
Constitution Review and Proposed amendments – AGM October 2022

Background

The Board instigated an independent review of the governance and operations of the College in late 2021 to ensure the College had the correct structure and governance following the merger.

This review included consideration of organisational structure and reporting lines, Board governance and the Constitution. The review made several recommendations, including a recommendation to review a number of clauses in the Constitution, especially in light of the College making application for charity status with the Australian Charity and Not-for-Profit Commission.

Constitution Review Panel

The Board put out a call to members to nominate to sit on a Constitution Review Panel tasked with undertaking this work on behalf of the Board. The final Panel comprised:

- Michael Smith (former Director), chairperson
- Peter Jurkovsky (Fellow, former Board Chair and lawyer)
- Simone Haigh (Director)
- John Bruning (CEO), and
- Leesa Taylor (Corporate Services Manager)

The Board provided direction on several areas for consideration but gave the Panel scope to make recommendations against any clause in the Constitution. The work of the Panel is ongoing and continues across a handful of clauses (Objects, Director terms etc) but there are several proposed changes that the Board determined should be put to members at this AGM, to improve the governance of General Meetings and College business. Further proposed changes will be put to members in 2023.

Recommendations

The Board is proposing changes to following clauses with exact changes and reasoning provided below:

11. Cessation of Membership
12. Disciplining of Members
- 14.2 / 15. Convening / Notices of General Meetings
22. Direct Voting
30. Lodgement of Proxies
55. Services of Notices

The proposed changes were reviewed/drafted by Mills Oakley, the College's legal advisors, in order to ensure appropriate forms of words and consistency with relevant regulation.

Current	Proposed	Reasoning
<p>11 Cessation of Membership</p> <p>(a) A Member's Membership will cease:</p> <ul style="list-style-type: none"> (i) on the date that the Company receives written notice of resignation from that Member; (ii) upon that Member dying; (iii) upon that Member no longer satisfying the criteria for its respective class of Membership (unless transferred to another class of Membership by the Board); (iv) subject to clause 10(c), if that Member fails to pay an Entrance Fee or annual Subscription within three (3) months after it falls due; (v) if the Member is expelled from the Company pursuant to clause 12; (vi) if the Company in general meeting resolves by Special Resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least twenty one (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed. <p>(b) A Member may at any time, pursuant to clause 11(a)(i), resign as a Member but shall continue to be liable for:</p> <ul style="list-style-type: none"> (i) any monies due by the Member to the Company; (ii) any sum for which the Member is liable as a Member of the Company under clause 2(b). 	<p>11 Cessation or Suspension of Membership</p> <p>(a) A Member's Membership will cease:</p> <ul style="list-style-type: none"> (i) on the date that the Company receives written notice of resignation from that Member; (ii) upon that Member dying; (iii) upon that Member no longer satisfying the criteria for its respective class of Membership (unless transferred to another class of Membership by the Board); (iv) subject to clause 10(c), if that Member fails to pay an Entrance Fee or annual Subscription within three (3) months after it falls due; (v) subject to clauses 11(b) and 11(e), with regard to: <ul style="list-style-type: none"> (A) Full Members, if the Full Member's health profession registration is cancelled by the registering body in Australia or New Zealand, but only after a period of twenty-eight (28) days has passed since the health profession registration of the Member has been cancelled; and (B) other classes of Members: <ul style="list-style-type: none"> (1) if that Member holds health profession registration by the registered body in Australia or New Zealand; and (2) that Member's health profession registration is cancelled by the registration body in Australia or New Zealand, but only after a period of twenty-eight (28) days has passed since the health profession registration of the Member has been cancelled; (vi) if the Member is expelled from the Company pursuant to clause 12; (vii) if the Company in a general meeting resolves by Special Resolution to terminate the Membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continue to be a Member of the Company. The Member must be given at least <u>twenty-one</u> (21) days' notice of the proposed resolution and must be given the opportunity to be heard at the meeting at which the resolution is proposed. <p>(b) Despite clause 11(a)(v), a Member's Membership will be suspended, rather than cease, if:</p> <ul style="list-style-type: none"> (i) that Member's health profession registration is cancelled by the registration body in Australia or New Zealand; and (ii) that Member, within twenty-eight (28) days from when that Member's health profession registration is cancelled by the registration body in Australia or New Zealand, provides written notice to the Board pursuant to clause 11(e)(i). <p>(c) A Member may at any time, pursuant to clause 11(a)(i), resign as a Member but shall continue to be liable for:</p> <ul style="list-style-type: none"> (i) any monies due by the Member to the Company; (ii) any sum for which the Member is liable as a Member of the Company under clause 2(b). <p>(d) If:</p> <ul style="list-style-type: none"> (i) a Member holds health profession registration by the registration body in Australia or New Zealand; and (ii) that Member's health profession registration is suspended by the registration body in Australia or New Zealand. 	<p>With paramedic registration in operation in Australia and New Zealand, the Board thought it reasonable to use the cancellation or suspension of registration to direct the cancellation or suspension of College membership.</p> <p>The changes proposed to clause 11 allow for this to occur but give the member the ability make representation to the Board as to why their membership shouldn't be cancelled or suspended. The clauses also provide procedural fairness with an independent appeals process.</p> <p>The two registering bodies have considerably more power to investigate and take action against a paramedic for inappropriate behaviour or practice, and the Board proposes that if a member has their registration cancelled or suspended by the registering bodies then that should direct the Board in relation to action to cancel or suspend membership.</p> <p>The Board does not want a paramedic who is under investigation or has proven inappropriate behaviour or practice to be able to say they are a member, as those behaviours and actions will most likely have breached the profession's and College's code of conduct.</p>

upon suspension of that Member's health profession registration, by the registering body in Australia or New Zealand, that Member's Membership (including all rights attached to that Membership) will be suspended until such time as the registering body in Australia or New Zealand;

(iii) cancels the Member's health profession registration, which will result in the process pursuant to **clause 11(a)(v)**; or

(iv) reinstates the Member's health profession registration in full, at which time the Member's Membership will resume, subject to a break in Membership recorded during the period of suspension.

(e) Where a Member's health profession registration is cancelled, that Member shall have the right to make representations to the Board as to why their Membership should not cease. That Member may make such representations as follows:

(i) provide written notice to the Board, of the Member's desire to make such representations, within twenty-eight (28) days of receiving confirmation of the cancellation of the Member's health profession registration by the registration body in Australia or New Zealand. Such notice must include written representations as to why the Board should determine that the Membership of that Member should not cease;

(ii) upon receipt of written notice, pursuant to **clause 11(e)(i)**, the Board will discuss the matter at the next planned Board meeting, if the notice is received fourteen (14) days prior to the meeting, otherwise the matter will be heard at the following Board meeting;

(iii) at the Board meeting, the Board must:

(A) give the Member an opportunity to make verbal representations;

(B) give due consideration to any written representations submitted to the Board by the Member with the written notice, pursuant to **clause 11(e)(i)**; and

(C) following such steps, determine whether the Membership of the Member should cease, with the Membership of that Member only continuing by unanimous (not including the Member in question, if that Member is also a Director and is entitled to vote on the resolution) resolution of the Directors participating in that Board meeting.

(iv) If the Board, pursuant to **clause 11(e)(iii)(C)**, determines that the Membership of the Member:

(A) may continue, despite the requirements of **clauses 6.1(c)** and **7.3(a)(iii)**, the Membership of the Member may continue; and

(B) must cease, the Membership of the Member will cease effective immediately.

The Member has a right of appeal, pursuant to **clause 12.2**, with regard to the decision of the Board in **clause 11(e)(iv)(B)**.

Current	Proposed	Reasoning
<p>12 Disciplining of Members</p> <p>12.1 Disciplining of Members</p> <p>(a) Where the Board is of the opinion that a Member has:</p> <ul style="list-style-type: none"> (i) persistently refused or neglected to comply with a provision or provisions of this Constitution; or (ii) persistently and wilfully acted in a manner which is in breach of any code of conduct created by the Board may produce from time to time; or (iii) persistently and wilfully acted in a manner prejudicial to the interests of the Company; or (iv) persistently and wilfully acted in a manner prejudicial to the interests of the profession of Paramedicine; <p>the Board may:</p> <ul style="list-style-type: none"> (v) expel the Member from the Company; or (vi) suspend the Member from Membership of the Company for a specified period. <p>(d) At a meeting of the Board held as referred to in clause 12.1(c), the Board must:</p> <ul style="list-style-type: none"> (i) give the Member an opportunity to make verbal representations; (ii) give due consideration to any written representations submitted to the Board by the Member at or prior to the Board meeting; and (iii) by a resolution of at least seventy-five per cent (75%) of the Directors participating in the Board meeting, determine whether to confirm or to revoke the resolution. <p>12.2 Right of Appeal of Disciplined Member</p> <p>(g) Natural justice will be applied during every disciplinary process under clause 12, requiring the Board to act fairly, in good faith and without bias or conflict of interest when making its decision.</p>	<p>12 Disciplining of Members</p> <p>12.1 Disciplining of Members</p> <p>(a) Where the Board is of the opinion that a Member has:</p> <ul style="list-style-type: none"> (i) refused or neglected to comply with a provision or provisions of this Constitution; or (ii) acted in a manner which is in breach of any code of conduct created by the Board may produce from time to time; or (iii) acted in a manner prejudicial to the <u>image, interests, integrity, or welfare</u> of the Company <u>or the profession of Paramedicine</u>; <p>the Board may:</p> <ul style="list-style-type: none"> (iv) expel the Member from the Company; or (v) suspend the Member from Membership of the Company for a specified period. <p>(d) At a meeting of the Board held as referred to in clause 12.1(c), the Board must:</p> <ul style="list-style-type: none"> (i) give the Member an opportunity to make verbal representations; (ii) give due consideration to any written representations submitted to the Board by the Member at or prior to the Board meeting; and (iii) by a <u>unanimous (not including the Member in question, if that Member is also a Director and is entitled to vote in that resolution)</u> resolution of the Directors participating in the Board meeting, determine whether to confirm or to revoke the resolution. <p>12.2 Right of Appeal of Disciplined Member</p> <p>(g) <u>Procedural fairness</u> will be applied during every disciplinary process under clause 12, requiring the Board to act fairly, in good faith and without bias or conflict of interest when making its decision.</p>	<p>The review of the Disciplining of Members section of the Constitution found that the level of evidence required was restrictively high (persistent and wilful) for the Board to take action against a member for what many members would consider unacceptable behaviour that should warrant action. In the age of social media, there could be an action of a member which is wilful but not persistent, and could create considerable negative impact for the profession, with the Board unable to take action.</p> <p>A review of the constitutions of like organisations found broader wording to allow the Board to take action in these situations.</p> <p>The process still allows a member to make representation and be provided procedural fairness via an independent appeals process.</p>

Current	Proposed	Reasoning
<p>14 Convening of General Meetings</p> <p>14.2 Convening of General Meetings</p> <p>(a) A minimum of three (3) Directors may, whenever those Directors think fit, convene a general meeting of the Company.</p> <p>(b) The Members may call a general meeting, and the Company will do so, in accordance with the provisions of Part 2G.2 of the Corporations Act pertaining to the rights of Members to call a general meeting.</p> <p>(c) A general meeting of the Company may be convened at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.</p> <p>15 Notice of General Meeting</p> <p>(a) Subject to consent to shorter notice being given in accordance with the Corporations Act, at least twenty-one (21) days' notice of any general meeting must be given specifying:</p> <p>(i) the place, day and hour of the meeting;</p> <p>(ii) the general nature of any business to be transacted at the meeting;</p> <p>(iii) if a Special Resolution is to be proposed, the details of and intention to propose it;</p> <p>(iv) if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and</p> <p>(v) any other information required by the Corporations Act.</p>	<p>14 Convening of General Meetings</p> <p>14.2 Convening of General Meetings</p> <p>(a) A minimum of three (3) Directors may, whenever those Directors think fit, convene a general meeting of the Company.</p> <p>(b) The Members may call a general meeting, and the Company will do so, in accordance with the provisions of Part 2G.2 of the Corporations Act pertaining to the rights of Members to call a general meeting.</p> <p>(c) A general meeting of the Company may be convened <u>virtually</u> at two (2) or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting.</p> <p>15 Notice of General Meeting</p> <p>(a) Subject to consent to shorter notice being given in accordance with the Corporations Act, at least twenty-one (21) days' notice of any general meeting must be given specifying:</p> <p>(i) the place, day and hour of the meeting;</p> <p>(ii) the general nature of any business to be transacted at the meeting;</p> <p>(iii) if a Special Resolution is to be proposed, the details of and intention to propose it;</p> <p>if the meeting is to be held <u>virtually or</u> in two or more places, the technology that will be used to facilitate this; and</p> <p>(iv) any other information required by the Corporations Act.</p>	<p>During COVID, the Australian Securities and Investments Commission (ASIC) allowed organisations to run wholly virtual AGMs, but this allowance has since been removed. With a membership spread across Australia and New Zealand, the Board intends to always allow members to participate online, and allowing a wholly online / virtual AGM ensures there is never an issue with ensuring all members can engage with the General Meeting process.</p> <p>The addition of the word “virtually” ensures this is possible.</p>

Current	Proposed	Reasoning
<p>There is currently no capacity to allow direct voting</p>	<p>22 Direct voting</p> <p>(a) The Board will determine from time to time if Members are entitled to vote by a Direct Vote on a matter or a resolution. If the Board has determined that Members are entitled to vote by a Direct Vote, then the Members must do so using the form prescribed by the Board from time to time, which may include electronic means.</p> <p>(b) If sent by post, the Direct Vote must be signed by the Member or by a duly authorised officer or attorney.</p> <p>(c) If sent by electronic transmission, the Direct Vote is to be taken to have been signed if it has been signed or authorised by the Member in the manner approved by the Board.</p> <p>(d) The Direct Vote must be received by the Company at least forty-eight (48) hours before the time of the relevant general meeting in order to be valid.</p> <p>(e) A Direct Vote is valid if it contains the following information:</p> <p style="padding-left: 20px;">(i) the Member's name and address, or any applicable identifying notations such as the Member's identification number or similar approved by the Board or specified in the notice of meeting; and</p> <p style="padding-left: 20px;">(ii) the Member's voting intention on any or all of the resolutions to be put before the meeting.</p> <p>(f) A Direct Vote is valid unless the Company receives written notification changing the voting intention before the vote is cast.</p> <p>(g) The Chairperson's decision as to whether a Direct Vote is valid is conclusive.</p> <p>(h) A Member who has cast a Direct Vote is entitled to attend the meeting. The Member's attendance cancels the Direct Vote:</p> <p style="padding-left: 20px;">(i) unless the Member instructs the Company otherwise; or</p> <p style="padding-left: 20px;">(ii) the Board has determined that Direct Votes are the only method permitted for voting on a resolution.</p> <p>(i) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chairperson of the meeting must:</p> <p style="padding-left: 20px;">(i) on a vote by show of hands, count each Member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote; and</p> <p style="padding-left: 20px;">(ii) on a poll, count the votes cast by each Member who has submitted a Direct Vote directly for or against the resolution.</p> <p>4 Definitions and Interpretation</p> <p>4.1 Definitions</p> <p>Direct Vote means a vote cast pursuant to clause 22.</p>	<p>Direct voting allows the College to use an online voting platform for AGMs making it easier for members to participate in and vote on decisions of the College.</p> <p>Currently, the main mechanism to vote is via proxy forms in advance of a meeting or by attending the meeting. Introducing direct voting means members with voting rights can utilise an online voting platform to vote in advance and during AGMs, streamlining the voting process, providing greater probity, and improving member engagement with decisions of the Board and College.</p>

Current	Proposed	Reasoning
<p>30 Lodgement of Proxies</p> <p>(a) An instrument appointing:</p> <p>(i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or</p> <p>(ii) an attorney to exercise a Voting Member's rights at a general meeting or a certified copy of that power of attorney,</p> <p>must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than forty eight (48) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.</p> <p>(b) For the purposes of clause 30 it will be sufficient that any document required to be lodged by a Voting Member be received in legible form by email or other electronic transmission if the notice of meeting so permits, and the document is sent to the address and in the form specified in the notice, and the proxy shall be regarded as received at the time of the receipt of the email or other electronic transmission by the Company.</p>	<p>31 Lodgement of Proxies</p> <p>(a) An instrument appointing:</p> <p>(i) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or</p> <p>(ii) an attorney to exercise a Voting Member's rights at a general meeting or a certified copy of that power of attorney,</p> <p>must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting <u>by the Voting Member appointing the proxy</u>, not less than forty eight (48) hours (or such shorter period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote. In default, the instrument of proxy or the power of attorney will not be treated as valid.</p> <p>(b) For the purposes of clause 31 it will be sufficient that any document required to be lodged by a Voting Member be received in legible form by email or other electronic transmission if the notice of meeting so permits, and the document is sent to the address and in the form specified in the notice <u>by the Voting Member appointing the proxy</u>, and the proxy shall be regarded as received at the time of the receipt of the email or other electronic transmission by the Company.</p> <p>(c) <u>For the avoidance of any doubt, the instrument appointing a proxy must be lodged with the Company by the Voting Member who is appointing the proxy.</u></p> <p>Note: Due to the addition of 22. Direct voting above, means the numbering of subsequent clauses moved down one number. Hence Lodgement of Proxies was at 30 and would move to 31. Same applies to Services of Notices below.</p>	<p>Proxies are the main mechanism for members who can't attend a Meeting to vote on resolutions. Most are filled in manually and submitted electronically, usually by the Director candidate in bulk. Unfortunately, there are some limits to how certain we can be that a member has actually signed the proxy, as we do not have records of signatures.</p> <p>This therefore requires considerable staff time to check and confirm the legitimacy of the proxies.</p> <p>A solution is for any member submitting a proxy to submit the proxy themselves (rather than giving to Director candidates to submit in bulk), which makes it easier to check against registered email address of the member and confirm it is valid.</p>

Current	Proposed	Reasoning
<p>55 Services of Notices</p> <p>(e) (ii)</p> <p>sending it by post addressed to the person by name or by the title of the representative of the deceased or lunatic or the assignee of the bankrupt or by any like description at the address, if any, within Australia, supplied for the purpose by the person claiming to be entitled;</p>	<p>56 Services of Notices</p> <p>(e) (ii)</p> <p>sending it by post addressed to the person by name or by the title of the representative of the deceased or <u>person of unsound mind</u> or the assignee of the bankrupt or by any like description at the address, if any, within Australia, supplied for the purpose by the person claiming to be entitled;</p>	<p>Updating of older terminology. Removal of word "lunatic" and replaced by "person of unsound mind".</p>