association has been established is to promote the prevention or control of disease in human beings by:

- (a) furthering the development of palliative care and the palliative approach for persons with terminal illness and their families in the State of Victoria;
- (b) furthering co-operation between agencies providing palliative care and the palliative approach;
- (c) establishing and maintaining relations with Palliative Care Australia Inc and other bodies whose purposes are similar to those of the Association;
- (d) promoting high standards of professional practice in the provision of palliative care and the palliative approach;
- (e) promoting and encouraging the development of appropriate educational programs at all levels;
- (f) encouraging the ongoing collection of relevant data;
- (g) making representations on behalf of members of the Association to Government or similar authorities;
- (h) protecting and furthering the interests of its members;
- (i) providing referral, advice, support and information to those with a terminal illness, their families and carers;
- (i) providing, advice, support and information to the community on palliative care and the services offered to those with a terminal illness, their families and carers;
- (k) developing, publishing and distributing information to people and families facing terminal illness, and for those working with them; and
- (l) doing all such things as are incidental or conducive to the attainment of the principal purposes of the Association,

provided that any of the purposes above, which is not in itself a charitable object or purpose, is not to be treated as a purpose for which the Association was established but must be treated only as a power exercisable by the Association as ancillary or incidental to and for the furtherance of charitable objects or purposes of the Association or any of them.

5. MEMBERSHIP

5.1 Membership categories

The Association consists of:

- (a) member organisations;
- (b) individual members; and
- (c) individual life members,

or such other categories of members as determined by the Association from time to time.

5.2 Member Organisations

Organisations (whether incorporated or unincorporated) with a commitment to the philosophy of palliative care that are involved in providing palliative care, or providing services in accordance with the palliative approach, and/or related education and/or related research and/or related service planning and coordination may become member organisations of the Association. Member organisations will act through and be represented by their official representatives for the purposes of this Constitution.

5.3 Individual Members

Individuals with a commitment to the philosophy of palliative care and a bona fide interest in the provision of palliative care and the palliative approach may become individual members of the Association.

5.4 Individual Life Members

5.4.1 Individuals who have made a significant contribution to palliative care in Victoria are and may become life members of the Association.

5.4.2 Any member of the Association may, with the support of a recommendation from another member or other members, recommend to the Board that an individual be awarded life membership.

5.4.3 Any such recommendation must be made in writing to the Secretary and comply with such requirements as the Board from time to time determines and include a statement regarding the activities of the individual and the individual's significant contribution to palliative care and the palliative approach in Victoria.

5.4.4 Any such recommendation received by the Secretary will be considered by the Board which, in its sole discretion, may award life membership to the individual at the next annual general meeting of the Association.

5.4.5 Upon life membership being awarded the individual's name will be recorded in the register of members as an individual life member.

5.4.6 A life member is:

- (a) entitled to receive notices of, and attend and vote at, general meetings of the Association;
- (b) entitled to receive a copy of the Association's newsletter;
- (c) exempted from the payment of annual membership fees.

5.4.7 An individual who is to be awarded life membership pursuant to clause 5.5.4 will be notified in writing by the Secretary and may decline to accept such award prior to the next annual general meeting.

6. APPLICATION FOR MEMBERSHIP

- 6.1** An application for membership of the Association must:
- (a) be made in writing using the applicable application form as determined by the Association from time to time; and
 - (b) be lodged with, or sent to the address of, the Secretary of the Association.
- 6.2** Applications must contain a statement to the effect that the applicant, if the application is approved, agrees to be bound by this Constitution and commits to the philosophy of palliative care.
- 6.3** Applications for the 'Organisation' category must be accompanied by a copy of the organisation's most recent annual report, audited financial report for the most recent financial year for which this information is available and a signed statement by a representative of the applicant advising the applicable level of organisation membership (with reference to the information provided with the application form).
- 6.4** Applications for the 'Individual' category must be accompanied by a profile of the person's interest in palliative care / the palliative approach.
- 6.5** As soon as practicable after the receipt of an application, the Secretary must refer the application to the Board.
- 6.6** The Board must determine whether to approve or reject the application.

7. ADMISSION OF MEMBERS

- 7.1** The Board may, in its discretion, approve or reject the application for membership of any applicant.
- 7.2** An applicant who applies and is approved for membership as provided in this Constitution is eligible to be a member of the Association on payment of the annual membership fee payable as determined by the Board each year under this Constitution.
- 7.3** A person who is not a member of the Association at the time of the incorporation of the Association (or who was a member at that time but has ceased to be a member) must not be admitted to membership unless:
- (a) the applicant applies for membership in accordance with clause 6; and
 - (b) the admission as a member is approved by the Board.

8. ANNUAL MEMBERSHIP FEES

- 8.1** If the Board approves an application for membership, the Secretary must, as soon as practicable:
- (a) notify the applicant in writing of the approval for membership; and
 - (b) request payment within 28 days after receipt of the notification of the sum payable

under this Constitution as the first year's membership fee.

- 8.2** Subject to this Constitution all members of the Association must pay the annual membership fee in relation to their category of membership. In the case of members organisations, the fee payable is based on the organisation's actual expenditure in providing palliative care or providing services in accordance with the palliative approach and/or related education and/or related research and/or related service planning and coordination for the most recent financial year for which this information is available.
- 8.3** Members having joined the Association after the commencement of the financial year must pay a pro-rata annual membership fee based on complete months of membership to the end of the financial year. Thereafter they must pay the usual annual membership fee.
- 8.4** The annual membership fee payable in respect of each category of membership will be determined by the Board annually and will apply from 1 July in the next financial year.
- 8.5** The annual membership fee is due on the 1st July each year (due date) and is payable within thirty (30) days. Members are only permitted to vote at general meetings after the payment of their membership fee for the current financial year. Individual members and official representatives of member organisations are permitted to speak at general meetings but only members who have paid their membership fees for the current financial year are entitled to vote.
- 8.6** A member ceases to be a member of the Association in the event that their annual membership fee remains unpaid for more than three (3) months after the due date.

9. REGISTER OF MEMBERS

- 9.1** The Secretary must keep and maintain a register of members of all categories recording the full name, address, occupation (if applicable) and date of entry of the name of each member.
- 9.2** The register is available for inspection free of charge by any member upon request.
- 9.3** A member may make a copy of entries in the register at the member's cost.
- 9.4** The Secretary must, within 28 days after receipt of the amounts referred to in clause 8.1, enter the applicant's name in the register of members.
- 9.5** An applicant for membership becomes a member and is entitled to exercise the rights of membership when the member's name is entered in the register of members.
- 9.6** If the Board rejects an application, the Board must, as soon as practicable, notify the applicant in writing that the application has been rejected.
- 9.7** In no case will the Board be required to give any reason for the admission or rejection of an applicant. No further application may be made by a person/organisation whose application has been rejected until a period of twelve (12) months has elapsed.
- 9.8** A right, privilege, or obligation of a person by reason of membership of the Association:
- (a) is not capable of being transferred or transmitted to another person; and

- (b) terminates upon the cessation of membership whether by expulsion, death or resignation or otherwise.

9.9 If a person ceases to be a member of the Association, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

10. RESIGNATION FROM MEMBERSHIP

10.1 A member who has paid all monies due and payable to the Association may resign from the Association by first giving one (1) month's notice in writing to the Secretary of the member's intention to resign, and upon the expiration of that period of notice the member ceases to be a member.

10.2 Upon the expiration of the period of notice given under clause 10.1, the register of members will be amended and the date on which the member by whom notice was given ceased to be a member will be recorded.

11. DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBERS

11.1 Subject to this Constitution, if the Board is of the opinion that a member has:

- (a) refused or neglected to comply with this Constitution; or
- (b) uses their membership of the Association to undertake or promote activities that are not consistent with the philosophy of palliative care and the palliative approach; or
- (c) has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association;

the Board may by resolution:

- (i) fine that member an amount not exceeding \$500; or
- (ii) suspend that member from membership of the Association for a specified period; or
- (iii) expel that member from the Association.

11.2 A resolution of the Board under clause 11.1 does not take effect unless:

- (a) at a meeting held in accordance with clause 11.3, the Board confirms the resolution; and
- (b) if the member exercises a right of appeal to the Association under this clause 11, the Association confirms the resolution in accordance with this clause 11.

11.3 A meeting of the Board to confirm or revoke a resolution passed under clause 11.1 must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the member in accordance with clause 11.4.

11.4 For the purposes of giving notice in accordance with clause 11.3, the Secretary must, as

soon as practicable, cause to be given to the member a written notice:

- (a) setting out the resolution of the Board and the grounds on which it is based; and
- (b) stating that the member, or his or her representative, may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member; and
- (c) stating the date, place and time of that meeting; and
- (d) informing the member that the member may do one or both of the following:
 - (i) attend that meeting;
 - (ii) give to the Board before the date of that meeting a written statement seeking the revocation of the resolution; and
- (e) informing the member that, if at that meeting, the Board confirms the resolution, the member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that the member wishes to appeal to the Association in general meeting against the resolution.

11.5 At a meeting of the Board to confirm or revoke a resolution passed under clause 11.1, the Board must:

- (a) give the member, or the member's representative, an opportunity to be heard; and
- (b) give due consideration to any written statement submitted by the member;
- (c) not be biased against, or in favour of, the member concerned;
- (d) determine by resolution whether to confirm or to revoke the resolution; and
- (e) to the extent that doing so is compatible with this this Constitution, complete the disciplinary procedure as soon as is reasonably practicable.

11.6 If at the meeting of the Board, the Board confirms the resolution, the member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that the member wishes to appeal to the Association in general meeting against the resolution.

11.7 If the Secretary receives a notice under clause 11.6, the member must notify the Board and the Board must convene a general meeting of the Association as soon as reasonably practicable, but in any event to be held within 21 days after the date on which the Secretary received the notice.

11.8 At a general meeting of the Association convened under clause 11.7:

- (a) no business other than the question of the appeal may be conducted; and
- (b) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and

- (c) the member, or the member's representative, must be given an opportunity to be heard; and
- (d) the members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.

11.9 A resolution is confirmed if, at the general meeting, not less than two-thirds of the members vote in person, or by proxy, in favour of the resolution. In any other case, the resolution is revoked.

12. ANNUAL GENERAL MEETING

12.1 The Board may from time to time determine the date, time and place of the annual general meeting of the Association.

12.2 Subject to clause 12.1, the Association must in each calendar year convene an annual general meeting of its members within 5 months of the end of the financial year.

12.3 The annual general meeting must be specified as such in the notice convening it.

12.4 The ordinary business of the annual general meeting is to:

- (a) confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;
- (b) receive from the Board reports upon the transactions of the Association during the last preceding financial year;
- (c) elect the Directors;
- (d) receive and consider the financial statement submitted by the Association in accordance with Part 7 of the Act; and
- (e) appoint an auditor.
- (f) determine the level of membership fee of the various categories of membership for the next financial year

12.5 The annual general meeting may conduct any special business of which notice has been given in accordance with this Constitution.

12.6 The annual general meeting must be held in addition to any other special general meetings that may be held in the same year.

13. SPECIAL GENERAL MEETINGS

13.1 All general meetings, other than the annual general meeting, must be called special general meetings.

13.2 The Board may, whenever it thinks fit, convene a special general meeting of the Association.

- 13.3** If, but for this clause 13.3, more than 15 months would elapse between annual general meetings, the Board must convene a special general meeting before the expiration of that period.
- 13.4** The Board must, on the request in writing of members representing at least ten percent (10%) of the total number of members, convene a special general meeting of the Association.
- 13.5** The request for a special general meeting pursuant to clause 13.4:
- (a) must state the objects of the meeting;
 - (b) must be signed by the members requesting the meeting;
 - (c) must be sent to the address of the Secretary; and
 - (d) may consist of several documents in a like form, each signed by one or more of the members requesting the meeting.
- 13.6** If the Board does not cause a special general meeting to be held within 1 month after the date on which the request is sent to the address of the Secretary, the members making the request, or any of them, may convene a special general meeting to be held no later than 3 months after that date.
- 13.7** If a special general meeting is convened by members in accordance with this Constitution, it must be convened in the same manner so far as possible as a meeting convened by the Board and all reasonable expenses incurred in convening the special general meeting must be refunded by the Association to the persons incurring the expenses.

14. SPECIAL BUSINESS

All business that is conducted at a special general meeting and all business that is conducted at the annual general meeting, except for business conducted under this Constitution as ordinary business of the annual general meeting, is deemed to be special business.

15. NOTICE OF GENERAL MEETINGS

- 15.1** The Secretary of the Association, at least 14 days, or if a special resolution (as defined in the Act) has been proposed at least 21 days, before the date fixed for holding a general meeting of the Association, must cause to be sent to each member of the Association, a notice stating the place, date and time of the meeting and the nature of the business to be conducted at the meeting.
- 15.2** Notice may be sent:
- (a) electronically to the email address appearing in the register of members; or
 - (b) if the member requests, by prepaid post or facsimile transmission.
- 15.3** No business other than that set out in the notice convening the meeting may be conducted at the meeting.

15.4 A member intending to bring any business before a meeting may notify in writing, or by electronic transmission, the Secretary of that business, who must include that business in the notice calling the next general meeting.

16. QUORUM AT GENERAL MEETINGS

16.1 No item of business may be conducted at a general meeting unless a quorum of members entitled under this Constitution to vote is present at the time when the meeting is considering that item.

16.2 Ten percent (10%) of members including proxies to the nearest whole number of who five (5) shall be present, either personally or through its official representative, constitute a quorum for the conduct of the business of a general meeting.

16.3 If, within half an hour after the appointed time for the commencement of a general meeting, a quorum is not present:

(a) in the case of a meeting convened upon the request of members -- the meeting must be dissolved; and

(b) in any other case -- the meeting stands adjourned to the same day in the next week at the same time and (unless another place is specified by the person chairing the general meeting at the time of the adjournment or by written notice to members given before the day to which the meeting is adjourned) at the same place.

16.4 If at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members personally present (being not less than three (3) constitute a quorum.

17. PRESIDING AT GENERAL MEETINGS

17.1 The Chairperson, or in his or her absence the Vice-Chairperson, presides at each general meeting of the Association.

17.2 If the Chairperson and the Vice-Chairperson are absent from a general meeting, or are unable to preside, the members present must select one of their number to chair the meeting.

18. ADJOURNMENT OF MEETINGS

18.1 The person chairing a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting from time to time and place to place.

18.2 No business may be conducted at an adjourned meeting other than the unfinished business from the meeting that was adjourned.

18.3 If a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given in accordance with clause 15.

18.4 Except as provided in clause 18.3, it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned meeting.

19. VOTING AT GENERAL MEETINGS AND PROXIES

- 19.1** A member of the Association who is entitled to vote has the right:
- (a) to receive notices of general meetings and of proposed special resolutions in the manner and time prescribed by this Constitution;
 - (b) to submit items of business for consideration at a general meeting;
 - (c) to attend and be heard at general meetings; and
 - (d) to vote at a general meeting.
- 19.2** Upon any question arising at a general meeting of the Association, each member (or its official representative) has 1 vote only.
- 19.3** All votes must be given personally, by the member organisation's official representative or by proxy.
- 19.4** A member may appoint one proxy only, who must be another member (or the official representative of another member). The instrument of proxy:
- (a) must be in writing signed by the appointor;
 - (b) must be received by the Secretary not less than 24 hours before the general meeting at which the person named proposes to vote;
 - (c) must be in the form set out in Appendix 1;
 - (d) may direct the manner in which the proxy is to vote; and
 - (e) if not naming an appointee is taken to be in favour of the Chairperson.
- 19.5** In the case of an equality of voting on a question, the person chairing the meeting is entitled to exercise a second or casting vote.
- 19.6** A member (or its official representative) is not entitled to vote at a general meeting unless all moneys due and payable by the member to the Association have been paid.
- 19.7** Any person attending a general meeting who is not a member (or its official representative) is not entitled to vote.
- 19.8** A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- 19.9** For the purposes of clause 19.8, a member participating in a general meeting as permitted under clause 19.8 is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

20. POLL AT GENERAL MEETINGS

- 20.1** If at a meeting a poll on any question is demanded by any member, it must be taken at that meeting in such manner as the person chairing the general meeting may direct and the resolution of the poll is deemed to be a resolution of the meeting on that question.

20.2 A poll that is demanded on the election of a person to chair a general meeting or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the person chairing the general meeting may direct.

21. MANNER OF DETERMINING WHETHER RESOLUTION CARRIED

21.1 A question arising at a general meeting of the Association must be determined on a show of hands unless before or on the declaration of the show of hands a poll is demanded in accordance with clause 20.

21.2 If a question arising at a general meeting of the Association is determined on a show of hands:

(a) a declaration by the person chairing the general meeting that a resolution has been:

(i) carried; or

(ii) carried unanimously; or

(iii) carried by a particular majority; or

(iv) lost; and

(b) an entry to that effect in the minute book of the Association,

is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

22. BOARD OF DIRECTORS

22.1 The affairs of the Association are managed by the Board.

22.2 As soon as practicable after being elected or appointed to the Board, each Board member must become familiar with this Constitution and the Act.

22.3 The Board is collectively responsible for ensuring that the Association complies with the Act and that individual members of the Board comply with this Constitution.

22.4 Board members must exercise their powers and discharge their duties with reasonable care and diligence.

22.5 Board members must exercise their powers and discharge their duties—

(a) in good faith in the best interests of the Association; and

(b) for a proper purpose.

22.6 Board members must not make improper use of:

(a) their position; or

(b) information acquired by virtue of holding their position,

so as to gain an advantage for themselves or any other person or to cause detriment to the Association.

22.7 In addition to any duties imposed by this Constitution, a Board member must perform any other duties imposed from time to time by resolution at a general meeting.

22.8 The Board:

(a) must control and manage the business and affairs of the Association;

(b) may, subject to this Constitution, the Act and the Regulations, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by this Constitution to be exercised by general meetings of the members of the Association; and

(c) subject to this Constitution, the Act and the Regulations, has power to perform all such acts and things as appear to the Board to be essential for the proper control and management of the business and affairs of the Association.

22.9 Subject to section 77 (first committee) of the Act, the Board consists of up to 9 Directors made up of:

(a) Up to seven (7) Directors elected by the members of the Association at an annual general meeting of the Association in accordance with clause 23; and

(b) Up to two (2) Directors appointed by the Board.

22.10 Each Officer of the Association shall hold office for one year but is eligible for re-election subject to clause 24.2.

22.11 Each new Director once elected or appointed automatically becomes an individual member of the Association.

23. ELECTION OF DIRECTORS

23.1 The election of Directors by the members must occur at the annual general meeting of the Association in each year in accordance with clause 23.2.

23.2 Subject to this Constitution the elected Directors must be elected by the Members at the AGM in each year and each Director shall hold office for a period of 3 years.

23.3 All Board Director positions shall be vacated in a three year rotation with one third of Directors positions being up for election or appointment each year.

23.4 Subject to this Constitution, each Director holds office until the end of the annual general meeting following the conclusion of his or her term but is eligible for re-election or re-appointment (as applicable) for an additional term or terms of 3 years or a pro rata term if replacing a casual vacancy.

23.5 The Board shall determine at the first meeting after the Annual General Meeting the length of the terms for each new Director where there are pro rata positions being filled.

- 23.6** If a Director is to be absent for more than 2 consecutive Board meetings, such Director must notify the Secretary in advance in writing of the expected duration of the Director's absence and obtain leave of the Board.
- 23.7** If a Director resigns or is absent at more than 2 consecutive Board meetings without having notified the Secretary and obtained the leave of the Board pursuant to clause 23.6, the Board must declare that Director's position vacant, whereupon the Board has the power to appoint another person as a Director, to fill the casual vacancy so created until the next annual general meeting, whereupon a casual vacancy will occur for the remainder of the initially elected Director's term of office.
- 23.8** Nominations of candidates for election as Directors must be:
- (a) in writing;
 - (b) signed by two other financial members (where the nominee is not an individual member but is the nominee of a member organisation one signatory must be the official representative of the member organisation);
 - (c) accompanied by the written consent of the candidate which may be endorsed on the form of nomination;
- and
- (b) be received by the Secretary not less than 21 days before the date fixed for the holding of the annual general meeting.
- 23.9** If insufficient nominations are received to fill all vacancies for election onto the Board, the candidates nominated are deemed to be elected as nominated.
- 23.10** If the number of nominations received is equal to the number of vacancies to be filled, the candidates nominated are deemed to be elected.
- 23.11** If the number of nominations exceeds the number of vacancies a ballot for the election of Directors must be held.
- 23.12** The election of the Directors must be concluded at the annual general meeting in such usual and proper manner as the annual general meeting may direct.

24. VACANCIES

- 24.1** For the purposes of this Constitution, a position of Director becomes vacant if the Director:
- (a) becomes insolvent under administration within the meaning of the Corporations Act;
 - (b) ceases to be a member;
 - (c) resigns from office by notice in writing given or sent to the address of the Secretary;
 - (d) is removed from office by resolution of a general meeting pursuant to clause 32.1; or
 - (e) otherwise ceases to be a Board member by operation of section 78 of the Act.

24.2 Officers as outlined under clause 22.9 will be elected by the Board at the first meeting of the Board held no later than 1 month after the annual general meeting in each year.

25. BOARD MEETINGS

25.1 The Board must meet at least 3 times in each financial year at such place and such times as the Board may determine.

25.2 Special meetings of the Board may be convened by the Chairperson or by any four (4) Directors.

26. NOTICE OF BOARD MEETINGS

26.1 Written notice of each Board meeting must be given to each Director at least five (5) business days before the date of the meeting.

26.2 Written notice must be given to each Director of any special meeting specifying the general nature of the business to be conducted and no other business may be conducted at such a meeting.

27. USE OF TECHNOLOGY

27.1 A Board member who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Board member and the Board members present at the meeting to clearly and simultaneously communicate with each other.

27.2 For the purposes of clause 27.1, a Board member participating in a Board meeting as permitted under clause 27.1 is taken to be present at the meeting and, if the Board member votes at the meeting, is taken to have voted in person.

28. QUORUM FOR BOARD MEETINGS

28.1 Any five (5) of the Directors present at the meeting in person, by telephone or video link constitutes a quorum for the conduct of the business of a meeting of the Board.

28.2 No business may be conducted unless a quorum is present.

28.3 If within half an hour of the time appointed for the meeting a quorum is not present:

- (a) in the case of a special meeting - the meeting lapses;
- (b) in any other case - the meeting stands adjourned to the same place and the same time and day in the following week at which time any three (3) Directors constitutes a quorum.

28.4 Subject to clause 28.1, the Board may act notwithstanding any vacancy on the Board.

29. PRESIDING AT BOARD MEETINGS

At meetings of the Board:

- (a) the Chairperson or, in the Chairperson's absence, the Vice-Chairperson presides;
or

- (b) if the Chairperson and the Vice-Chairperson are absent, or are unable to preside, the Directors present must choose one of their number to preside.

30. VOTING AT BOARD MEETINGS & CIRCULATED RESOLUTIONS

- 30.1** Questions arising at a Board meeting, or at a meeting of any sub-committee appointed by the Board, must be determined on a show of hands or, if a Director so requests, by a poll taken in such manner as the person presiding at that meeting may determine.
- 30.2** Each Director present at a meeting of the Board, or at a meeting of any sub-committee appointed by the Board (including the person presiding at the meeting), is entitled to one (1) vote and, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- 30.3** A resolution in writing signed by all the Directors for the time being present in Australia (not being less than a quorum) is as valid and effectual as if it had been passed at a meeting of directors duly held. That resolution may consist of several copies of a document each signed by one or more Directors.

31. CONFLICT OF INTEREST

- 31.1** A Board member who has a material personal interest in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- 31.2** The Board member:
 - (a) must not be present while the matter is being considered at the meeting; and
 - (b) must not vote on the matter.
- 31.3** Clauses 31.1 and 31.2 do not apply to a material personal interest:
 - (a) that exists only because the Board member belongs to a class of persons for whose benefit the Association is established; or
 - (b) that the member has in common with all, or a substantial proportion of, the members of the Association.

32. REMOVAL OF DIRECTOR

- 32.1** The Association in general meeting may, by resolution, remove any elected or appointed Director before the expiration of the Director's term of office and appoint another member in his or her place to hold office until the next annual general meeting.
- 32.2** A Director who is the subject of a proposed resolution referred to in clause 30.1 may make representations in writing to the Secretary or the Chairperson of the Association (not exceeding a reasonable length) and may request that the representations be provided to the members of the Association.
- 32.3** The Secretary or the Chairperson may give a copy of the representations to each member of the Association or, if they are not so given, the Director who is the subject of a proposed resolution referred to in clause 32.1 may require that they be read out at the meeting.

33. MINUTES OF MEETINGS

The Secretary must keep minutes of the resolutions and proceedings of each general meeting, and each Board meeting, in books provided for that purpose together with:

- (a) a record of the names of persons present at general meetings and Board meetings;
- (b) other roles and functions as outlined in this Constitution;
- (c) a record of the business considered at the meeting, any resolution on which a vote is taken and the result of the vote;
- (d) proxy forms given to the Secretary of the meeting under clause 19.3(b);
- (e) the financial statements submitted to the members in accordance with clause 12.4(d);
- (f) the certificate signed by two Board members certifying that the financial statements give a true and fair view of the financial position and performance of the Association; and
- (g) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

34. DISPUTES AND MEDIATION

34.1 The grievance procedure set out in this clause 34 applies to disputes under this Constitution between:

- (a) a member and another member; or
- (b) a member and the Association.

34.2 A member may appoint any person to act on behalf of the member under the grievance procedure set out in this clause 34.

34.3 The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

34.4 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.

34.5 The mediator must be:

- (a) a person chosen by agreement between the parties; or
- (b) in the absence of agreement:
 - (i) in the case of a dispute between a member and another member, a person appointed by the Board; or

- (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).

34.6 A member of the Association can be a mediator.

34.7 The mediator cannot be a member who is a party to the dispute.

34.8 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

34.9 The mediator, in conducting the mediation, must:

- (a) give the parties to the mediation process every opportunity to be heard; and
- (b) allow due consideration by all parties of any written statement submitted by any party;
- (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process; and
- (d) not be biased against, or in favour of, any party.

34.10 The mediator must not determine the dispute.

34.11 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

35. CHIEF EXECUTIVE OFFICER

35.1 A Chief Executive Officer may be appointed by the Board for such term, upon such conditions as the Board thinks fit, without remuneration or at such remuneration (including other emoluments) as the Board from time to time thinks fit and any Chief Executive Officer so appointed may be removed by the Board. The Chief Executive Officer may not be a member of the Board but may attend Board meetings in his/her capacity as Secretary (where applicable).

35.2 The Board may delegate exclusively or non-exclusively any of its powers and/or functions to the Chief Executive Officer (not being duties imposed on the Board or the Directors by law) as the Board thinks fit.

35.3 The Chief Executive Officer must conform to any policy that may be determined by the Board.

35.4 In the absence of there being an Chief Executive Officer/or Acting Chief Executive Officer in office such functions at any time the Chief Executive Officer would otherwise fulfil may for the time being be fulfilled by the Chair or the Board's nominee.

36. SECRETARY

36.1 A Secretary may be appointed by the Board for such term, upon such conditions as the Board thinks fit, without remuneration or at such remuneration (including other emoluments) as the Board from time to time thinks fit and any Secretary so appointed may be removed by the Board. The Secretary may not be a member of the Board but may attend Board meetings in his/her capacity as Secretary (where applicable).

- 36.2** The Board may delegate exclusively or non-exclusively any of its powers and/or functions to the Secretary (not being duties imposed on the Board or the Directors by law) as the Board thinks fit.
- 36.3** The Secretary must conform to any policy that may be determined by the Board.
- 36.4** In the absence of there being a Secretary /or Acting Secretary in office such functions at any time the Secretary would otherwise fulfil may for the time being be fulfilled by the Chair or the Board's nominee.
- 36.5** The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.
- 36.6** The Secretary must:
- (a) maintain the register of members in accordance with clause 9;
 - (b) keep custody of the common seal (if any) of the Association and all books, documents and securities of the Association in accordance with clauses 33 and 41;
 - (c) subject to the Act and this Constitution, provide members with access to the register of members, the minutes of general meetings and other books and documents; and
 - (d) perform any other duty or function imposed on the Secretary by this Constitution.
- 36.7** If the position of Secretary becomes vacant, the Board must appoint a member to the position within 14 days after the vacancy arises.
- 36.8** The Secretary must give notice to the Registrar of Incorporated Associations of his or her appointment within 14 days after the appointment.

37. DELEGATIONS

- 37.1** The Board may, in writing:
- (a) appoint or employ any person to be an agent of the Association for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Board), for such period and upon such conditions as they think fit;
 - (b) authorise an agent to delegate all or any of the powers, discretions and duties vested in the agent; and
 - (c) subject to any contract between the Association and the relevant agent, remove or dismiss any agent of the Association at any time, with or without cause.

38. FUNDS

- 38.1** The Treasurer in consultation with the Chief Executive Officer of the Association must:
- (a) collect and receive all moneys due to the Association and make all payments authorised by the Association;

- (b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association; and
- (c) ensure that accounts are properly audited by the appointed external auditor and presented to the annual general meeting each year in accordance with clause 12.4 (f).

38.2 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two Directors or by one Director and the approved senior staff member of the Association (however titled).

38.3 The funds of the Association must be derived from annual membership fees, special levies, donations and such other sources as the Association in general meeting determines.

39. SEAL

39.1 The common seal of the Association must be kept in the custody of the Secretary at the registered office of the Association.

39.2 The Common Seal must not be affixed to any document except by the authority of the Board and the affixing of the common seal must be attested by the signatures of two Directors.

40. NOTICE TO MEMBERS

Except for the requirement in clause 15, any notice that is required to be given to a member, by or on behalf of the Association, under this Constitution may be given by:

- (a) delivering the notice to the member personally; or
- (b) sending it by prepaid post addressed to the member at that member's address shown in the register of members; or
- (c) facsimile transmission, if the member has requested that the notice be given to the member in this manner; or
- (d) electronic transmission, if the member has requested that the notice be given to the member in this manner.

41. CUSTODY AND INSPECTION OF BOOKS AND RECORDS

41.1 Except as otherwise provided in this Constitution, the Secretary must keep in his or her custody or under his or her control at the office of the Association all accounts, books, documents, records and securities of the Association.

41.2 Subject to clause 41.4, all accounts, books (including minutes of the resolutions and proceedings of each general meeting), securities and any other relevant documents of the Association must be available for inspection free of charge by any member upon request.

- 41.3** A member may make a copy of any accounts, books, securities and any other relevant documents of the Association.
- 41.4** The Board may refuse to permit a member to inspect records of the Association that relate to minutes of the resolutions and proceedings of each board meeting, confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Association.

42. INCOME, PROPERTY AND GIFT FUND

- 42.1** Subject to the provisions of the Act, the income, assets and property, other than the Gift Fund of the Association, must be applied solely towards the promotion of the principal purposes of the Association stated in clause 4. No portion of the income, assets and property of the Association must be paid or transferred directly by way of dividend, bonus or otherwise to members of the Association provided that nothing in clause 4 prevents the payment in good faith of reasonable and proper remuneration for services provided to any officers or employees of the Association or to any members or Directors of the Association, or for goods or services supplied in the ordinary and usual way of business.
- 42.2** There is established a Gift Fund which is separately maintained and used solely for the principal purposes of the Association and all gifts of money and property given to achieve the principal purposes must be credited to the Gift Fund. All monies received as a result of these gifts must also be credited to the Gift Fund.
- 42.3** If the Gift Fund is wound up or if the endorsement (if any) of the Association as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after payment of liabilities attributable to it must be transferred to a fund, authority or institution to which income tax deductible gifts can be made.

43. DISSOLUTION AND WINDING UP

- 43.1** In the event of the winding up or the cancellation of the incorporation of the Association, the assets of the Association must be disposed of in accordance with the provisions of the Act and this Constitution.
- 43.2** The Association must be dissolved and the operations of the Association cease and be wound up if a resolution to that effect is carried by a vote of three-quarters of the members in attendance at a general meeting of the Association convened to consider the question.
- 43.3** In the event of a resolution as required in clause 43.2 being carried, any and all assets remaining, after full settlement of all just debts and liabilities incurred by the Association, must be distributed in accordance with the terms of the resolution, provided always that such assets must be given or transferred to another organisation in Australia which is a benevolent institution for the purposes of the Income Tax Assessment Act 1997 (Commonwealth) as amended from time to time.
- 43.4** In the event of the Gift Fund of the Association being wound up, any surplus assets remaining after the payment of the Association's liabilities must be transferred to another organisation in Australia which is a public benevolent institution for the purposes of the Income Tax Assessment Act 1997 (Commonwealth) as amended from time to time.



Palliative Care Victoria
Annual General Meeting
FORM OF PROXY

I
(Name)

.....
(Organisation)

.....
(Address)

being a current financial member of Palliative Care Victoria Inc. hereby appoint

.....
(Name)

.....
(Organisation)

.....
(Address)

as my proxy to vote on my behalf on any resolutions that form part of the **Annual General Meeting** of Palliative Care Victoria to be held and at any adjournment of that meeting.

Signature:

Name:

Date:

*Proxy forms must be received before the commencement of the meeting.
We would appreciate receipt of the Form of Proxy by [time and date].*

*Please return to the CEO, Palliative Care Victoria
Fax 03 9662 9722 or Email info@pallcarevic.asn.au
Palliative Care Victoria, Level 2, 182 Victoria Parade, East Melbourne VIC 3002*



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W: www.pallcarevic.asn.au