



The Royal Australasian  
College of Physicians

ACN 000 039 047

# CONSTITUTION

Approved at the Annual General Meeting May 2007  
As amended at the AGM May 2008, May 2009, May 2012, May 2015, May 2016, ~~and~~ May 2017  
and [insert date].

145 Macquarie Street  
Sydney NSW 2000 Australia

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# CONSTITUTION

OF

## THE ROYAL AUSTRALASIAN COLLEGE OF PHYSICIANS (A Company Limited by Guarantee) ABN 90 270 343 237

### PREAMBLE

The College is a fellowship composed of specialist, and trainee specialist, medical practitioners drawn from Australia and New Zealand. They come together for their mutual benefit and companionship in a spirit of democracy and transparency with the objective of ensuring a high standard of medical care for the people of Australia and New Zealand.

### 1 OBJECTS

- 1.1 The objects of the College are, in Australia and New Zealand, and such other places as the Board thinks appropriate, to:
- 1.1.1 promote the highest quality health care and patient safety through education, training and assessment;
  - 1.1.2 educate and train future generations of physicians;
  - 1.1.3 maintain professional standards and ethics among physicians through continuing professional development and other activities;
  - 1.1.4 promote the study of the science and art of medicine;
  - 1.1.5 bring together physicians for their common benefit and for scientific discussions;
  - 1.1.6 increase the evidence and knowledge on which the practice of physicians is based through research and dissemination of new knowledge and innovation to the profession and the community;
  - 1.1.7 seek improved health for all people by developing and advocating health and social policy in partnership with health consumers and jurisdictions; and
  - 1.1.8 support and develop physicians as clinicians, public health practitioners, teachers and researchers.
- 1.2 In pursuit of the achievement of those objects, the College shall have all powers and functions necessary or desirable to the maximum extent permitted by law.

### 2 MEMBERSHIP OF THE COLLEGE

#### 2.1 Classes of membership

Membership of the College shall consist of the following classes of members:

- 2.1.1 Fellows;
- 2.1.2 Honorary Fellows;

- 2.1.3 Trainees; and
- 2.1.4 such other classes as specified in any By-laws for that purpose with such rights and privileges as set out in those By-laws.

## **2.2 Members of the College**

The membership of the College shall consist of such persons as are admitted as Fellows, Honorary Fellows or Trainees under clause 2.6 of this Constitution, or such other classes as specified in any By-laws.

## **2.3 Eligibility to be a member**

Except in the case of Honorary Fellows, no person shall be eligible to be a member of the College unless at the time of admission as a member:

- 2.3.1 he or she is a registered medical practitioner of Australia or of New Zealand or of another country or State approved by the Board for the purpose of this clause; or
- 2.3.2 he or she holds a medical qualification regarded as satisfactory by the Board.

## **2.4 Honorary Fellows**

Under clause 2.6 of this Constitution, the Board may from time to time admit as Honorary Fellows people of renown, distinguished members of the medical profession and other eminent persons, whether or not those eminent persons are members of the medical profession, on such basis and on such conditions as set out in any By-laws.

## **2.5 Trainees**

- 2.5.1 Trainees admitted as members of the College are not Fellows.
- 2.5.2 When a Trainee is admitted to Fellowship of the College, he or she will cease to be a Trainee member.
- 2.5.3 Unless the Board otherwise determines, Trainees are not entitled to use any post nominal or nomenclature associated with membership of the College.

## **2.6 Admission to membership**

- 2.6.1 The Board may admit an eligible and qualified person to be a Fellow, Honorary Fellow, Trainee or other member of any Division, Faculty or Chapter of the College on the recommendation of the relevant Division, Faculty or Chapter.
- 2.6.2 Except in the case of an Honorary Fellow, the admission to membership of any person shall not be of effect unless that person has paid any fee or subscription payable.

## **2.7 Names to be entered in the College Register**

The Secretary shall enter the name of any person admitted to membership of the College in the College Register.

### **3 MEMBERSHIP SUBSCRIPTIONS**

- 3.1** The Board, if it believes there is a good and compelling reason for doing so, may determine different rates of annual subscription for members within the same class of membership. The entrance fee and annual subscription payable by members of the College shall be of such amount and at such time as the Board from time to time prescribes.

### **4 CESSATION OF MEMBERSHIP**

#### **4.1 Automatic termination of membership**

4.1.1 A member shall automatically cease to be a member:

- (a) if he or she resigns in writing;
- (b) if his or her registration as a medical practitioner of Australia or of New Zealand or of some other country or State is suspended or terminated by the relevant medical registration authority, on the grounds of malpractice, misconduct, unethical behaviour or similar grounds;
- (c) in the case of a Trainee, if he or she ceases to be a Trainee but does not become a Fellow; or
- (d) if he or she fails to pay the annual subscription or other moneys payable to the College within 12 months after the due date for payment. (This does not apply to a Trainee who is on approved leave from their training or who has suspended their training, with the approval of the relevant College Body).

#### **4.2 Termination or suspension of membership by resolution of Board**

4.2.1 Subject to this Constitution, the Board may at any time terminate, or suspend for a period (and with any conditions that the Board determines), the membership of a member if the member:

- (a) ceases to be eligible for admission to membership of the College;
- (b) refuses or neglects to comply with the provisions of this Constitution or any applicable By-law made by the Board;
- (c) has any condition or restriction imposed on his or her right to practise by a relevant medical registration authority;
- (d) is found guilty by a court of an indictable offence; or
- (e) is found by Board Special Resolution to have conducted him or herself or practised in a manner that is prejudicial to the interests of the College or unbecoming of a member of the College.

4.2.2 For the purposes of this clause 4, a member shall not be deemed to have ceased to be eligible for membership by reason of the fact that the member has retired from practice as a physician or paediatrician, or because the member is unable to meet the requirements for registration due to poor health.

4.2.3 A decision of the Board under clause 4.2.1(a)-(e) is not effective unless:

- (a) the Secretary has given the member concerned a notice of the resolution to be considered by the Board and a copy of any business papers circulated to Directors about the resolution not less than 14 days before the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;
- (b) the member has been invited and permitted to attend that part of the meeting of the Board at which the resolution is considered and permitted to make submissions to the meeting in writing and orally;
- (c) the member is given an opportunity to respond to any matters raised in the meeting. The Board may ask the member to leave the meeting during its deliberations once submissions from all interested parties are complete; and
- (d) notice of the decision of the Board is given promptly to the member.

4.2.4 A decision under clause 4.2.3 may be subject to appeal under By-laws relating to appeals made for that purpose.

### **4.3 Name to be removed from College Register**

The name of any person ceasing to be a member of the College shall be removed from the College Register.

### **4.4 Consequence of termination or suspension of membership**

4.4.1 Any person whose membership of the College is terminated for any reason in accordance with this Constitution:

- (a) shall cease to be entitled to any of the rights and privileges of a member;
- (b) may be required by the Board to return his or her membership certificate(s) to the Secretary of the College within 14 days of receiving notice of the termination of the member's membership of the College; and
- (c) must not represent that he or she is a member of the College or use the post-nominal "FRACP" or other post-nominal or nomenclature of the College which may be applicable.

4.4.2 The Board may give notice or publish to the public generally or to any professional body or organisation the fact that any such person has been terminated as a member of the College.

4.4.3 Any Office Holder whose membership of the College is suspended for any reason in accordance with this Constitution is suspended from each and any office that he or she holds in the College until such time as the suspension is revoked.

### **4.5 Continuing obligations**

4.5.1 Termination of membership for any reason does not affect the liabilities and obligations of a member existing at the date of termination.

4.5.2 Without limiting clause 4.5.1, termination of membership does not relieve a member from any obligation to pay any membership subscriptions payable on or before the date of termination.

#### **4.6 Re-admission to membership**

4.6.1 Unless the Board otherwise determines, no former member of the College is eligible for re-admission until all arrears of subscriptions, if any, due to the College at the date when his or her former membership ceased are paid.

4.6.2 A person whose membership is terminated under clause 4.1.1 or 4.2.1, may apply for re-admission. A former member may be re-admitted to membership by resolution of the Board, subject to any conditions imposed by Board.

4.6.3 The Board may delegate to any College Body as it so determines, the approval of the re-admission to Membership of a former Member.

### **5 GENERAL MEETINGS OF THE COLLEGE**

#### **5.1 Annual General Meeting**

5.1.1 All meetings of members are general meetings. One general meeting each year shall be the Annual General Meeting.

5.1.2 An Annual General Meeting of the members must be held before the end of November in each year.

5.1.3 Subject to clause 5.1.2, the Board shall determine the time and [\(if applicable\)](#) the place of the Annual General Meeting.

#### **5.2 Calling meetings of members**

[5.2.1](#) The Board may call a general meeting of members [and may determine that the meeting be held:](#)

[\(a\) at one or more physical venues;](#)

[\(b\) at one or more physical venues and as a Virtual Meeting; or](#)

[\(a\)\(c\) as a Virtual Meeting only.](#)

5.2.2 The Board must call a general meeting of the College as required under the Act or if the College receives a written request from the lesser of:

(a) at least 5% of members who are entitled to vote at the general meeting; or

(b) at least ~~400~~[250](#) members who are entitled to vote at the general meeting,

and the written request:

(c) states the resolutions to be proposed at the general meeting; and

(d) is signed by all the members making the request.

- 5.2.3 If members requisition a general meeting under clause 5.2.2,
- (a) the Board must call the general meeting within 21 days after the request is given to the College; and
  - (b) the meeting must be held within two (2) calendar months after the request is given to the Board.
- 5.2.4 If the Board does not call a general meeting that was requisitioned by members under clause 5.2.3 within 21 days after the request is given to the College, then members with more than 50% of the votes of all the members who made the request under clause 5.2.2 may call and arrange to hold a general meeting.

### **5.3 Notice requirements**

- 5.3.1 At least 21 days notice must be given of a general meeting of members.
- 5.3.2 A notice of a general meeting of members must:
- (a) set out the place (if any), date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
  - (b) state the general nature of the meeting's business; and
  - (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
  - ~~(e)~~(d) if Virtual Meeting Technology is to be used to hold the general meeting, include sufficient information to allow the members to participate in the meeting by means of the technology; and
- ~~(d)~~(e) state:
- (1) that each member who is entitled to vote has a right to appoint a proxy; and
  - (2) that the proxy must be a member of the College.

## **6 PROCEDURE AT A GENERAL MEETING**

### **6.1 Annual General Meeting business**

The business of the Annual General Meeting shall be:

- 6.1.1 to receive and consider the Report of the Board;
- 6.1.2 to consider the annual financial reports, reports of the Office Holders and the auditor's report;
- 6.1.3 to consider any proposed alteration of the Constitution;
- 6.1.4 to declare the result of the election or appointment of members of the Board in place of those retiring;
- 6.1.5 to elect an auditor, if necessary; and



6.1.6 to transact any other business which ought to be transacted at an Annual General Meeting.

## **6.2 Quorum at a general meeting**

6.2.1 Business may not be transacted at a general meeting unless a quorum of members (determined under clause 6.2.2) is present at the time when the meeting proceeds to business and while business is being conducted.

6.2.2 Except as otherwise set out in clause 6.2.4, 20 members present in person or by proxy and entitled to vote at a general meeting is a quorum.

6.2.3 If a quorum is not present within 30 minutes of the time appointed for a general meeting, or a longer period allowed by the chair, the meeting shall stand adjourned to the same day in the next week at the same time and place (if any) or to another day and at another time and place (if any) determined by the chair.

6.2.4 At an adjourned meeting, if a quorum is not present within 15 minutes of the time appointed for the meeting, the members present and entitled to vote shall be a quorum and may transact the business for which the meeting was called.

~~6.2.5 Members may observe a meeting by electronic means permitted under the Act, but in order to vote, they will need to appoint a proxy in accordance with clause 6.7. A member, proxy, attorney or representative who attends a meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending and for the purposes of clause 6, any references to "present" are taken to be read subject to this clause 6.2.5.~~

## **6.3 Chair**

6.3.1 A general meeting shall be chaired by:

- (a) the President; or
- (b) if the President is absent or unable or unwilling to act, the President–Elect; or
- (c) if the President–Elect is absent or unable or unwilling to act, a Fellow elected by the members present and entitled to vote at the meeting.

Subject to this Constitution and the Act, the chair's ruling on all matters relating to the order of business and the procedure and conduct of a general meeting (including any poll or ballot) is final and no motion of dissent from a ruling of the chair may be moved.

## **6.4 Adjournment of meetings**

6.4.1 The chair may, with the consent of any meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting to another time and to another place (if any).

6.4.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

6.4.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

## **6.5 Voting**

6.5.1 Subject to clause 6.6.1, at a general meeting a resolution put to the vote of the meeting is decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded.

6.5.2 Subject to this Constitution, every member entitled to vote and present in person has one vote on a show of hands and every member entitled to vote and present in person or by proxy has one vote on a poll.

6.5.3 If there is an equality of votes, whether on a show of hands or on a poll, the chair has a casting vote in addition to the chair's deliberative vote.

6.5.4 An objection to the qualification of a voter must be referred to the chair who must rule on the objection before a vote is taken.

6.5.5 Subject to clause 6.6.1, if a poll is not duly demanded, a declaration by the chair that on a show of hands a resolution has been carried or carried unanimously or by a particular majority or lost and an entry to that effect is made in the minutes of the general meeting of members is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

6.5.6 Honorary Fellows are not entitled to vote.

6.5.7 A failure by the chair to exclude from voting a person who is not entitled to vote shall not invalidate the meeting, nor any proceedings at it.

## **6.6 Conduct of a poll**

6.6.1 If Virtual Meeting Technology is used in holding the meeting, any resolution at that meeting must be conducted by a poll.

~~6.6.16.6.2~~ A poll may not Subject to clause 6.6.1, a poll may not be taken on the election of a chair or on a question of adjournment.

~~6.6.26.6.3~~ A poll may be demanded by:

- (a) the chair; or
- (b) any five members present in person or by proxy entitled to vote.

The demand for a poll may be withdrawn.

~~6.6.36.6.4~~ The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which the poll is demanded.

6.6.5 If a poll is duly demanded or is otherwise required, it must be taken in the manner and at such time as the chair directs. The result of the poll is the resolution of the meeting on the question concerned.

## **6.7 Proxies**

6.7.1 An electronic process, online service or document (which for the purposes of this Constitution includes a power of attorney of a member appointing

another member to vote on the first mentioned member's behalf) appointing a proxy may be in the form contemplated by or issued with the notice of the meeting or in a common or usual form approved by the Board.

- 6.7.2 Only a member may be appointed as a proxy, and that member must be **physically** present at the meeting in which he or she is acting as a proxy.
- 6.7.3 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where any document so provides, the proxy is not entitled to vote on the resolution other than as specified in the document.
- 6.7.4 An electronic process or online service appointing a proxy may specify the manner in which the chair is to vote in respect of a particular resolution and, where the electronic process or online service so provides, the chair is not entitled to vote on the resolution other than as specified through the electronic process or online service.
- 6.7.5 Any document appointing a proxy and any power of attorney or other authority under which the proxy is signed (or a copy of that power or authority certified to be a true copy by a legal practitioner or justice of the peace) must be given (and may be given by facsimile or other electronic means) to the Secretary at the Office, or at another place specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting.
- 6.7.6 Any electronic process or online service appointing a proxy must be submitted or completed in accordance with any instructions given in the notice of meeting not less than 48 hours before the time for holding the meeting or adjourned meeting.
- 6.7.7 A vote given in accordance with the terms of a document or electronic process or online service appointing a proxy is valid despite the occurrence of any one or more of the following events if no notice in writing of any of those events has been received by the Secretary at the Office before the commencement of the meeting or adjourned meeting at which the document is used:
- (a) the previous death or unsoundness of mind of the principal; or
  - (b) the revocation of the instrument or of the authority under which the instrument was executed; or
  - (c) the termination of membership of the member.

## **6.8 Direct voting**

- 6.8.1 The Directors may determine that at any general meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the College by post, fax or other electronic means approved by Directors. The Directors may prescribe rules and procedures to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.
- 6.8.2 A direct vote on a resolution at a meeting cast under clause 6.8.1 is of no effect and will be disregarded:

- (a) if, at the time of the resolution, the person who cast the direct vote:
  - (1) is not entitled to vote on the resolution; or
  - (2) would not be entitled to vote on the resolution if the person were present at the meeting at which the resolution is considered;
- (b) if, had the vote been cast in person at the meeting at which the resolution is considered:
  - (1) the vote would not be valid; or
  - (2) the College would be obliged to disregard the vote;
- (c) subject to any rules prescribed by the Directors, if the person who cast the direct vote is present in person at the meeting at the time the resolution is considered; and
- (d) if the direct vote was cast otherwise than in accordance with any rules and procedures prescribed by the Directors under clause 6.8.1.

6.8.3 Subject to any rules and procedures prescribed by the Directors, if the College receives a valid direct vote on a resolution under clauses 6.8.1 and 6.8.2 and, prior to, after or at the same time as receipt of the direct vote, the College receives an instrument appointing a proxy to vote on behalf of the same member on that resolution, the College may regard the direct vote as effective in respect of that resolution and disregard any vote cast by the proxy on the resolution at the meeting.

## **6.9 Postal or Electronic Poll**

- 6.9.1 In respect of any business which may be validly considered at a general meeting (including an Annual General Meeting) under this Constitution, the Board may (in lieu of a meeting) conduct a Postal or Electronic Poll of members.
- 6.9.2 At least thirty days before the closing date of a Postal or Electronic Poll, the Secretary shall send to all members entitled to vote ballot papers, giving particulars of the business in relation to which the Postal or Electronic Poll is conducted, an explanation of the method of voting and a voting form (all in a form and with such content as the Board may approve) and shall give all members notice of the closing date of the Postal or Electronic Poll.
- 6.9.3 The Secretary shall receive all voting forms by post or electronic means from members in respect of a Postal or Electronic Poll and shall promptly advise the Board of the result of the Postal or Electronic Poll. Any voting form received after 5pm on the closing date of a Postal or Electronic Poll shall be deemed invalid and not counted.
- 6.9.4 In the event of an equal number of votes in respect of any business for which a Postal or Electronic Poll is conducted, the President shall have a second or casting vote.
- 6.9.5 In all other respects, subject to this Constitution, the Board shall determine any other procedures or matters in relation to the conduct of any Postal or Electronic Poll and shall have power to make By-laws for that purpose.

- 6.9.6 In the event of any dispute by any member in relation to the validity or conduct of any Postal or Electronic Poll, such member shall within 30 days of the closing date of such Postal or Electronic Poll, give notice in writing to the Board stating the grounds of his or her complaint. The Board may thereupon either itself investigate the complaint or may appoint a committee for that purpose. After hearing the complaint the Board shall determine the matter and its decision thereon shall be final.

## **7 ROLE OF THE BOARD**

### **7.1 Board to govern the College**

The management and control of the business and affairs of the College shall be vested in the Board. The Board may exercise all such powers and do all such acts and things as the College is authorised to exercise and do.

Without limiting the above, the Board shall have power to:

- 7.1.1 encourage and support the educational aims of the College;
- 7.1.2 encourage and support by all means in its power the promotion of health research;
- 7.1.3 further the objects of the College in such a way as to benefit the public generally;
- 7.1.4 promote ethical and responsible decision making at all levels of the College, and in its dealings with external agencies and the community;
- 7.1.5 establish such Divisions, Faculties, Chapters, committees, branches and agencies in Australia and/or New Zealand, and to make such By-laws for their management and to delegate to each of them and their respective committees such powers, rights and obligations (and to remove or add to such powers rights and obligations) and to close and discontinue the same as the Board may from time to time think fit and determine;
- 7.1.6 publish information about criteria for admission to training courses, curricula, pathways to achieving Fellowship, and the nature of the training and continuing professional development programs offered by the College; and
- 7.1.7 regulate admission and assessment of candidates to the training programs offered by the College, and issue qualifications to successful candidates as prescribed by the By-laws of the College.

### **7.2 Board accountability and responsibility**

The Board shall:

- 7.2.1 approve and review the strategy and planning of the College, including any related approvals or reviews;
- 7.2.2 oversee the Board election process;
- 7.2.3 oversee the management of the College, and in accordance with clause 14.1, appoint the Chief Executive Officer;
- 7.2.4 oversee the College's relationship with its members;

- 7.2.5 organise and approve the financial reporting and auditing of the College, including review of any significant audit and compliance issues identified;
- 7.2.6 monitor the performance of the College, including approving performance indicators and reviewing reports;
- 7.2.7 oversee management and compliance, including review of risks, risk management strategies and the management of the College's brand;
- 7.2.8 oversee the capital management of the College, including approving the annual budgets, other major capital expenditure commitments and the entry into other financial arrangements;
- 7.2.9 determine and approve any Board policies and delegated authorities; and
- 7.2.10 appoint, remove and suspend Office Holders and members in accordance with this Constitution from time to time.

### **7.3 Power to delegate**

- 7.3.1 The Board may delegate any of its powers (other than that of delegation) to the Chief Executive Officer or to committees comprising persons appointed by the Board.
- 7.3.2 The Board may revoke any delegation of its powers by ordinary resolution.
- 7.3.3 The Chief Executive Officer or any committee exercising the delegated power of the Board shall comply with any conditions or limitations imposed by the Board.
- 7.3.4 The responsibility for the day to day management and administration of the College will be delegated by the Board to the Chief Executive Officer assisted by staff of the College. The Chief Executive Officer will manage the College in accordance with the strategy, plans and delegations approved by the Board, and is accountable to the Board for the authority delegated and the performance of the College.

### **7.4 By-laws**

- 7.4.1 The Board shall have power from time to time to make, amend and repeal such By-laws as it deems necessary or desirable for the proper conduct and management of the College.
- 7.4.2 Without in any way limiting the power of the Board under clause 7.4.1, the Board may make, amend and repeal By-laws in relation to:
  - (a) procedural matters in relation to application for all classes of membership of the College;
  - (b) entrance fees, annual subscriptions and other fees payable by all classes of membership of the College;
  - (c) rights and privileges to be accorded to all classes of membership of the College;
  - (d) academic dress to be worn by Office Holders or other members of the College;

- (e) the establishment, regulation, administration and dissolution of Divisions, Faculties, Chapters or other organisations of members whether such organisations have a New Zealand and regional basis or otherwise and in relation to the Office Holders of such organisations;
- (f) the conduct of courses of training, study and assessments for admission to membership or admission to Fellowship or for other diplomas or certificates of the College or otherwise, including prescribing fees pertaining to such courses of study and assessments;
- (g) the nomination and election of Directors and Office Holders of the College;
- (h) the conduct of direct voting and Postal or Electronic Polls of members of the College;
- (i) the membership, purpose and proceedings of committees of the Board;
- (j) the terms and conditions for renewal of, continuation of and re-admission to Fellowship and any professional development requirements adopted by the Board;
- (k) the discipline of Fellows, Trainees and others on any terms as determined by the Board, including suspension, counselling, reprimand, termination or expulsion;
- (l) the regulation of elections and appointments to the Board and voting by post or electronically by Fellows and all matters incidental;
- (m) all such matters as may be lawfully and conveniently dealt with by By-laws.

7.4.3 No By-law shall be inconsistent with, nor shall it affect the repeal or modification of, anything contained in this Constitution.

7.4.4 The By-laws shall be binding upon all members.

## **7.5 Representations on behalf of the College**

7.5.1 The President or the Board may authorise any College Body or individual to represent the College before any government or governmental body or committee or to make statements or express views on behalf of the College. The authority may be given generally or for a specific situation and may be given on such conditions as the President or Board thinks fit.

7.5.2 Unless duly authorised to do so under this clause, no member may make any statement or express any view which purports to be a statement or view of the College or as having been made or expressed on behalf of or with the concurrence of the College.

## **8 DIRECTORS**

### **~~8.1 Composition of Board — up to the conclusion of the 2018 Annual General Meeting~~**

~~Up to the conclusion of the 2018 Annual General Meeting, the Board shall consist of:~~

- ~~8.1.1 — the President;~~
- ~~8.1.2 — the President-Elect;~~
- ~~8.1.3 — four Fellows appointed by the Adult Medicine Division;~~
- ~~8.1.4 — two Fellows appointed by the Paediatrics and Child Health Division;~~
- ~~8.1.5 — one Fellow appointed by each Faculty of the College;~~
- ~~8.1.6 — two Trainees appointed by the College Trainees' Committee (established by the Board);~~
- ~~8.1.7 — the President of the New Zealand Committee and one other Fellow (both resident in New Zealand) appointed by the New Zealand Committee;~~
- ~~8.1.8 — up to three other persons, appointed by the Board, to add specific skills, experience or attributes for such periods as the Board may determine; and~~
- ~~8.1.9 — the Honorary Treasurer, being a person appointed by the Board.~~

~~No College Body may appoint a person to the Board who is ineligible to be a Director under the Act.~~

~~The President-Elect shall be elected in accordance with clause 8.2. Each of the other Directors shall be appointed in accordance with the provisions of this Constitution and By-laws made by the Board for that purpose.~~

### **8.1A Composition of Board —~~on and from the conclusion of the 2018 Annual General Meeting~~**

- 8.1A.1 ~~On and from the conclusion of the 2018 Annual General Meeting,~~ The Board shall consist of up to 10 Directors comprising:
  - (a) the President;
  - (b) the President-Elect;
  - (c) the President of the New Zealand Committee;
  - (d) one Trainee Director;
  - (e) up to three Member Directors; and
  - (f) up to three other persons appointed as Appointed Directors by the Board.
- 8.1A.2 No person may be appointed or elected to, or remain on, the Board who is ineligible to be a Director under the Act.
- 8.1A.3 The Board shall appoint any one of the Directors, who is not the President or the President-Elect, as Honorary Treasurer.

### **8.2 Election of the President-Elect**

- 8.2.1 Nominees for the position of President-Elect must be Fellows of the College.



- 8.2.2 If there are two or more candidates for the position of President-Elect, a ballot paper shall be printed containing the names of the candidates nominated. The order of the candidates will be determined by the Secretary drawing names out of a hat.
- 8.2.3 The ballot paper shall be sent to each member at least 60 days before the Annual General Meeting. Ballot papers are to be received by the College from members by post or electronic means not later than 30 days prior to the Annual General Meeting. Any votes received after that date shall be deemed to be invalid and not counted.
- 8.2.4 Nominations for candidates for election as President-Elect shall be signed by two members and contain a consent to act signed by the person nominated, and shall be left with, or posted or transmitted to, the College at least 80 days before the Annual General Meeting.
- 8.2.5 If there is only one candidate for election as President-Elect, that candidate shall be declared duly elected at the Annual General Meeting.
- 8.2.6 At the Annual General Meeting the poll for the election of the President-Elect shall be declared. In the event of two or more candidates receiving an equal number of votes, then the priority between those candidates shall be determined by lot.

### **8.3 Term of office of the President**

- 8.3.1 The President shall hold office until the end of the second Annual General Meeting after the Annual General Meeting at which he or she became the President. At the end of that Annual General Meeting, the President-Elect shall become President.
- 8.3.2 If the President-Elect is unwilling or unable to assume the role of President at this time, the Board will determine whether to appoint an interim President, or to hold a new election for the office of President-Elect. In exercising its power under this clause, the Board has discretion to:
- (a) appoint an interim President for up to 12 months (including, notwithstanding clause 8.3.1, the incumbent President); and/or
  - (b) appoint the newly elected President-Elect to the office of President (notwithstanding the fact that they have not completed their term as President-Elect).

### **8.4 Term of office of Directors**

- 8.4.1 Subject to clauses 8.3.2(b), ~~8.7B~~, 8.8 and 8.9, the term of office of the President-Elect and the Directors elected in accordance with clause 8.6 (Member Directors and Trainee Directors) and appointed in accordance with clause 8.67A (Appointed Directors), shall:
- (a) begin at the end of the Annual General Meeting in the year of their election or appointment; and
  - (b) end:
    - (1) in the case of the President-Elect, the President of the New Zealand Committee and the Trainee Director at the end of the second Annual General Meeting;

- (2) in the case of each Member Director, at the end of the third Annual General Meeting, and
- (3) in the case of each Appointed Director, at the end of the third Annual General Meeting,

held after that election or appointment, provided that any retiring Director shall be eligible for re-appointment, election or re-election subject to 8.4.2.

8.4.2 The maximum number of consecutive terms a Director (other than the President, President-Elect or President of the New Zealand Committee) may serve are as set out below:

- (a) a person shall not serve more than one term as Trainee Director, however, the Trainee Director may be eligible for election as a Member Director or President-Elect or appointment as an Appointed Director at the end of their term;
- (b) a member shall not serve more than two consecutive terms as a Member Director unless a period of at least two years has passed during which they did not act as a Member Director, however, the member is still eligible for election as President-Elect at the end two terms as a Member Director;
- (c) a person shall not serve more than two consecutive terms as an Appointed Director; and
- (d) the President may hold office as a Director two years after he or she has ceased to be the President.

8.4.3 If a Director ceases to hold office and is not immediately re-elected or reappointed they will not be eligible to serve as a Director for two years from the date they ceased to be a Director.

8.4.4 A retiring Director shall be entitled to act as a member of the Board at the meeting at which he/she retires.

## **8.5 Eligibility to stand for election and re-election**

Subject to clause 8.2, 8.4.2 and 8.4.3, a person is only eligible for election, re-election or appointment as a Director:

- (a) if the person is a Member Director eligible for re-election as a Member Director;
- (b) in the case of a candidate for election as a Trainee Director or Member Director, if a nomination for that candidate has been signed by two members and contains a consent to act as a Director signed by the person nominated, and shall be left with, or posted or transmitted to, the College at least 80 days before the next Annual General Meeting; and
- (c) in any other case, if they have given their consent to act as a Director to the College.

## 8.6 Election of Member Directors

- 8.6.1 Subject to the provisions of this Constitution up to three members may hold office at any one time as Member Directors to be elected or re-elected in accordance with the process set out in this clause 8.6.
- 8.6.2 If there is a vacancy, or will be a vacancy following the next Annual General Meeting in the office of Member Director, members may be nominated for the office of Member Director. Nominations must be signed by two members and contain a consent to act signed by the person nominated, and must be left with, or posted or transmitted to, the College at least 80 days before the next Annual General Meeting.
- 8.6.3 If the number of candidates for the position of Member Director is equal to or less than the number of vacancies in those offices, the candidates shall be declared duly appointed at the Annual General Meeting and clauses 8.6.4 to 8.6.6 will not apply.
- 8.6.4 If there are more candidates for the position of Member Director than there are vacancies for that position, a ballot paper must be printed containing the names of the candidates nominated for each position. The order of the candidates will be determined by the Secretary by lot.
- 8.6.5 The ballot paper shall be sent (whether by post or electronic means) to each member at least 60 days before the Annual General Meeting. Ballot papers are to be received by the College from members by post or electronic means not later than 30 days prior to the Annual General Meeting. Any votes received after that date are invalid and will not be counted.
- 8.6.6 At the Annual General Meeting, the ballot for the election of members to fill the vacant office or offices of Member Director, if any, shall be declared. The candidates elected shall be those receiving the highest number of votes based on the ballots received in accordance with clause 8.6.5. In the event of two or more candidates receiving an equal number of votes, then, to the extent necessary, the priority between those candidates shall be determined by lot.
- 8.6.7 For the purposes of this clause 8.6, the number of vacancies in the office of Member Director shall be as follows:
- (a) nil, if the number of Member Directors holding office at the conclusion of the next Annual General Meeting would be three if no election or re-election of Member Directors were held;
  - (b) one, if the number of Member Directors holding office at the conclusion of the next Annual General Meeting would be two if no election or re-election of Member Directors were held;
  - (c) two, if the number of Member Directors holding office at the conclusion of the next Annual General Meeting would be one if no election or re-election of Member Directors were held; and
  - (d) three, if there would be no Member Directors holding office at the conclusion of the next Annual General Meeting if no election or re-election of Member Directors were held.

## **8.7 Election of Trainee Director**

- 8.7.1 Subject to the provisions of this Constitution one Trainee or Dual Trainee (being a Trainee or Dual Trainee at the time of appointment) may hold office at any one time as the Trainee Director to be elected in accordance with the process set out in this clause 8.7
- 8.7.2 If there is a vacancy, or will be a vacancy following the next Annual General Meeting, in the office of Trainee Director, Trainees or Dual Trainees may be nominated for the office of Trainee Director. Nominations must be signed by two members and contain a consent to act signed by the person nominated, and shall be left with, or posted or transmitted to, the College at least 80 days before the next Annual General Meeting.
- 8.7.3 If there is only one candidate for the position of Trainee Director, the candidate shall be declared duly appointed at the Annual General Meeting and clauses 8.7.4 to 8.7.6 will not apply.
- 8.7.4 If there is more than one candidate for the position of Trainee Director, a ballot paper shall be printed containing the names of the candidates nominated for each position. The order of the candidates will be determined by the Secretary by lot.
- 8.7.5 The ballot paper shall be sent (whether by post or electronic means) to each member at least 60 days before the Annual General Meeting. Ballot papers are to be received by the College from members by post or electronic means not later than 30 days prior to the Annual General Meeting. Any votes received after that date shall be deemed to be invalid and not counted.
- 8.7.6 At the Annual General Meeting, the ballot for the election of a Trainee or Dual Trainee to fill the vacant office of Trainee Director, if any, shall be declared. The candidate elected shall be that candidate receiving the highest number of votes based on the ballots received in accordance with clause 8.7.5. In the event of two or more candidates receiving the equal highest number of votes, then, to the extent necessary, the priority between those candidates shall be determined by lot.
- 8.7.7 For the purposes of this clause 8.7 there will be a vacancy in the office of Trainee Director if there would be no Trainee Director holding office at the conclusion of the next Annual General Meeting if no election of a Trainee Director were held.

## **8.7A Appointment of Appointed Directors**

- 8.7A.1 In addition to any persons appointed under clause 8.10, the Board may appoint up to three persons, at any one time, as Appointed Directors.
- 8.7A.2 Appointed Directors do not need to be members of the College.

## ~~8.7B Commencement Provisions – 2018 Annual General Meeting~~

- ~~8.7B.1 Without limiting clauses 8.3 and 8.4 and any other provision of this Constitution or the arrangements by which the President of the New Zealand Committee is appointed and retires, each of the Directors holding office at the 2018 Annual General Meeting must cease to hold office on and from the conclusion of the 2018 Annual General Meeting, other than:~~

~~(a) the President-Elect; and~~

- ~~(b) if the President-Elect of the New Zealand Committee is a Director, the President-Elect of the New Zealand Committee.~~
- ~~8.7B.2 Subject to clause 8.7B.3, the term of office of those Member Directors whose election is declared at the 2018 Annual General Meeting as Member Directors under clause 8.6.6 will commence at the end of the 2018 Annual General Meeting and end:~~
- ~~(a) for those Member Directors elected, if any, who received the highest and second highest number of votes in favour of their respective elections, at the end of the 2021 Annual General Meeting; and~~
- ~~(b) for any other Member Director elected, at the end of the 2020 Annual General Meeting;~~
- ~~8.7B.3 If there is no election of Member Directors at the 2018 Annual General Meeting, the term of office of those Member Directors whose election is declared at the 2018 Annual General Meeting as Member Directors under clause 8.6.3 will commence at the end of the 2018 Annual General Meeting and end:~~
- ~~(a) if there are three Member Directors whose election is declared at the 2018 Annual General Meeting, for two of those Member Directors, as determined by lot, at the end of the 2021 Annual General Meeting and for the third, at the end of the 2020 Annual General Meeting; and~~
- ~~(b) if there are two or less Member Directors whose election is declared at the 2018 Annual General Meeting, at the end of the 2021 Annual General Meeting.~~

## **8.8 Removal of Directors**

- 8.8.1 A Director may be removed from office by ordinary resolution of a general meeting of the College.
- 8.8.2 If a Director is removed from office by ordinary resolution of a general meeting of the College, then:
- (a) if that Director is also an Office Holder, that office shall be declared vacant; and
- (b) unless the members have appointed a replacement Director at the meeting, the Board may appoint another person to fill the vacancy created in accordance with clause 8.10.
- 8.8.3 A Director who has been removed from office by ordinary resolution of a general meeting of the College is not eligible to be re-appointed or re-elected as a Director (or re-appointed as an Office Holder) for a period of 12 months from the date of removal.
- 8.8.4 For the avoidance of doubt a person will not cease to be a Trainee Director merely because they become a Fellow.

## **8.9 Vacancy of office of Directors**

The office of a Director becomes vacant if the Director:

- (a) resigns that office by notice in writing to the College;

- (b) except for an Appointed Director who was not a member of the College at the time of their appointment, ceases to be a member of the College;
- (c) is absent from three consecutive meetings of the Board (other than meetings of Board called on less than 48 hours' notice) without leave of absence;
- (d) becomes an employee of the College;
- (e) is directly or indirectly interested in any contract or proposed contract with the College and fails to declare that interest in the manner required by the Act (or at the first meeting of the Board after the relevant facts have come to the Director's knowledge) and the Board determines that the Director should no longer be a Director;
- (f) is removed from office under clause 8.8.1;
- (g) becomes bankrupt; or
- (h) is removed from office by operation of the Act.

#### **8.10 Casual vacancies**

- 8.10.1 A casual vacancy shall mean any vacancy in the membership of the Board, including any vacancy in the office of Appointed Director, caused otherwise than by the retirement of a Director at the end of his or her term.
- 8.10.2 A casual vacancy may arise for any position which requires residency in New Zealand in accordance with any By-law made for this purpose.
- 8.10.3 If the office of a Director becomes vacant during the Director's term of office that position may be filled by the Board as a casual vacancy, provided that the Board may only appoint:
  - (a) a member to fill a vacancy in the office of a Member Director; and
  - (b) a Trainee or Dual Trainee (at the time of appointment) to fill a vacancy in the office of a Trainee Director.
- 8.10.4 Any Director appointed under this clause 8.10 shall hold office only until the end of the next Annual General Meeting and shall be eligible for re-election or re-appointment as a Director in accordance with this Constitution.
- 8.10.5 For the purposes of clause 8.4, the period of time served under clause 8.10.4 shall not be counted as a term or period of office.

#### **8.11 Termination or Suspension of Office Holder**

- 8.11.1 If the Board resolves by Board Special Resolution that an Office Holder has:
  - (a) conducted himself or herself in a manner that is prejudicial to the interests of the College or unbecoming of a member of the College (whether or not that conduct occurred whilst the person was acting in their capacity as an Office Holder); or

- (b) is unable to fully perform the functions of that office (including due to poor health, or other reason),

then the Board may, by Board Special Resolution:

- (1) terminate (or suspend for a period and with any conditions as the Board determines) that Office Holder from each or any office that he or she holds in the College; and
- (2) determine a period during which that person shall not be eligible to be re-appointed or re-elected to that office (or, if the Board so determines, any office) of the College. That period shall not exceed 6 months (in the case of suspension) and 12 months (in the case of termination).

This clause 8.11.1 does not apply to the President or the President-Elect.

8.11.2 An Office Holder may not be suspended from their office under clause 8.11.1, unless they are given particulars of the allegations supporting the resolution to be considered by the Board, and an opportunity to respond to the allegations in writing.

8.11.3 In the case of termination, a decision of the Board under clause 8.11.1 is not effective unless:

- (a) the Secretary has given the Office Holder concerned a notice of the resolution to be considered by the Board and a copy of any business papers circulated to Directors about the resolution not less than 14 days before the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;
- (b) the Office Holder has been invited and permitted to attend that part of the meeting of the Board at which the resolution is considered and permitted to make submissions to the meeting in writing and orally;
- (c) the Office Holder is given an opportunity to respond to any matters raised in the meeting. The Board may ask the Office Holder to leave the meeting during its deliberations once submissions from all interested parties are complete; and
- (d) notice of the decision of the Board is given promptly to the Office Holder.

## **9 MEETINGS OF THE BOARD**

### **9.1 Meetings**

9.1.1 The Board may meet for the transaction of business and adjourn and otherwise regulate its meetings as it thinks fit.

9.1.2 The Secretary must convene a meeting of the Board on the requisition of the President or any two Directors.

## **9.2 Notice of Board meetings**

- 9.2.1 At least 24 hours' notice of a meeting of the Board must be given to each Director specifying the place, time and date of the meeting and the general nature of items to be discussed.
- 9.2.2 Shorter notice may be given if at least 75% of the Directors agree or if the President considers that the business of the meeting is urgent.

## **9.3 Quorum**

- 9.3.1 The quorum necessary for the transaction of the business of the Board is one half of the total membership of the Board (including members who are present at the meeting either in person, or by electronic means approved by the Board) and are not disqualified from voting, unless the Board resolves that a greater number shall constitute a quorum.
- 9.3.2 If at any time the number of Directors present (and not disqualified from voting) is less than a quorum the Board may meet only for the purpose of filling any casual vacancies or for calling a general meeting of members.
- 9.3.3 The Board may act notwithstanding any vacancy on the Board.

## **9.4 Chair**

- 9.4.1 The President shall take the chair at all meetings of the Board (or in the absence of the President, the President-Elect shall chair).
- 9.4.2 If the President or President-Elect are not present at any meeting of Board within fifteen minutes after the time appointed for holding the meeting the Directors present shall elect a Director present to be chair of the meeting.

## **9.5 Voting**

- 9.5.1 Questions arising at a meeting of the Board shall be decided by a majority of votes of Directors present and voting. A decision by a majority of the Directors present and voting is for all purposes a decision of the Board.
- 9.5.2 The chair of the meeting has a casting vote in addition to a deliberative vote where there is an equality of votes.

## **9.6 Written resolution**

- 9.6.1 A written resolution signed or approved by electronic mail by 75% of all Directors (other than any Director on leave of absence or otherwise disqualified from voting) is taken to be a decision of the Directors passed at a meeting of the Directors duly convened and held.
- 9.6.2 The written resolution may consist of:
- (a) several documents in like form, each signed by one or more Directors and, if so signed, takes effect on the last date on which a Director signs one of the documents; or
  - (b) the printed record of several electronic mail messages each indicating the identity of the sender, the text of the resolution and the sender's agreement or disagreement to the resolution, as the



case may be, and such a resolution takes effect on the date on which the last Director sends such a message.

#### **9.7 Telephone or video conference meetings**

A meeting of the Board may be held with one or more of the Directors taking part by telephone or other means of audio or audio-visual communication and when each of the Directors participating in the communication is able to read the written contributions or hear each of the other participating Directors. A meeting of the Board may only be held in this manner where all of the Directors (other than any Director on leave of absence) have access to the communication facilities to be used for the meeting.

#### **9.8 Defects in appointment or qualification of a Director**

All acts done in good faith by a meeting of the Board or of a committee of the Board or by any person acting as an Office Holder, Director or committee member of the College will be valid and effective notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person or that the person was disqualified from acting for any reason.

#### **9.9 Director's interest**

Each Director must:

- 9.9.1 disclose to the Board any actual or potential conflicts of interest which may exist, or be thought to exist in relation to the affairs of the College, as soon as he or she becomes aware of the issue; and
- 9.9.2 comply with the provisions of the Act on disclosing interests and restrictions on voting.

If a conflict or potential conflict situation exists, the conflicted Director shall be absent from the meeting while the Board discusses the conflict, and decides on the level of involvement of the Director in the subsequent decision-making process.

#### **9.10 Participation by interested Director**

- 9.10.1 This clause applies if a Director has a material personal interest in a matter that is being considered at a Board meeting.
- 9.10.2 Subject to clause 9.10.5 the Director must not:
  - (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter.
- 9.10.3 The Director is not in breach of duty to the College merely because he or she does not act in relation to the matter.
- 9.10.4 The Board may vote on matters that relate to the Director's interest in the Director's absence.
- 9.10.5 The prohibition in clause 9.10.2 does not apply if:
  - (a) the Director does not have to disclose his or her material personal interest to the other Directors under the Act; or

- (b) Directors who do not have a material personal interest in the matter have passed a resolution that:
  - (1) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the College; and
  - (2) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

## **10 REMUNERATION**

### **10.1 Remuneration of Directors**

- 10.1.1 The income and property of the College must be applied solely towards the promotion of the objects of the College as set out in this Constitution. Subject to clause 10.1.2, no income or property of the College may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to any Board member.
- 10.1.2 Nothing in this clause prevents:
  - (a) the payment in good faith of:
    - (1) remuneration to any Director for services actually rendered to the College;
    - (2) an amount to any Director in return for any services actually rendered to the College or for goods supplied in the ordinary course of business;
    - (3) interest (at a rate not exceeding any rate which may at any time be fixed for the purpose of this clause by By-law but not exceeding the highest rate charged by trading banks carrying on business in Australia on overdraft accounts of less than \$100,000) on money borrowed from any Board member; or
    - (4) reasonable rent for premises let by any Board member; or
  - (b) the College from providing services or information to members on terms which are different from the terms under which services or information are provided to persons who are not members.
- 10.1.3 No remuneration or other benefit in money or money's worth shall be paid or given by the College to any Board member except:
  - (a) for the payment of out-of-pocket expenses incurred by the Board member in the performance of any duty as Board member, where the amount payable does not exceed any amount previously approved by the Board; or
  - (b) for payment for any service rendered to the College by the Board member in a professional or technical capacity, other than in the capacity of Board member, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and commercially would be reasonable payment for the service.
- 10.1.4 No Board member may be appointed to any salaried office of the College.

## **11 MINUTES OF MEETINGS**

### **11.1 Secretary to attend meetings**

Unless directed otherwise by the Board, the Secretary must attend all meetings of the Board and all general meetings of the College and must keep a record of the proceedings of those meetings.

### **11.2 Preparation, circulation and approval of minutes**

11.2.1 The Secretary must cause draft minutes of all meetings to be promptly circulated to all Directors for information and approval.

11.2.2 Subject to any objection, the chair of the meeting or the next such meeting must sign the minutes to certify that they are a true and correct record of the proceedings of the meeting.

## **12 COLLEGE COUNCILS, DIVISIONS, FACULTIES, CHAPTERS AND REGIONAL COMMITTEES**

### **12.1 Board may establish College Councils, Divisions, Faculties and Chapters**

Subject to clause 7.4, the Board may, by By-law, establish:

- (a) a College Council; and
- (b) an Adult Medicine Division and a Paediatrics and Child Health Division and such other Divisions, Faculties and Chapters,

on such basis, as the Board determines.

### **12.2 Board to establish Regional Committees**

The Board shall, by By-law, establish a committee for New Zealand and may appoint committees for such other regions (whether in Australia or other parts of the world) as the Board shall think fit, to carry out such duties as may be delegated to each committee by the Board.

## **13 BOARD COMMITTEES**

### **13.1 Operation of Board Committees**

13.1.1 The Board may delegate all or any of its functions, powers or discretions to committees comprising such persons as the Board determines.

13.1.2 Committees of the Board may be either standing committees or ad hoc committees.

13.1.3 The Board shall determine the powers and duties of each Board committee. Each committee shall in the exercise of its powers conform to any By-laws imposed on it by the Board.

13.1.4 Unless specifically provided in By-laws, a Board committee may not make any determination of policy for the College but may provide advice to the Board on any area falling within its jurisdiction to assist the Board.

13.1.5 Each committee shall make such reports and recommendations to the Board as the Board reasonably requires.

13.1.6 Subject to any By-law made under clause 13.1.3, each committee may meet, convene its meetings, adjourn and otherwise regulate its proceedings as it thinks fit.

13.1.7 The Board shall review the continuing need for each committee of the Board and the membership of each such committee at least every two (2) years.

## **13.2 Chair of Board Committees**

13.2.1 The chairs of Board committees shall be appointed by the Board.

13.2.2 The term of appointment of a chair shall be up to three (3) years and no member shall be appointed to chair the same committee for more than two (2) consecutive terms, unless the Board otherwise approves.

## **14 CHIEF EXECUTIVE OFFICER**

**14.1** The Board shall appoint a Chief Executive Officer for such term and at such remuneration and upon such conditions as it may think fit. The Chief Executive Officer may be removed by the Board. The Board shall have a process to periodically review the performance of the Chief Executive Officer.

**14.2** Subject to such rules as may from time to time be imposed on him or her by Board, the Chief Executive Officer shall be entitled to attend and speak at all meetings of the College, the Board and all College Bodies. However, the Chief Executive Officer cannot vote at such a meeting, except if he or she is entitled to vote in some other capacity.

## **15 SECRETARY**

**15.1** The Board shall appoint a Secretary for the purposes of the Act who shall be:

15.1.1 the Chief Executive Officer; or

15.1.2 a member or employee of the College appointed by the Board.

**15.2** The duties of the Secretary shall include:

15.2.1 ensure that due notice is given, agendas prepared and accurate minutes kept of all meetings of the College, its Board and committees;

15.2.2 cause copies of the minutes of all meetings to be forwarded to all members entitled to receive such minutes;

15.2.3 ensure the sending, receipt and proper filing of all correspondence;

15.2.4 issue notices of all resolutions, decisions and amendments to the Constitution;

15.2.5 notify the Directors and all members of committees of their election or appointment and issue notices of all meetings;

15.2.6 maintain all statutory registers including the College Register which shall record each member's name, home address, the date on which his or her membership commenced and the date on which membership ceased and any other information specified by the Board from time to time; and

15.2.7 file all statutory notices and returns.

## **16 THE SEAL**

### **16.1 Custody of seal**

The Secretary must provide for the safe custody of the seal.

### **16.2 Affixing the seal**

16.2.1 The seal may be used only by the authority of the Board or a duly authorised committee of the Board.

16.2.2 Every document to which the seal is affixed must be witnessed by two Directors, or witnessed by one Director and the Secretary.

### **16.3 Seal register**

16.3.1 The Secretary must maintain a seal register. The seal register may be maintained in electronic form.

16.3.2 Before affixing the seal to a document, the Secretary must enter in the seal register:

(a) a short title and description of the document; and

(b) the date of the resolution authorising the seal to be affixed.

16.3.3 Within 7 days of the affixing of the seal to a document, the Secretary must enter in the seal register:

(a) the date of the affixing of the seal; and

(b) the names of the two Directors or Director and Secretary who witnessed the affixing of the seal.

## **17 ACCOUNTS**

### **17.1 The College to keep accounts**

The Board must cause proper books of account to be kept in accordance with the Act.

### **17.2 Where accounts to be kept**

The books of account must be kept at the Office or, subject to the Act, at such other place or places as the Board thinks fit.

### **17.3 Accounts open for inspection**

The books of account must always be open for the inspection of Directors.

Subject to the Act, the Board may from time to time determine at what times and places and under what conditions the accounts and books of the College or any of them may be open for inspection by members.

#### **17.4 Annual accounts**

The Board must cause to be prepared, circulated to and laid before the members in general meeting such income and expenditure accounts, balance sheets, group accounts (if any) and reports as are from time to time required by the Act.

#### **17.5 New Zealand Accounts**

Where required by law, relevant income from the College's activities in New Zealand and donations or gifts received in New Zealand will be retained in a separate bank account in New Zealand and applied solely to the purposes for which they were intended and as permitted by law.

### **18 AUDIT**

Auditors of the College must be appointed and removed and their duties regulated in accordance with the Act.

### **19 NOTICES**

#### **19.1 Means of giving notices**

19.1.1 A notice under this Constitution must be given in writing and may be sent by:

(a) mail (postal service);

(b) facsimile; or

(c) electronic mail,

to the appropriate address or number of the addressee.

19.1.2 A Director, Secretary or other person authorised by the Board may give notices on behalf of the College. The signature on a notice given by the College may be written, photocopied, printed or stamped.

19.1.3 Notices given to the College must be marked for the attention of the Secretary.

#### **19.2 Address for service**

The address for service is:

19.2.1 in the case of a member or Director, the home address (or postal address, electronic mail address or facsimile number in the case of postal, electronic mail or facsimile dispatch) of the member or Director specified in the College Register; and

19.2.2 in the case of the College, the address (or any postal address, electronic mail address or facsimile number in the case of postal or electronic or facsimile dispatch) of the Office for the time being specified on the official stationery of the College.

#### **19.3 Notification of change of address**

19.3.1 If the home address, postal address, electronic mail address or facsimile number of a member changes, the member must promptly give notice of the change to the College.

19.3.2 The College must promptly notify members of any change in its address.

#### **19.4 Time notices are effective**

Except if a later time is specified in a clause dealing with a notice or other communication, a notice is to be regarded as given, served, received and as having come to the attention of the addressee:

19.4.1 if delivered to the home address of the addressee, at the time of delivery;

19.4.2 if it is sent by post to the home address or postal address:

(a) if the notice is notice of a meeting – on the first business day after sending;

(b) otherwise – on the third (or seventh if outside Australia) business day after sending,

(c) unless it is actually delivered earlier; or

19.4.3 if sent by electronic mail or facsimile to the electronic mail address or facsimile number of the addressee, at the time transmission is completed.

#### **19.5 Proof of giving notices**

19.5.1 Proof of the sending of a notice by facsimile and the time of completion of transmission may be established by production of a transmission report by the machine from which the facsimile or electronic transmission was sent which indicated that the facsimile or electronic mail was sent in its entirety to the facsimile number or electronic mail address of the addressee.

19.5.2 A certificate signed by a Director or Secretary that a notice was delivered or posted at a particular time is conclusive evidence that the notice was delivered or posted at the time.

19.5.3 A certificate signed by a Director or Secretary that a notice was sent by electronic mail at a particular time and that an “undeliverable mail” message has not been received in relation to it is conclusive evidence that the notice was sent and received at that time.

## **20 WINDING UP**

**20.1** Every member of the College undertakes to contribute to the assets of the College in the event of it being wound up while that member is a member, or within one year of that member ceasing to be a member, such amount as may be required not exceeding 50 dollars for the payment of the debts and liabilities of the College contracted before ceasing to be a member and to the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.

**20.2** Subject to clause 20.4, where, on the winding-up or dissolution of the College, there is a surplus of assets after satisfying all the College’s liabilities and expenses, the surplus shall not be paid to or distributed amongst the members but shall be given or transferred to some other institution having similar objects to those described in this Constitution situate within the Commonwealth of Australia and which:

20.2.1 is required by its Constitution to apply its profits or income in promoting its objects;

20.2.2 is prohibited from paying any profits or dividends to its members to the same extent as set out in this Constitution; and

20.2.3 itself, is exempt from income tax.

**20.3** That institution shall be determined by the Board before the dissolution of the College or failing such determination, by application to an appropriate Court.

**20.4** The Board shall:

20.4.1 Upon ceasing to conduct any business, operations and undertaking in or from New Zealand (whether upon the winding up or dissolution of the College or from any other reason whatsoever), ensure that any surplus property of the College used in the conduct of such business, operations or undertaking in or from New Zealand is, notwithstanding any provision in this Constitution to the contrary, given or transferred to one or more charitable objects in New Zealand.

20.4.2 Notify the New Zealand Inland Revenue Department of any proposed addition, alteration or amendment to this Constitution which may be inconsistent with the charitable nature of the business, operations or undertaking of the College conducted in or from New Zealand.

## **21 INDEMNITY**

**21.1** Every officer and past officer (as defined in the Act) of the College must be indemnified by the College to the fullest extent permitted by law against a liability incurred by that person as an officer of the College or a subsidiary of the College including legal costs and expenses incurred in participating in, being involved in or defending any legal proceedings. This indemnity does not extend to any liability incurred by the officer arising from any claim made by that officer against the College (whether that claim is made solely by the officer or otherwise).

**21.2** For the purposes of clause 21.1, “legal proceedings” means any claim, action, suit or demand, enquiry, Royal Commission or other regulatory investigations, whether civil or criminal, which relates to or arises in connection with the officer or agent being an officer or agent of the College.

## **22 LIABILITY INSURANCE**

To the extent permitted by the Act, the College may enter into (and pay premiums on) a contract of insurance in relation to a person who is or has been an officer or agent of the College or any other person.

## **23 INTERPRETATION**

### **23.1 References to the Act**

Unless the context otherwise requires, a reference to:

23.1.1 the Act includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; and

23.1.2 a section of the Act includes any corresponding section for the time being in force.



## 23.2 Application of the Act

Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

## 23.3 Headings

Headings do not affect the interpretation of this Constitution.

## 23.4 Replaceable Rules

The replaceable rules in the Act do not apply.

## 24 DEFINITIONS

In this Constitution:

“**Act**” means the *Corporations Act, 2001* (Cth).

“**Adult Medicine Division**” means the Division of the College established under clause 12.1 of this Constitution.

“**Annual General Meeting**” means the general meeting of the College required to be held annually under this Constitution and the Act.

“**Appointed Director**” means either:

- (a) a person who is appointed to the Board by the Board under clause 8.7A; or
- (b) a person appointed under clause 8.10.3 to fill a vacancy in the office of Member Director.

“**Adult Medicine Division**” means the Division of the College established under clause 14.1 of this Constitution.

“**Board**” means the Directors acting as the board of the College under this Constitution from time to time.

“**Board Special Resolution**” means a resolution of Directors which is approved by not less than two thirds of the Directors who are present, and who are not disqualified from voting on that resolution.

“**By-law**” means any by-law that the Board deems necessary or desirable for the proper conduct and management of the College.

“**College**” means The Royal Australasian College of Physicians and includes all College Bodies.

“**College Body**” means a Division, Faculty, Chapter or committee of the College.

“**College Register**” means the Register of members required to be kept under this Constitution and the Act.

“**College Trainees’ Committee**” means the committee established by the Board that is responsible for making recommendations to College Bodies regarding trainee matters and for the appointment, or nomination of Trainee representatives to College Bodies where required.

**“Director”** means each person elected or appointed as a director of the College under this Constitution from time to time.

**“Dual Trainee”** means a person who is already a Fellow and who is undertaking a program of training approved by the College in order to gain a further Fellowship of a Division, Faculty or Chapter of the College, and is admitted to membership of the College under clauses 2.3 and 2.6 of this Constitution.

**“Fellow”** means a person that is eligible and admitted to membership of the College as such under clauses 2.3 and 2.6 of this Constitution (and **“Fellowship”** means being a Fellow).

**“Honorary Fellow”** means a person of renown, distinguished member of the medical profession or other eminent person admitted to membership of the College by the Board under clause 2.6 of this Constitution.

**“Honorary Treasurer”** means a Director who is appointed to that position under clause ~~8.1~~ [8.1A-38.1.3](#) of this Constitution.

**“Member Director”** means either:

- (a) a member elected to the Board under clause 8.6; or
- (b) a member appointed under clause 8.10.3 to fill a vacancy in the office of Member Director.

**“New Zealand Committee”** means the committee established under clause 12.2 of this Constitution.

**“Office”** means the registered office for the time being of the College.

**“Office Holder”** means the President, President-Elect, New Zealand President and Honorary Treasurer of the College, or the President, member, chair, deputy chair, treasurer, secretary, or the holder of any other office of any College Body. The term does not include a Director when he or she is acting in that capacity.

**“Paediatrics and Child Health Division”** means the Division of the College established under clause 12.1 of this Constitution.

**“Postal or Electronic Poll”** is a poll in respect of business which may otherwise be validly considered at a general meeting of the College, which is held in lieu of a general meeting, and is conducted by post or electronic means in accordance with clause 6.8 of this Constitution.

**“President”** means the person who is appointed as such under this Constitution after completing their term as President-Elect, or a President appointed by the Board under clause 8.3.

**“President of the New Zealand Committee”** means the president of the New Zealand Committee, who must be resident in New Zealand and is appointed under the By-law of the New Zealand Committee.

**“President-Elect”** means the Fellow who is elected as such under clause 8.2 of this Constitution. **“Report”** means the annual report of the College.

**“Secretary”** means the company secretary of the College appointed by the Board under clause 15.1 and section 204D of the Act.

**“Trainee”** means a person who is undertaking a program of training approved by the College in order to gain Fellowship of a Division, Faculty or Chapter of the College, and admitted to

membership of the College as such under clauses 2.3 and 2.6 of this Constitution. The term does not include a Dual Trainee.

**“Trainee Director”** means either:

- (a) a person elected to the Board under clause 8.6.1(b); or
- (b) a person appointed under clause 8.10.3 to fill a vacancy in the office of Trainee Director.

**“Virtual Meeting”** means a meeting of members conducted using Virtual Meeting Technology.

**“Virtual Meeting Technology”** means any technology that allows members entitled to attend a meeting, as a whole, a reasonable opportunity to participate in the meeting without being physically present at the meeting.

## 25 EXISTING DIVISIONS, FACULTIES AND CHAPTERS

The Divisions, Faculties and Chapters of the College in existence upon adoption of this Constitution are as follows:

### 25.1 Divisions

- Adult Medicine Division
- Paediatrics & Child Health Division

### 25.2 Faculties

- Australasian Faculty of Public Health Medicine
- Australasian Faculty of Rehabilitation Medicine
- Australasian Faculty of Occupational and Environmental Medicine

### 25.3 Chapters

- Australasian Chapter of Palliative Medicine
- Australasian Chapter of Addiction Medicine
- Australasian Chapter of Sexual Health Medicine
- Chapter of Community Child Health