



Catholic
Health
Australia

CATHOLIC HEALTH AUSTRALIA

ABN 30 351 500 103

Constitution

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Reprint incorporating amendments resolved at 22 June General Meeting

Preamble – Shared Purpose Statement

“A Samaritan came near the man who was beaten, and when he saw him, he was moved with compassion.”

Recognising the many diverse expressions of the healing ministry, Catholic health, aged, and community care services share a common vision grounded in the mission of the Gospel so that our shared future is strengthened.

As a ministry of the Catholic Church, our work is inspired by the person and mission of Jesus, who embraced the world with compassion to bring justice and healing.

We respond to God’s call to bring alive the Gospel vision, for the good of all in the communities we serve.

We believe in the sacredness of life and we share the joys and hopes, the griefs and anxieties of those who come to us in their vulnerability and need.

Like the Good Samaritan:

- We commit to show love and respect for those we serve and all who work with us, regardless of faith, culture, ability, or status.
- We commit to be attentive to the whole person – body mind, and spirit.
- We commit to serve all with the best wisdom, resources and attention we can offer.
- We commit to hear and have heard the voices of all, especially those who are weakest, most vulnerable, neglected and stigmatized in our society.
- We commit to reach out with compassion so every encounter is an opportunity for healing, companionship, comfort, and hope.

NAME

1. The name of the company is Catholic Health Australia Limited (in this Constitution called the **Company**).

INTERPRETATION

2. In this constitution, unless the contrary intention appears:

Act means the *Corporations Act 2001*.

Canon Law means the Code of Canon Law promulgated by Pope John Paul II on 25 January 1983 and any other universal or particular legislation promulgated by the competent ecclesiastical authority.

Catholic health, aged and/or community care service means:

- (a) any health, aged and/or community service or facility (hospital, hospice, hostel, nursing home, residence, community or similar service or facility) conducted and controlled by a diocese, parish, Religious Institute, Juridic Person or association of Christ's faithful which carries on the ministry of Catholic health, aged and/or community care as part of the mission of the Catholic Church, and in conformity with Canon Law; or
- (b) any other health, aged and/or community service or facility (hospital, hospice, hostel, nursing home, residence, community or similar service or facility), conducted to the satisfaction of the Board in accordance with the teaching of the Catholic Church in regard to the ministry of Catholic health, aged and/or community care, which is conducted and controlled by an organisation as shall be admitted as a Member of the Company from time to time.

Delegate means a delegate appointed by a Member of the Company pursuant to Rule 8 and includes any proxy appointed in turn by the delegate pursuant to Rule 8.

Financial Year means the year ending on the 30th day of June.

General Meeting means a General Meeting of Members of the Company.

Juridic Person means any Juridic Person canonically established and erected by the competent ecclesiastical authority in accordance with the norms of Canon Law.

Member of the Company means Member of the Company for the time being and includes ordinary, associate and overseas members.

Preamble has no meaning at law.

Regulations means Regulations under the *Act*.

Religious Institute means a Religious Institute canonically established and erected within the Catholic Church and includes provinces of such Religious Institutes.

Replaceable rules as prescribed at section 141 of the *Corporations Act 2001* do not apply.

Board means the Board of Directors of the Company entrusted with the control of the affairs of the Company in accordance with the *Act*.

Words importing the singular only include the plural and vice versa. Words importing the masculine gender only include the feminine gender and vice versa. Words importing persons include organisations. Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the *Acts Interpretation Act 1901* and the *Act* as in force from time to time.

OBJECTS

3. The Company, Catholic Health Australia Limited, is established for purposes of advancing health, social, and public welfare as the national advocate for the healing Ministry of the Catholic Church in Australia. By supporting the service capacity and promoting the Catholic identity of its members, it contributes to the fulfillment of the Mission of the Catholic Church. Through advocacy, Catholic Health Australia pursues direct benevolent relief of illness, direct benevolent relief of the needs of the aged, and direct benevolent relief of poverty as a social determinant of health.

MEMBERSHIP

- 4.1 Applications for ordinary membership of the Company shall be accepted in writing from:
 - (a) any diocese, parish, Religious Institute, Juridic Person or association of Christ's faithful which conducts and controls, either directly or indirectly, a Catholic health, aged and/or community care service;
 - (b) any other organisation that conducts and controls a health, aged care and/or community care service, and which service or facility is conducted, to the satisfaction of the Board, as a not for profit and as part of Christ's ministry of healing
- 4.2 Applications for associate membership of the Company shall be accepted in writing from any organisation or individual where the Board is satisfied that the applicant wishes to advance the objects of the Company, and the applicant is not otherwise qualified for ordinary membership of the Company. Associate members shall be non-voting Members of the Company.
- 4.3 Applications for overseas membership of the Company shall be accepted in writing from any organisation which does not conduct or control, either directly or indirectly, any health, aged and/or community care service in Australia, but which does so overseas. Overseas members shall be non-voting Members of the Company.

- 4.4 The Australian Catholic Bishops Conference and Catholic Religious Australia are each deemed ordinary members of the Company.
- 4.5 The Board shall prescribe an application form to be used by eligible applicants to apply to become a Member of the Company.
- 4.6 Upon receipt by the Company of a signed application in the prescribed form, from an eligible applicant, such application shall be considered by the Board which shall determine the admission or rejection of the application. In no case shall the Board be required to give any reason for the rejection of an application for membership.
- 4.7 Notwithstanding anything herein to the contrary, a Juridic Person established to conduct or control a Catholic health, aged and/or community care service previously conducted or controlled by a Religious Institute which is at the date of nomination a Member of the Company shall be entitled to become an ordinary member of the Company on the written nomination of that Religious Institute. After admission to membership, the Juridic Person shall be otherwise subject to these Rules.

REGISTER OF MEMBERS

5. It shall be the responsibility of the Public Officer to keep and maintain a Register of Members of the Company in which shall be entered the full name and address and date of entry of each Member of the Company. The Register of Members shall be available for inspection by Members of the Company at the registered address of the Company.

RIGHTS OF MEMBERS

- 6.1 The right, privilege or obligation a Member of the Company has by reason of being a Member of the Company:
 - (a) is not capable of being transferred or transmitted to another person or organisation;
 - (b) terminates upon cessation of the Member's membership of the Company.
- 6.2 The rights, privileges and obligations of associate members will be defined and published by the Board from time to time.

CESSATION OF MEMBERSHIP

7. A Member of the Company ceases to be a Member of the Company if the Member:
 - (a) resigns in writing to the Board from membership of the Company; or
 - (b) fails to renew membership of the Company by payment within the prescribed time of the annual membership fee; or
 - (c) ceases to be entitled to membership pursuant to Rule 4.

THE DELEGATE OF MEMBERS AND THE DELEGATE'S PROXIES

- 8.1 Each Member of the Company shall authorise a natural person to act as its delegate and the person so authorised shall be entitled to exercise all the powers which apply to that class of membership on behalf of that Member of the Company which s/he represents.
- 8.2 Each Member of the Company shall inform the Board in writing of the name of its delegate from time to time.
- 8.3 A delegate of an ordinary member may appoint a person to attend and vote on behalf of that ordinary member at a general meeting. A proxy may be appointed for all meetings or for any number of meetings or for a particular purpose. A proxy may be appointed to act as proxy for more than one delegate, and shall hold one vote for each delegate appointing them.
- 8.4 An instrument appointing a proxy:
- (a) will be in writing signed by the delegate of the ordinary member; and
 - (b) may contain directions as to the manner in which the proxy is to vote in respect of a particular resolution or resolutions and in that case the proxy may only vote on that resolution as directed.
- 8.5 An instrument appointing a proxy for the delegate of an ordinary member will be in the form that the Board may prescribe or accept. To be valid, an instrument appointing a proxy must be received at the registered office of the Company at least 24 hours prior to the holding of the meeting to which it relates.
- 8.6 A vote in accordance with the terms of an instrument of proxy is valid, notwithstanding the previous death or unsoundness of mind of the delegate or the revocation of the instrument if the Company has not received notice in writing of the death, unsoundness of mind or revocation at its registered office before the start of the meeting or adjourned meeting at which the instrument is used.

MEMBERSHIP FEE

- 9.1 The annual membership fee for each class of member shall be determined by the Board and shall become due and payable on or before the 1st day of July in each calendar year and not later than the 1st day of September in each calendar year.
- 9.2 In developing a membership fees policy and making the determination of the annual membership fee for each class of member of the Company, the Board shall act in a manner which is fair and equitable, taking into account those issues that it considers relevant.

LIMITATION OF LIABILITY

- 10.1 The Company is a not-for-profit public Company limited by guarantee.
- 10.2 Subject to this Constitution, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (a) payment of debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of the contributories among Members.

10.3 The amount that each Member or past Member is liable to contribute is \$10.

GENERAL MEETINGS OF THE COMPANY

11.1 The Company shall in each calendar year convene a General Meeting of its Members to be called the Annual General Meeting. All General Meetings other than Annual General Meetings shall be called General Meetings.

11.2 The Annual General Meeting shall be held on such day as the Board determines.

11.3 The Annual General Meeting shall be specified as such in the notice convening it.

11.4 In addition to any other business which may be transacted at an Annual General Meeting, the business of an Annual General Meeting shall be:

- (a) to confirm the minutes of the last preceding Annual General Meeting and of any other General Meeting held since that meeting;
- (b) to receive from the Board a report on the activities of the Company during the last preceding Financial Year;
- (c) to receive and consider the statement of accounts and the reports that are required to be submitted to Members of the Company pursuant to the Act, and
- (d) to conduct Board elections, as necessary, for Rule 22(b).

12.1 The Board may, whenever it thinks fit, convene a General Meeting of the Company.

12.2 The Board shall, on the requisition in writing of not less than ten per cent of the total number of delegates of the ordinary members of the Company, convene a General Meeting of the Company.

12.3 The requisition of delegates of the ordinary members of the Company for a General Meeting:

- (a) shall state the purpose of the meeting;
- (b) shall be signed by the delegates of the ordinary members of the Company making the requisition;
- (c) shall be lodged with the Chair of the Board.

13 Written nominations for elected Board positions pursuant to Rule 22(b) may be lodged by ordinary members of the Company with the Secretary of the Company up until 35 days before the Annual General Meeting. Nominees must hold responsible positions with that ordinary member such as being a board director or equivalent. Details of nominees to be considered for election to be circulated with the Notice of Annual General Meeting issued pursuant to clause 14. The Board will seek to ensure that the range of individuals nominated for election is sufficiently broad to enable

diversity, gender balance, skills mix, depth of knowledge and breadth of representation of ordinary members of the Company on the Board.

NOTICE OF GENERAL MEETING

14. The Secretary of the Company shall, at least 21 days before the date fixed for holding an Annual General Meeting or other General Meeting of the Company, serve upon each Member of the Company a notice stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.

PROCEEDINGS AT GENERAL MEETINGS

- 15.1 Twenty-five per cent of the ordinary members of the Company present by their delegate in person shall be a quorum for any Annual General Meeting or other General Meeting. No business shall be transacted at any General Meeting unless a quorum is present at the time the meeting proceeds to business.
- 15.2 If within half an hour after the appointed time for the commencement of any General Meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chair of the Board at the time of the adjournment or by written notice to the delegates of the ordinary members of the Company given before the day to which the meeting is adjourned) at the same place and if at the adjourned meeting the quorum is not present within half an hour after the time appointed for the commencement of the meeting, the delegates of the ordinary members of the Company present shall be a quorum.
- 16.1 The Chair of the Board shall preside as chair of any General Meeting of the Company.
- 16.2 If the Chair of the Board is absent from any General Meeting, then the Deputy Chair of the Board shall preside as chairperson of any General Meeting, and in the absence of both the Chair and the Deputy Chair, the delegates of the ordinary members of the Company present shall elect one of their number to preside as chair of the meeting.
17. The chair of any meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, a like notice of the adjourned meeting shall be given as in the case of the original meeting. Save as aforesaid it shall not be necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.
18. A question arising at any Annual General Meeting of the Company shall be determined on a show of hands and unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chair that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect in the minute book of the Company is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against that resolution. The demand for a poll may be withdrawn.

- 19.1 Upon any question arising at any Annual General Meeting of the Company, the delegate of each ordinary member of the Company has one vote only. Associate members and overseas members of the Company do not have any voting rights.
- 19.2 In the case of an equality of voting on a question, the chair of the meeting is not entitled to exercise a second or casting vote.
- 20.1 If at any Annual General Meeting a poll on any question is demanded by not less than three delegates of ordinary members of the Company, it shall be taken at that meeting in such manner as the chair may direct and the resolution of the poll shall be deemed to be a resolution of the meeting as the chair may direct.
- 20.2 A poll that is demanded on the election of a chair or on a question of an adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the chair may direct.

THE BOARD

21. Members of the Board are directors of the Company for the purposes of the Corporations Act and, subject to the Act, the Regulations, these Rules and to any resolution passed by the Company in General Meeting:
- (a) shall control and manage the affairs of the Company;
 - (b) may exercise all such functions as may be exercised by the Company other than those powers and functions that are required by these Rules to be exercised by the Company in General Meeting;
 - (c) has power to perform all such acts and things as appear to the Board to be necessary or desirable for the proper management of the affairs of the Company.
- 22 The Board shall consist of:
- (a) one nominee from each of the following entities who shall be a member of their operating board(s):
 - (i) Little Company of Mary Health Care Limited;
 - (i) Mercy Partners;
 - (iii) Southern Cross Care Australia;
 - (iv) St John of God Health Care Inc, and
 - (v) St Vincent's Health Australia Ltd;
 - (b) five people who shall be elected by the ordinary members of the Company from those people nominated by the ordinary members of the Company, pursuant to Rule 13.4, PROVIDED HOWEVER that at least two of those elected to the Board at any point in time shall have been nominated by ordinary members of the Company who predominantly provide Catholic aged care services and at least one of those elected to the Board at any point in time shall have been nominated by ordinary members of the Company who provide Catholic health,

- aged and/or community care services in regional or remote localities of Australia;
- (c) a member of the Australian Catholic Bishops Conference designated by that Conference, and
 - (d) a member of Catholic Religious Australia designated by that body.
- 23.1 Except in the case of any casual vacancies, the term of office of each member of the Board shall expire at the Annual General Meeting held in the third year following that person's nomination, designation or election.
- 23.2 Director Terms shall be for a maximum term of nine years' consecutive service.
- 23.3 Nominations, delegations and elections for membership of the Board pursuant to Rule 22 of these Rules shall be completed on or before 30 September in each year during which the term of office of any member of the Board shall expire.
- 23.4 The Board shall have the power to appoint up to two additional voting members for terms of office prescribed by the Board.
- 23.5 The Board shall establish a Nominations Committee pursuant to Rule 35 to advise the Board on suitable nominees for these additional members under Rule 23.4 having regard to criteria including but not limited to:
- (a) gender balance;
 - (b) geographical diversity and equity;
 - (c) ministry diversity and equity (including with regard to scale and new models of ministry);
 - (d) experience in church;
 - (e) experience in governance roles;
 - (f) commitment to the Catholic sector;
 - (g) knowledge base and skills;
 - (h) experience at senior levels within health and/or aged care sectors.
- 24.1 The Board shall elect annually from among its members a Chair who shall preside at all meetings of the Company and of the Board.
- 24.2 The Board shall elect annually from among its members a Deputy Chair who shall preside at meetings in the absence of the Chair.
25. The office of a member of the Board becomes vacant if that person:
- (a) dies;
 - (b) is declared bankrupt;
 - (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (d) resigns from office by notice in writing to the Board;
 - (e) is disqualified from office in accordance with the Act;

- (f) was a director, officer or employee of an ordinary member of the Company at the time of reappointment to the Board and ceases that role for any reason. Subject to Rule 26, such person will be eligible for appointment to fill any casual vacancy pursuant to this Rule or otherwise.
- 26.1 Any casual vacancy in the membership of the Board for a position under Rule 22(b) shall be filled by an appointee of the Board, in accordance with Rules 23.4 and 23.5, for the unexpired part of the term of office.

PROCEEDINGS OF THE BOARD

27. The Board shall meet at least four times each calendar year at such time and at such place as the Board may from time to time determine.
28. At a meeting of the Board one half of the number of the members of the Board shall constitute a quorum. No business shall be transacted at any such meeting unless a quorum is present at the time the meeting proceeds to business.
29. The Chair of the Board shall preside at every meeting of the Board or if s/he is not present within fifteen minutes after the time appointed for the holding of the meeting, then the Deputy Chair shall preside as chair at the meeting and in the absence of both the Chair and Deputy Chair then the members of the Board present shall elect one of their number to be chair of the meeting.
- 30.1 Subject to these Rules the procedure to be followed at a meeting of the Board shall be as the Board shall decide.
- 30.2 The Chair of the Board or any two of its members may at any time and the Chair of the Board shall on requisition of two of its members convene a meeting of the Board.
- 30.3 A meeting of the Board may be held with one or more of its members participating by telephone, audio-visual link up or other instantaneous communication medium, provided that the meeting is conducted so that all participating members of the Board are able to hear the proceedings of the entire meeting and are able to be heard by all others attending the meeting. Such a meeting shall be deemed to be held at such place as is agreed upon by the Board being a place at which at least one member of the Board was present for the duration of the meeting. A minute of the proceedings of such a meeting is sufficient evidence of the proceedings and the observance of all necessary formalities if it is certified as a correct minute by the Chair of the Board.
31. Questions arising at a meeting of the Board shall be decided by a majority of votes of the members of the Board present and voting, and any such decision shall for all purposes be deemed to be a decision of the Board. In the case of an equality of votes the chair of the meeting shall not be entitled to a second or casting vote.
32. If all the members of the Board confirm in writing, including via electronic means, to the Company Secretary that they are in favor of a resolution of the Board in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Board held on the day on which the Company Secretary received notice from the last Board Director and in the place of the Company's National Office.

33. All acts done by any meeting of the Board or by any person acting as a member of the Board shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or election of any such member of the Board or that there was a vacancy in the office of member of the Board or that any of them were disqualified, be as valid as if the defect, vacancy or disqualification did not exist and the Board was fully and properly constituted.

EXECUTIVE COMMITTEE AND SECRETARY

- 34.1 The Board shall appoint a Secretary of the Company who shall hold office on such terms and conditions as the Board determines.
- 34.2 The Board shall appoint an Executive Committee comprising the Chair, the Deputy Chair, the Chief Executive Officer and the Chair of the audit and risk committee (if such chair has been appointed) to implement Board decisions between meetings in accordance with such rules that may be promulgated by the Board from time to time.

COMMITTEES

35. The Board may as circumstances demand appoint such Board committees as it sees fit from time to time. The Board will establish an audit and risk Committee and a nominations committee. Each committee is to be given a mandate which includes the membership, task and accountability of the committee, provided that the chair of the committee shall be a member of the Board unless otherwise agreed by the Board. Each committee shall review its terms of reference and membership at least once in every three years and advise the Board of the outcome of that review.

CUSTODY OF RECORDS

36. The Board shall cause to be kept proper accounting records in which shall be kept full true and complete accounts of the affairs and transactions of the Company.
37. The books of accounts, documents and securities of the Company shall be kept at the registered address of the Company and shall always be open for inspection by the delegate of each ordinary member of the Company. The Board shall from time to time determine at what times and places and under what conditions or regulations the accounting and other records of the Company shall be open for inspection by the delegate of each ordinary member of the Company.

NOTICES

38. Unless provided otherwise herein a notice may be served upon any Member of the Company or any member of the Board in writing, either personally, via electronic communication, or by sending it through the post in a prepaid letter, or given by facsimile to the Member of the Company or its delegate at their last known nominated address for postal service, email or facsimile address.

INCOME AND PROPERTY

- 39.1 The income of the Company shall be derived from annual membership fees, donations and such other sources as the Board determines.
- 39.2 The income and property of the Company whencesoever derived, shall be applied solely towards the promotion of the objects of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to Members of the Company, the delegates of Members of the Company, or members of the Board, provided that nothing herein contained shall prevent the payment in good faith of remuneration to any Member of the Company, delegate of the Member of the Company, officer or servant of the Company in return for any services actually rendered to the Company nor goods supplied in the ordinary and usual way of business, nor prevent the payment of interest at a reasonable rate on money borrowed from any Member of the Company or reasonable or proper rent for premises demised or let by any Member of the Company.

ACCOUNTING RECORDS

40. The Company shall:
- (a) keep accounting records that correctly record and explain the transactions (including any transactions as trustee) and the financial position of the Company; and
 - (b) keep its accounting records in such a way that:
 - (i) true and fair accounts of the Company can be prepared from time to time; and
 - (ii) a statement of the accounts of the Company can conveniently and properly be audited;
 - (c) all cheques, electronic transfers and other negotiable instruments shall be signed or authorised by such members of the Board, or other persons as the Board shall nominate for that purpose, on the basis that all transactions shall be signed or authorised by at least two persons.

AUDITOR

41. The Company at a general meeting shall appoint an independent auditor who is registered as an auditor under the *Act*.

AUDIT OF ACCOUNTS

- 42.1 Once at least in each Financial Year of the Company the accounts of the Company shall be audited or reviewed as required by law.
- 42.2 The auditor shall certify as to the correctness of the accounts of the Company and shall report thereon to the Board.

SECRETARY

43. The Secretary of the Company shall ensure that minutes are kept of the resolutions and proceedings of each General Meeting of the Company, each meeting of the Board in books provided for that purpose together with a record of the names of persons present at such meetings.

BY-LAWS

44. The Board may from time to time make, repeal and amend any bylaws relating to the internal management of the Company.

INDEMNITY

45. Every Member of the Company, every delegate of each Member of the Company, every member of the Board, and agent, auditor, Secretary and other officer for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by that person in defending any proceedings whether civil or criminal in which judgement is given in that person's favour or in which that person is acquitted or in which proceedings are withdrawn or terminated or in connection with any application under the *Act* in which relief is granted to that person by the Court in respect of any negligence default breach of duty or breach of trust.

ALTERATION OF RULES

46. These Rules may be varied or amended from time to time in accordance with the *Act*.

WINDING UP

47. If at any General Meeting of the Company, the Company resolves by a special resolution, that it be wound up, the Board shall thereupon or at such future date as shall be specified in such resolution proceed to realise the property of the Company. If there is any surplus assets on realisation such surplus shall be distributed to another institution operating within or under the auspices of the Catholic Church with objects for the promotion of health and aged care ministries which qualifies under Section 30-15 of the *Income Tax Assessment Act 1997*.
48. If the Company's endorsement as a deductible gift recipient is revoked, any surplus of the following assets shall be transferred to another organisation with similar purposes to which income tax deductible gifts can be made:
- (a) gifts of money or property for the principal purpose of the Company;
 - (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the Company; and
 - (c) money received by the Company because of such gifts and contributions.

