



# NOMINATION AND ELECTION PROCESS BY-LAW

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<b>Approved by</b>	Board
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<b>Relevant legislation/codes/ RACP Constitution</b>	RACP Constitution
<b>Related by-laws/policies/ procedures/guidelines</b>	Candidate Code of Conduct By-law
<b>Applicability</b>	Australia and Aotearoa New Zealand

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## **1. INTRODUCTION AND PURPOSE**

- 1.1** This By-Law, the By-laws for College Bodies, the Constitution and the Board Charter By-law sets out the rules for the nomination of candidates and the conduct of elections for elected positions on the Board and on College Bodies.
- 1.2** Where any conflict occurs between the College Body's By-laws, or the Constitution and the Board Charter By-Law and this By-Law, the College Body's By-Laws, or the Constitution and Board Charter By-law will take precedence.

## **2. NOMINATION PROCEDURES FOR ELECTION TO COLLEGE BODIES**

### **2.1 Who May Nominate**

Any person may nominate as a candidate for a College Election provided:

- a) they meet the eligibility criteria for the position set out in the relevant College Body's by-law or the Constitution and, in respect of non-director roles, as described in the relevant position description;
- b) they are entitled to vote in the election;
- c) they have not been removed from a College Body by the College Board, under the provisions in the Constitution, in the previous five (5) years;
- d) they are a Financial Member of the College;
- e) they are not banned or disqualified from managing a corporation; and
- f) their election or appointment will not breach the term provisions, including the limits on the number of consecutive terms of the same College Body, in the Governance of College Bodies By-law or the Constitution.

### **2.2 Invitation For Nominations**

The College will call for nominations to fill an elected position by sending to people entitled to vote in the election a Call for Nominations Notice.

### **2.3 How To Nominate**

Nominations are made in writing, using the prescribed form, and signed personally or electronically by the Candidate and two other Members. Candidates must complete a Candidate Statement of not more than 500 words as part of the nomination process. The published Candidate Statement will contain the names of those Members who nominated the Candidate.

With their nomination, each candidate must provide written confirmation that:

- a) they meet each of the nomination criteria set out in 2.1;
- b) they are a person of good standing;
- c) any biographical or other information provided in their Candidate Statement is complete, correct and is not misleading in any way; and
- d) they have agreed to comply with the Candidate Code of Conduct By-law.

### **2.4 Time Frames**

- a) The Call for Nominations Notice will be issued at least 56 days prior to the opening date proposed for any election.
- b) Nominations must be received by the College by the Closing Date for Nominations. Nominations received after this date will not be accepted.

### **2.5 Withdrawal of Nomination**

A Candidate may withdraw their nomination at anytime prior to the election.

### **3. ELECTION PROCESS**

#### **3.1 Fewer Nominations than Vacancies**

If the number of valid nominations received is equal to or less than the number of vacant positions to be filled, those nominees shall be deemed to be elected to those positions.

Any remaining vacancies may be filled by the College Body as a casual vacancy following the procedures set out in the College By-Law: Governance of College Bodies or Constitution as applicable.

#### **3.2 More Nominations than Vacancies**

If the number of valid nominations received is greater than the number of vacant positions to be filled, an election shall be undertaken either as a postal ballot or by email or other electronic means approved by the Board for this purpose.

#### **3.3 Conducting an Election**

- a) When an election is required, Notice of the Election will be sent by post or email to all eligible persons at least 28 days before the Closing Date for Voting.
- b) The College's elections may be conducted either directly online, or by paper ballot or by a combination of both as determined by the Board.
- c) Late or non-receipt of a ballot paper by a person eligible to vote will not invalidate an election.

#### **3.4 Election Campaign Assistance**

- a) Prior to issuing a Call for Nominations, the Board will decide the non-financial election campaign assistance, if any, to be provided to all Candidates standing for election.
- b) During the course of the election, the Board may provide assistance equally, to all Candidates, as it, in its sole discretion sees fit.
- c) The College can undertake such actions as considered appropriate and consistent with the Constitution and relevant By-laws that encourage voter participation in the election.
- d) Individual Members (including current Office Holders and Directors) may support and assist Candidates standing for election to any College Office Holder or director position, using their own resources, and consistent with the terms of this By-law.

Current Office Holders and Directors must not use their position to endorse or support any particular Candidate, but can participate in any election as a Member of the College including the provision of support and assistance to any Candidate provided such support and assistance is consistent with the terms of this By-law.

#### **3.5 Candidate access to College Resources**

- a) Candidates must not involve College staff in their election campaign, other than those activities agreed to under clause 3.4;
- b) No person may post, exhibit or distribute any material to support or oppose the candidature of any person in an election on any property owned or occupied by the College except as specified in clause 3.4. Any College hosted website, social media, noticeboard or similar interactive medium can only be used by Candidates with College approval and will be moderated by the College to promote equal access and compliance by all Candidates with College policies and by-laws.

Further a Candidate and other Members must not directly or indirectly access or otherwise utilise College resources and assets, such as College generated databases,

logos, social media accounts, access to emails or contact details for electioneering or campaigning purposes.

- b) Subject to compliance with the terms of use of the relevant College hosted noticeboard or similar interactive medium and the Nominations and Election By-Law, nothing in this clause 3.5 prevents a candidate from properly responding to a legitimate and appropriate query or comment by a Member on a College hosted noticeboard or similar interactive medium.

### **3.6 Returning Officer**

The Board will appoint a Returning Officer for an election.

The Board may also appoint a scrutineer, or scrutineers, for President-Elect and Board position elections and for significant Constitutional amendments put to a General Meeting. The scrutineer's role will be to check and confirm the validity of votes cast at these elections and at general meetings if appointed.

### **3.7 Online Direct Voting and Hardcopy Ballot Papers\**

- a) The order in which Candidates' names are to be entered on the online direct voting paper and hardcopy ballot paper shall be determined by the RACP Company Secretary drawing names out of a hat, consistent with the College's Constitution (clause 8.2.2).
- b) Both the online voting papers and the hardcopy ballot papers are to be prepared with Candidates' surnames in a more conspicuous font than their given names or initials, with a square box opposite or beside the name to indicate the vote.

### **3.8 Certification of Registers**

The Company Secretary shall certify as correct a copy or copies of the register, or registers, of persons eligible to vote in the elections and provide that copy or copies to the Returning Officer.

A copy of the register or registers is to be available for inspection by members upon request.

### **3.9 Counting of Votes**

- a) Elections shall be determined on a "first past the post" basis unless the Board decides another process to determine the outcome of an election will be applied, such as a preferential voting process.
- b) The Returning Officer shall be responsible for counting the votes received and determining the eligibility of Members to cast a vote. The Returning Officer will also determine whether any ballot received is informal and excluded from the count. A ballot paper is not to be excluded if the voter's intention is clearly marked on the ballot paper.
- c) An online voting paper or ballot paper shall be deemed informal if it does not indicate a vote for any candidate.  
  
A determination by the Returning Officer of the formality or informality of a ballot paper or vote shall be final.
- d) A Member utilising the online direct voting facility may change their vote at any time up to the Closing Date for Voting.
- e) The result or results of the election shall be advised on the College website as soon as practicable after the Closing Date for Voting.
- f) Any ballot received after the Closing Date for Voting shall be deemed invalid and will not be counted.
- g) The Returning Officer will provide to the Company Secretary, for dissemination to the Chief Executive Officer and to the Board of Directors of the College only, upon request for the duration of the elections, details of the total votes cast for particular positions

such as the President-Elect to assist with the effective management of the College's elections.

- h) The number of votes received by individual candidates for any elected position will not be provided to the College until each election has closed, whereupon such details will only be provided to the College's Members as part of the declaration of the results of the election.

### **3.10 Equality of Votes**

In the event of an equal number of votes in respect of any position for which an election is conducted the Chair of the relevant College Body shall have a second or casting vote. If the Chair is conflicted and is precluded from exercising a casting vote (for example, if the vacant position being voted upon is the Chair of the College Body) then the Chair of the Body to which the College Body is accountable shall have a casting vote. In the absence of that individual, the President of the College, or in their absence the President-Elect, shall exercise a casting vote.

### **3.11 Death or Incapacity of a Candidate**

- a) If a nominee dies or otherwise becomes incapable of undertaking the requirements of the nominated position after nominations close and before voting commences, the College will remove their name from the ballot and:
  - i) proceed with voting if the number of candidates remaining is greater than the number of positions; or
  - ii) elect the other nominees unopposed if the number of candidates remaining is equal to the number of positions; or
  - iii) treat the position as a casual vacancy if the number of candidates remaining is less than the number of positions.
- b) If a Candidate dies or otherwise becomes incapable of undertaking the requirements of the nominated position during the election period, the College will:
  - i) declare the other candidates to be elected unopposed if the number of candidates remaining is equal to the number of positions; or
  - ii) call a fresh election to be contested by the remaining candidates if their number is greater than the number of positions.
- c) If a Candidate dies or otherwise becomes incapable of undertaking the requirements of the nominated position after voting closes, the position will be treated as a casual vacancy.

### **3.12 Board May Determine Other Procedures**

The Board may determine other procedures for the conduct of any election, and may make rules for that purpose from time to time.

### **3.13 Resolution of Disputes**

If an eligible voter disputes the validity of the conduct of an election, that person shall, within 30 days of the Closing Date for Voting give notice in writing to the Board stating the grounds of their complaint. The Board may then either itself investigate the Complaint, or may appoint a committee for that purpose.

After hearing the complaint, or the report of any committee appointed to investigate the complaint, if such an appointment was made, the Board shall determine the matter. The Board's decision in relation to the complaint shall be final.

#### 4. DEFINITIONS

The following terms and definitions apply to this By-Law.

“Board”	means the Board of Directors of the College.
“Call for Nominations”	means a notice that sets out: <ul style="list-style-type: none"> <li>• the vacant positions to be filled;</li> <li>• a description of the roles and responsibilities of the vacant positions;</li> <li>• the date by which nominations must be received by the College (“Closing Date for Nominations”); and</li> <li>• who the nomination must be sent to.</li> </ul>
“Candidate Statement”	means a statement prepared by a candidate for elections in accordance with clause 2.3.
“Closing Date for Nominations”	means 4 weeks prior to the date of the election.
“Closing Date for Voting”	means the date by which all votes must be received by the College, as set out in the Notice of Election
“College”	means The Royal Australasian College of Physicians (ACN 000 039 047), an incorporated body limited by guarantee.
“College Body”	means <ul style="list-style-type: none"> <li>a) the Council of each Division or Faculty of the College;</li> <li>b) the Committee of each Chapter formed within a Division or Faculty;</li> <li>c) each Board Committee; and</li> <li>d) each Committee, sub-committee, working group, expert advisory group or other sub-group formed under the auspices of any of the above, whether or not limited in time or purpose.</li> </ul>
“College Election”	means an election of a person to fill an elected position on the Board or a College Body and to fill the positions of President-Elect of the College and President-Elect of Aotearoa New Zealand.
“Constitution”	means the Constitution of the College approved at the College’s Annual General Meeting (AGM) held in May 2007, as amended from time to time.
“Electioneering” or “Campaigning”	means any action seeking or canvassing for votes, requesting support in a forthcoming election, distribution of any election material or any other actions intended to promote any individual’s candidacy for election as a Director or other College Office Holder position.
“Election Material”	includes any literature, poster, leaflet, flyer, letter, email, SMS text message, release to Members or any other material in any form whatsoever (including but not limited to electronic, digital or hard copy form) intended to promote the candidacy of an individual for election as a Director or Office Holder of the College.
“Financial Member”	means a Member of the College (Fellow or Trainee) who has paid the annual subscription and any other monies owing to the College by the due date.
“Notice of the Election”	A notice informing all eligible voters that an election is to be held and providing the following information: <ul style="list-style-type: none"> <li>• each nominee’s Candidate Statement;</li> <li>• the method for voting – electronic or postal – and the relevant links for electronic voting and a ballot paper for a postal vote;</li> <li>• the Closing Date for Voting; and</li> <li>• any other information as the Board determines to inform Members that an election is taking place and the Candidates standing for the particular positions subject to an election.</li> </ul>
“Office Holder”	has the same meaning as “Office Holder” defined in the RACP Constitution.

<b>By-Law History as from March 2012</b>		
<b>Commencement of By-Law</b>		
This By-Law was approved by the Board of the College on 22 March 2012 and commenced on that date.		
<b>Subsequent amendments to By-Law</b>		
<b>Item</b>	<b>Amendment</b>	<b>Commenced</b>
1	Clause 2.1 c) Financial Member of the College	8 August 2013
2	Definition of Financial Member	8 August 2013
3	Additional paragraphs included in clause 3.4 to permit a second distribution of Candidate Statements and to recognise the use of interactive noticeboard type mediums.	22 May 2015
4	Amendment to section 4 to refer to the Constitution for how to conduct the nomination and election process for the position of College President-Elect.	22 May 2015
5	Amendment to Definitions section to include definitions for Candidate Statement, Closing Date for Nominations and Closing Date for Voting.	22 May 2015
6	Amendment to clause 3.5 to include the appointment of a scrutineer or scrutineers for President-Elect and Board position elections and for significant Constitutional amendments put to a general meeting.	22 May 2015
7	Addition to clause 3.6 a) to align with similar requirement in Constitution.	22 May 2015
8	Latest changes as recommended by the Governance Working Party approved by the Board at its meeting on 25 August 2017	25 August 2017
9	Amendments to wording of clause 3.5b) to clarify the intent of the clause	13 October 2017
10	Deletion of clause 3.5(c) <i>"As private individuals, Candidates may jointly electioneer or jointly issue election material using their own resources, but the College will not organise, administer, support, promote or assist in any way election "tickets" or blocs of Candidates jointly running for various Office Holder positions within the College."</i>	16 December 2019
11	Minor administrative updates. Included the definition for Office Holder.	17 December 2021
12	Vary clause 3.5(b) to remove the words crossed through and add the words in italic : <p>"No person may post, exhibit or distribute any material <del>to</del> support or oppose the candidature of any person in an election on any property owned or occupied by the College except as specified in clause 3.4. Any College hosted website, <i>social media</i>, noticeboard or similar interactive medium can only be used by Candidates with College approval and will be moderated by the College to promote equal access <i>and compliance</i> by all Candidates <i>with College policies and by-laws</i>.</p> <p>Further a Candidate <i>and other Members</i> must not directly or indirectly access or otherwise utilise College resources and assets, such as College generated databases, <i>logos, social media accounts, access to emails or contact details</i> for <del>personal</del> electioneering or campaigning purposes."</p>	24 March 2023
13	Amend the title from "Nomination and Election Process for the Board of the College and its College Bodies By-law" to "Nomination and Election Process By-law". Add to clause 2.1 "they are not banned or disqualified from managing a corporation". Add to clause 2.3 "they agree to comply with the Candidate Code of Conduct By-law".	27 October 2023