



# Company Constitution

## Australian College of Mental Health Nurses Limited

### A Public Company Limited by Guarantee

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## Part A – Introductory Provisions

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### 1. Interpretation

- 1.1 Words used in this Constitution shall take their meaning as set out in the clause **Specific Definitions**.
- 1.2 Any words not defined in this Constitution shall have their meaning as defined in the Act and if the words are not defined, shall take their ordinary meaning.
- 1.3 In this Constitution, unless the context otherwise requires:
- (a) the singular includes the plural and vice versa;
  - (b) each gender includes the other genders;
  - (c) the reference to persons includes a natural person and any partnership, association, body, an authority or entity whether incorporated or not;
  - (d) references to a person includes the legal personal representatives, employees, agents, contractors, successors, and permitted assigns of that person;
  - (e) the words “writing” and “written” include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
  - (f) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
  - (g) a reference to any clause or schedule is to a clause or schedule of this Constitution;
  - (h) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it; and
  - (i) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution.
- 1.4 A clause that deals with an expression with a special meaning in a particular Part or Division of the Act, has the same meaning as that Part or Division of the Act, unless a contrary intention appears.

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### 2. Specific definitions

- 2.1 In this Constitution, unless there is something in the subject or context which is inconsistent:
- (a) **Act** means the *Corporations Act 2001* (Cth) as amended from time to time;
  - (b) **Annual General Meeting** means the annual general meeting of the Company;
  - (c) **Board** means the Board of Directors elected or appointed in accordance with this

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Constitution;

- (d) **Branch** means a part of the Company representing members residing or working in a State or Territory, established in accordance with this Constitution;
- (e) **By-laws** means the by-laws of the Company as created and amended from time to time in accordance with the clause By-laws;
- (f) **Chair** means:
  - (i) in relation to General Meetings the person appointed in accordance with the clause **Presiding at meetings**; and
  - (ii) in relation to meetings of the Board, the person appointed in accordance with the clause **Board Meetings**;
- (g) **Chief Executive Officer** means the Chief Executive Officer appointed under the clause **Chief Executive Officer**;
- (h) **College** means the Australian College of Mental Health Nurses Incorporated which may also be cited, for the purposes of this Constitution, as the “Company”;
- (i) **Committee** means a group of Members established to conduct or progress College business or professional issues at national or branch level by the Board, Councils or Special Interest Groups. Committees may co-opt non-members to provide particular expertise and/or advice to advance its progress;
- (j) **Council of Branches** consists of an elected Chair of a Branch from each one of the States and Territories, and other representatives as determined by the Board from time to time in accordance with this Constitution;
- (k) **Constitution** means this Constitution as amended or supplemented from time to time;
- (l) **Company** means the Company referred to in the clause **Company name**;
- (m) **Director** means an eligible natural person, who is duly elected, nominated or appointed to the Board pursuant to the clause **Constitution of the Board and election, nomination and appointment of Directors**. For the avoidance of doubt a reference to a Director includes an Office Bearer if that person holds such a position pursuant to the clause **Office Bearer**, unless otherwise expressly stated;
- (n) **Enrolled Nurse** means a nurse registered by the National Nursing and Midwifery Board of Australia is entitled to practice as an Enrolled Nurse within the field of nursing and scope of practice for which they are prepared;
- (o) **Financial Member** means a Member who has paid all annual membership fees due and payable under the clause Membership fee;
- (p) **General Meeting** means the Annual General Meeting or any Special General Meeting of the Company;
- (q) **ITAA 1997** means the *Income Tax Assessment Act 1997* (Cth) as amended from time to time;
- (r) **Legacy Member** means a person who was a member of Australian College of Mental Health Nurses Limited when it converted to a Company Limited by Guarantee;

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- (s) **Majority** means over fifty percent (50%);
- (t) **Member** means any person who has obtained membership of the College as provided in the Constitution and whose membership has not ceased in accordance with any of the provisions of this Constitution;
- (u) **Mental Health Nurse** means a Registered Nurse who has a recognised specialist qualification and defined scope of practice in mental health nursing;
- (v) **Mental Health Nursing** is a specialised field of the nursing profession with a range of discrete sub-specialties, differing levels and scope of practice both within and across sub-specialty fields;
- (w) **National Office** means the head office of the Company located in any place as the Board may determine from time to time;
- (x) **Non-Financial Member** means a Member who has not paid all the annual membership fees due and payable under the clause Membership fee;
- (y) **Non-Voting Board Member** means a Director who is not entitled to vote at a Meeting of the Board and is appointed by the Board;
- (z) **Non-Voting Member** means a Member who is not entitled to vote at a General Meeting under this Constitution;
- (aa) **Objects** means the Objects of the Company as set out in the clause **Objects** and the term "Object" as a corresponding meaning;
- (bb) **Office Bearer** means a Director who holds a Board appointed or delegated position (with corresponding delegated authority), in addition to their Director roles on the Board;
- (cc) **Officer** means any person who:
  - (i) occupies or acts in a position of a member of the Board of the Company, or the secretary or public officer of the Company; or
  - (ii) is concerned, or takes part, in the management of the affairs of the Company, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; or
  - (iii) is the holder of any other office established by the constitution of the Company (except a patron or the holder of some other honorary office that confers no right to participate in the management of the affairs of the Company); or
  - (iv) any person in accordance with whose directions or instructions the Board of the Company is accustomed to act.
- (dd) **President** means the President of the Company who is to preside at each General Meeting and Board meeting of the Company pursuant to the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution;
- (ee) **Public Officer** means the means the Public Officer appointed under the clause **Public Officer**;

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- (ff) **Registered Nurse** means a nurse registered by the National Nursing and Midwifery Board of Australia and is entitled to practice as a registered nurse in any field of nursing which may or may not include mental health nursing or developmental disability nursing;
- (gg) **Secretary** means the person appointed as the Secretary of the Company in accordance with this Constitution to perform the specific duties set out in this Constitution and any written Board-delegated authorities of the person appointed to act as the Secretary or Assistant Secretary temporarily, and includes any assistant or acting secretary;
- (hh) **Special Interest Group** means a group of Members that is dedicated to facilitating, promoting, and advancing a particular area of interest of the College. Membership and By-laws governing such groups shall be determined by the Board;
- (ii) **Special General Meeting** means a special general meeting of the Company;
- (jj) **Special Resolution/Vote/Decision/etc** means a vote or resolution passed by:
  - (i) in the case of a vote or resolution of Voting Members, the support of 75% or more of Voting Members present at a General Meeting of the Company; or
  - (ii) in the case of a vote or resolution of the Board, 75% or more of the Directors entitled to vote;
- (kk) **State** means a state of Australia;
- (ll) **Territory** means the Australian Capital Territory or the Northern Territory;
- (mm) **Vice President** means the person appointed as the Vice President of the Company with the authorities, powers and functions described in this Constitution and any policies, protocols, practices or processes determined by the Board from time to time that give effect to the authorities, powers and functions described in this Constitution; and
- (nn) **Voting Member** means a Financial Member entitled to vote at a General Meeting under this Constitution.

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### 3. Company name

- 3.1 The name of the Company is "AUSTRALIAN COLLEGE OF MENTAL HEALTH NURSES LIMITED".

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### 4. Company type

- 4.1 The Company is a public company limited by guarantee under the Act.

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### 5. Replaceable rules

- 5.1 Subject to Part 2B.4 of the Act, the replaceable rules do not apply to the Company.

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### 6. Objects

- 6.1 The primary objects of the Company ("**Objects**") is to:
  - (a) enhance the mental health of the community through the pursuit of efforts to improve service and care delivery to those affected by mental illness and disorder and to promote

## **Company Constitution of Australian College of Mental Health Nurses Limited**

- the prevention of mental illness and disorder particularly through the profession of mental health nursing;
- (b) provide professional leadership and authority as the peak body for mental health nurses in Australia;
  - (c) provide continuing professional education and practice development in mental health nursing;
  - (d) ensure mental health nursing issues and matters remain a focal point on all agendas in mental health discussions and forums at local, state and national levels;
  - (e) set national standards of practice and promote best practice in mental health nursing;
  - (f) provide strategic leadership to influence legislative, statutory and funding bodies and key stakeholders in order to promote the practice and image of mental health nursing as a profession;
  - (g) build and maintain membership, professional capacity and infrastructure;
  - (h) maintain position as a non-industrial and non-sectarian organisation that is not aligned with any political party;
  - (i) promote public confidence and professional recognition of the services provided by mental health nurses;
  - (j) encourage professional accountability, autonomy and partnership of mental health nurses;
  - (k) provide a forum for collegial support, networking and collaboration amongst mental health nurses;
  - (l) facilitate and disseminate research and continuing practice development in mental health nursing and health care delivery;
  - (m) represent the profession and provide advice to consumer and carer agencies, government and non-government sectors, community groups and the general public; and
  - (n) participate in policy development concerning the profession of mental health nursing, mental health workforce, health care delivery, promotion of mental health, and prevention of mental illness and disability.

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### **7. Company powers**

7.1 The Company can only exercise the powers in section 124(1) of the Act to:

- (a) carry out the Objects of the Company set out in the clause Objects; and
- (b) do all things incidental or convenient in relation to the exercise of power under this clause.

## **Part B – Membership**

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### **8. Admission**

8.1 The Members of the Company are:



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- (a) the persons who are specified in the application for registration of the Company as persons who consent to becoming Members; and
  - (b) any other person admitted to membership by the Board in accordance with this Constitution.
- 

### 9. Membership classes

9.1 The Board may, from time to time, determine:

- (a) the various classes of membership of the Company;
- (b) any restriction in the number of Members or the number of Members within each class;
- (c) the qualifications for admission to each class; and
- (d) the rights attached to being a Member in each class.

9.2 The initial categories of membership are:

- (a) Ordinary Members;
- (b) Associate Members;
- (c) Fellow Members;
- (d) Honorary Members;
- (e) Life Members; and
- (f) Legacy Members.

#### Ordinary Members

9.3 Ordinary Membership is restricted to Registered Nurses and Enrolled Nurses.

9.4 An Ordinary Member:

- (a) is entitled to receive all notices of general meeting sent by the Company, attend and speak at, and vote on all motions put before, any general meeting of the Company; and
- (b) is entitled to receive such benefits as are determined annually by the Board to apply to Ordinary Members, details of which are available for inspection by a prospective or renewing Ordinary Member on the Company website or as otherwise advised by the Company.

#### Associate Members

9.5 Associate Membership is available to any person who is not entitled to be an Ordinary Member, Fellowship or Life Member, but who has an interest in mental health nursing.

9.6 An Associate Member:

- (a) is entitled to receive all notices of general meeting sent by the Company, attend and speak at, but not vote on any motions put before any general meeting of the Company; and

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- (b) is entitled to receive such benefits as are determined annually by the Board to apply to an Associate Member, details of which are available for inspection by a prospective or renewing Associate Member on the Company website or as otherwise advised by the Company.

### **Fellow Members**

9.7 Fellowship Membership is an award conferred on members who have made a substantial contribution to the profession and is restricted to Ordinary Members who have met the criteria as determined by the Board at the time of application and endorsed by the Board. Members in this category shall be known as “Fellows” of the Company.

9.8 A Fellow:

- (a) is entitled to receive all notices of general meeting sent by the Company, attend and speak at, and vote on all motions put before any general meeting of the Company;
- (b) is entitled to receive such benefits as are determined annually by the Board to apply to a Fellow, details of which are available for inspection by a Fellow on the Company website or as otherwise advised by the Company; and
- (c) continues to be liable to pay relevant membership fees as an Ordinary Member of the Company.

### **Honorary Members**

9.9 Honorary Membership is a membership conferred on a person for a specified period by the Board in its absolute discretion, having reference to the person’s contribution to mental health nursing or by their indirect or continuing association with the Company. Such Honorary Membership shall have Associate Membership status.

9.10 An Honorary Member:

- (a) is entitled to receive all notices of general meeting sent by the Company, attend and speak at, but not vote on any motions put before any general meeting of the Company; and
- (b) is entitled to receive such benefits as are determined annually by the Board to apply to an Honorary Member, details of which are available for inspection by a prospective or renewing Honorary Member on the Company website or as otherwise advised by the Company.

### **Life Members**

9.11 Life Membership is a privilege of membership granted by the Board in its absolute discretion without fees to a person for the remainder of their life, for the person’s outstanding commitment and sustained contribution to the Company.

9.12 A Life Member:

- (a) is entitled to receive all notices of general meeting sent by the Company, attend and speak at, and vote on all motions put before any general meeting of the Company; and
- (b) is entitled to receive such benefits as are determined annually by the Board.

## **Legacy Members**

- 9.13 Legacy Members are those members that were members of the Australian College of Mental Health Nurses Inc immediately prior to the conversion to a company limited by guarantee. Legacy Members will be admitted as Financial Members of the Company.
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## **10. Eligibility**

- 10.1 To be eligible to be a Member of the Company, a person must be interested in pursuing the Objects of the Company.
- 10.2 The Board may only admit a person who meets the criteria in the preceding subclause to be a Member of the Company.
- 10.3 The Board admits Legacy Members as at the incorporation date of the Company.
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## **11. Membership process**

- 11.1 Every applicant for membership of the Company must submit an application to the Board in a form approved by the Board from time to time which must:
- (a) be in writing;
  - (b) be signed by the applicant;
  - (c) identify the membership class to which the application relates; and
  - (d) be accompanied by the appropriate membership fee.
- 11.2 The Board must consider any valid application for membership at the next Board meeting of the Company after the Board receives the application.
- 11.3 The Board is not required to give any reason for the rejection of an application.
- 11.4 If the Board accepts a person's application for membership the Secretary must notify the applicant in writing.
- 11.5 If the Board refuses a person's application for membership, the Secretary must:
- (a) notify the applicant in writing; and
  - (b) return the applicant's membership fee (if any).
- 

## **12. Rights of Members**

- 12.1 Members will have:
- (a) the specific rights conferred on them by their particular membership class;
  - (b) the right to stand for nomination to the Board, excluding any Member who is employee of the Company; and
  - (c) such further and other rights as the Board determines from time to time.

### **13. Members' obligations**

- 13.1 The Constitution constitutes a contract between each Member and the Company and each Member agrees to be bound by the Constitution and By-laws.
- 13.2 All Members must comply with and observe the Constitution and By-laws and any determination or resolution which may be made or passed by the Company or the Board.
- 13.3 All Members submit to the jurisdiction of the Australian Capital Territory in respect of any disputes between a Member and the Company or a Member and another Member.
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### **14. Membership fee**

- 14.1 Each Member must pay an annual membership fee as determined by the Board from time to time.
- 14.2 At incorporation the annual membership fees are as follows:

<b>Member Type</b>	<b>Annual Fee</b>	<b>Monthly Fee (total 12 months)</b>
<i>Ordinary</i>	\$299.00	\$27.50 (\$330)
<i>Associate</i>	\$220.00	\$20.00 (\$240)
<i>Student/Retiree/Maternity</i>	\$110.00	\$10.00 (\$120)

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### **15. Non-payment of membership fees**

- 15.1 A Member whose membership fees are in arrears:
- (a) by less than thirty (30) days – is a Non-Financial Member; or
  - (b) by thirty (30) days or more – ceases to be a Member.
- 15.2 The Board may, at its sole discretion and on such terms as it thinks fit, reinstate a Member if the Member pays all their arrears of membership fees.
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### **16. Cessation of membership**

- 16.1 In addition to the subclause 15.1, a Member ceases to be a Member if they:
- (a) give the Secretary written notice of their resignation;
  - (b) become of unsound mind or their estate becomes liable to be dealt with in any way under a law relating to mental health;
  - (c) enter into liquidation (other than for the purpose of reconstruction or amalgamation) or if a receiver or official manager or provisional liquidator is appointed; or
  - (d) commit an act of bankruptcy.

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- 16.2 A Member also ceases to be a Member if they refuse or neglect to comply with the provision of this Constitution or are guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company.
- 16.3 The Secretary must notify a Member in writing if the membership is terminated as a result of the preceding subclause and provide the reason for the termination.

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### 17. Appeal to cessation of membership

- 17.1 If any Member ceases to be a Member as a result of the subclause 16.2 (“**Terminated Member**”), the Terminated Member may lodge a written appeal (“**the Appeal**”) to the Secretary to be reinstated.
- 17.2 The Board must review the Appeal at the next Board meeting after the Secretary receives the Appeal.
- 17.3 If the Board decides to reinstate the Terminated Member, the Secretary must notify the Member in writing, of their reinstatement within seven (7) days of the Board making its decision.
- 17.4 If the Board affirms the decision to cancel a Member’s membership, the Board must call and hold a Special General Meeting within three (3) months of their decision.
- 17.5 The only business at the Special General Meeting under the preceding subclause will be to determine whether the Terminated Member should be reinstated.
- 17.6 The Board must, at least two (2) weeks prior to the Special General Meeting, provide the Terminated Member with a written notice of the intended resolution to affirm their decision to terminate the member’s membership.
- 17.7 The Special General Meeting will be held in accordance with this Constitution.
- 17.8 Notwithstanding the preceding subclause, the Chair of the Special General Meeting must allow the Terminated Member to present their case for reinstatement, orally or in writing at the Special General Meeting.
- 17.9 If the Voting Members at the Special General Meeting affirms the Board’s decision to terminate the member, the Terminated Member will continue to be a non-member.
- 17.10 If the Voting Members at the Special General Meeting overturns the Board’s decision, the Terminated Member is reinstated as a Member.

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### 18. Structure of the Company

- 18.1 The Company shall consist of a National Office situated in any place as the Board shall determine and have Branches in each of the States or Territories established to represent Members in particular areas or sectors within each State or Territory in accordance with this Constitution and any By-laws.

#### Branches

- 18.2 Branches shall be known as “Australian College of Mental Health Nurses (‘Branch name’ Branch)”.
- 18.3 Where a branch is established, it shall make decisions relating to the affairs of the Branch but shall be subject to the Board in matters affecting more than one Branch or the interests of the Company

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as a whole including overall strategic direction and policy of the Company which must be followed by all Branches.

- 18.4 All Branches of the Company shall operate in accordance with this Constitution, any By-laws and any policies approved by the Board from time to time. A Branch may not become an incorporated body of its own.
- 18.5 All Branch finances are to be managed in accordance with established financial By-laws.
- 18.6 Where or whenever a branch is dissolved, all property and assets of the Branch (including records, documents and minutes) remain the property of the Company and will be returned to the National Office.
- 18.7 A Branch cannot be dissolved until the outgoing Branch Chair has arranged for the transfer of funds and assets to the National Office.

### **Special Interest Groups**

- 18.8 Special Interest Groups shall be known as “Australian College of Mental Health Nurses (‘Special Interest Group name’ Special Interest Group)”.
- 18.9 Provisions under subclauses 18.3- 18.7 shall also apply to Special Interest Groups.
- 18.10 The Board shall endorse the establishment of Special Interest Groups and may determine the criteria for guidelines for Special Interest Groups.

## **PART C - GENERAL MEETINGS**

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### **19. Annual General Meeting**

- 19.1 The Company must hold an Annual General Meeting in accordance with the Act.
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### **20. Special General Meetings**

- 20.1 All General Meetings, other than the Annual General Meetings is a Special General Meeting.
- 20.2 The Board may convene a Special General Meeting:
- (a) as required under this Constitution;
  - (b) as required under the Act; and
  - (c) at any other time as decided.
- 

### **21. General Meetings**

- 21.1 The Board must give at least twenty-one (21) days’ notice of every General Meeting to:
- (a) every Member, except those Voting Members who (having no registered address within Australia) have not supplied to the Company an address within Australia;
  - (b) every Director; and

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(c) the auditor or auditors of the Company,

except:

(d) for special resolutions which require notice in accordance with the Act; and

(e) where there is an agreement for shorter notice between the Voting Members.

21.2 A notice of a General Meeting must include:

(a) the place of the meeting;

(b) the date of the meeting;

(c) the time of the meeting; and

(d) the business to be transacted at the General Meeting.

21.3 A General meeting may, at the sole discretion of the Board, be held in two (2) or more places linked together by any technology that:

(a) gives the Members present at those places a reasonable opportunity to participate in proceedings;

(b) enables the Chairperson to be aware of proceedings in each place; and

(c) enables the Members in each place to vote on a show of hands and on a poll.

21.4 If a General Meeting is held in two (2) or more places in accordance with the preceding subclause:

(a) a Member present at one of the places is taken to be present at the General Meeting; and

(b) the Chairperson of that General meeting may determine at its sole discretion which place the meeting is taken to have been held.

## PART D - PROCEEDINGS AT GENERAL MEETINGS

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### 22. Quorum for General Meetings

22.1 No business can be transacted at a General Meeting unless a quorum is present.

22.2 The quorum for any General Meeting is twenty-five (25) or more of the Voting Members.

22.3 For the purpose of this clause, "Voting Member" includes a person attending as a proxy or a representative of an entity which is a Voting Member.

22.4 If a quorum is not met within thirty (30) minutes of the start of the meeting, the meeting:

(a) if convened by the requisition of Voting Members – is dissolved; and

(b) in any other case - stands adjourned to:

(i) the same day in the following week at the same time and place; or

(ii) to such other day, time and place as the Chair may determine.

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- 22.5 If a quorum is not met within thirty (30) minutes of the start of an adjourned meeting, two (2) or more Voting Members present in person or by proxy will constitute a quorum.
- 22.6 The business transacted at any adjourned meeting must only be the business left unfinished at the General Meeting from which the adjournment took place.
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### **23. Presiding at General Meetings**

- 23.1 The Chair presides at every General Meeting.
- 23.2 At a General Meeting:
- (a) the President will be the Chair; or
  - (b) if the President is unable or unwilling to act as Chair, the Vice President will be the Chair.
- 23.3 If, at a General Meeting:
- (a) there is no Chair; or
  - (b) the President or Vice President is not present within fifteen (15) minutes after the time appointed for holding the meeting; or
  - (c) being present, the President and Vice President are unable or unwilling to preside,
- the Voting Members present will elect a Voting Member to be Chair for that meeting only.
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### **24. Adjourning meeting**

- 24.1 The Voting Members present at a General Meeting may by Majority resolution adjourn the meeting from time to time and place to place.
- 24.2 If a General Meeting is adjourned for thirty (30) days or more, the Secretary must give all Members notice of the time and place of the adjourned General Meeting twenty-one (21) days prior to the adjourned General Meeting.
- 24.3 A notice of an adjourned meeting does not need to state the business to be transacted.
- 24.4 The business transacted at any adjourned meeting must only be the business left unfinished at the General Meeting from which the adjournment took place.
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### **25. Proceedings and voting**

- 25.1 Financial Ordinary Members, Fellows or Life Members of the Company shall have voting rights at General Meetings.
- 25.2 At any General Meeting a resolution put to the vote will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the Chair; or
  - (b) by at least two (2) Members present in person or by proxy.
- 25.3 A declaration by the Chair that a resolution has on a show of hands been carried (unanimously or



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by a particular majority) or lost and entry in the minutes of the Company showing the result of the resolution is conclusive evidence of the result of the resolution, except where a poll is demanded.

- 25.4 A resolution is carried if support by a Majority of Voting Members present at a General Meeting in person or by proxy.
- 25.5 The Chair of that General Meeting has a second or casting vote if the vote on any resolution is tied.
- 25.6 Any poll must be taken in such a manner as the Chair directs, subject to the following subclause.
- 25.7 Notwithstanding the preceding subclause, a poll demanded on the election of a Chair or on a question of adjournment must be taken immediately.
- 25.8 The result of any poll is the resolution of the General Meeting at which the poll was demanded.
- 25.9 A Non-Financial Member cannot vote at any General Meeting.

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### 26. Proxy

- 26.1 A Voting Member may by written instrument appoint another person to act as their proxy to attend, speak and vote in their place at a General Meeting.
- 26.2 An instrument appointing a proxy is not valid and must not be recognised by the Chair of the General Meeting unless it complies with this clause.
- 26.3 A Non-Voting Member cannot appoint a person to act as their proxy to attend and speak in their place at a General Meeting.
- 26.4 An instrument appointing a proxy must be sent by the Voting Member to the Secretary at least forty-eight (48) hours before the time for holding the General Meeting or adjourned General Meeting at which the Voting Member proposes to vote.
- 26.5 The instrument appointing a proxy must be in the form approved by the Board from time to time.
- 26.6 An instrument appointing a proxy must be in writing and signed by:
  - (a) the Voting Member; or
  - (b) the Voting Member's attorney; or
  - (c) if a corporation – in accordance with the Act or authorised representative of the company.
- 26.7 An instrument appointing a proxy must include the power of attorney or other authority (or a certified copy of that power or authority), under which it is signed.
- 26.8 A Voting Member may instruct his proxy in favour of or against any proposed resolutions.
- 26.9 A proxy may vote as he thinks fit, unless otherwise instructed.
- 26.10 On a show of hands every person present who is a:
  - (a) Voting Member; or
  - (b) an authorised representative, attorney or proxy of a Voting Member,

has one (1) vote.

26.11 The instrument appointing a proxy confers authority on the proxy to demand or join in demanding a poll.

26.12 On a poll every Voting Member present:

- (a) in person; or
- (b) by proxy; or
- (c) by attorney; or
- (d) by other duly authorised representative,

has one (1) vote on their own behalf and one vote for every proxy they hold.

26.13 A vote given in accordance with the terms of an instrument of proxy or attorney is valid notwithstanding:

- (a) the previous death or unsoundness of mind of the Voting Member; or
- (b) the revocation of the instrument or the authority under which the instrument was executed,

if no indication in writing of such death, unsoundness of mind or revocation has been received by the Secretary before the commencement of the General Meeting or adjourned General Meeting at which the instrument is used.

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## **27. Resolution outside General Meeting**

27.1 A written resolution signed by all Members entitled to vote is valid and effectual as if it had been passed at a General Meeting duly convened and held.

27.2 Any such resolution may consist of several documents in like form, each signed by one (1) or more Members.

## **PART E - BOARD OF DIRECTORS**

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### **28. Constitution of the Board and election, nomination and appointment of Directors**

28.1 The affairs of the Company shall be managed by the governing body, the Board ("**the Board**").

28.2 The Board of Directors shall consist of a maximum of nine (9) Directors and shall be constituted as follows:

- (a) the President, Vice President and four (4) general Directors, who shall be elected by the members by a vote using the procedure and in the manner and timing as determined by the Board from time to time;
- (b) one (1) Director who shall be a person nominated by the Council of Branches; and
- (c) up to two (2) additional co-opted Directors appointed by the Board. Such Directors may be any persons (including members or non-members but excluding persons currently employed

## Company Constitution of Australian College of Mental Health Nurses Limited

by the Company) considered to be fit and proper persons and to have specific skills, experience and expertise deemed necessary for effective Board functioning and in meeting the Company's purpose and objectives as determined by the Board from time to time.

- 28.3 All Directors, whether elected, nominated or appointed, must act as individuals and are not to act as a "representative" of any individual Member or Member constituent group and as such must act in the best interests, and for the benefit of the Company as-a-whole, by promoting the furtherance of its objects, and not in the interests of other bodies or persons and not allow personal interests or the interest of any associated bodies or persons to conflict with the interests of the Company.
- 28.4 Only Ordinary Members, Fellows and Life Members of the Company are eligible to become Directors pursuant to Clauses 28.2(a) and 28.2(b).
- 28.5 The Company intends that the Board, to the extent possible, includes Directors that have a mix of skills and attributes, as prescribed by the Board from time to time, that are commensurate with those expected of a person to adequately govern an entity of similar size and complexity and to fulfil the duties pursuant to subclause 28.6.
- 28.6 In relation to their duties, Directors shall be and are required to:
- (a) act in good faith, in the best interest of the Company and for a proper purpose;
  - (b) not improperly use their position to gain advantage for themselves or someone else or cause detriment to the Company;
  - (c) not improperly use information obtained as a director to gain advantage for themselves or someone else or cause detriment to the Company;
  - (d) give, pursuant to the clause **Conflicts of Interests**, other directors notice of a material personal interest in a matter that relates to the affairs of the Company;
  - (e) use reasonable care and diligence in the exercise of their powers; and
  - (f) monitor and understand the financial position to ensure the maintenance of proper financial records and statutory financial reporting and that the Company does not trade while insolvent,

pursuant to the Act, this Constitution, the principle of common law and equity, and any relevant statute law.

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## 29. Conflicts of Interests

- 29.1 Neither a Director nor a member of staff or management may be present during discussions nor if a Director, vote or form part of a quorum at any Board meeting if the person has a direct or indirect interest in any contract or proposed contract with, or will directly or indirectly receive a material benefit from, the Company, and if the Director does vote, the Director's vote must not be counted.
- 29.2 Subclause 29.1 also applies to the extent that no Director or member of staff or management may participate in any online, verbal or written discussions before any decision is made by the Board in person or by written resolution or by any technological means to pass resolutions of the Company permitted under this Constitution or at law.
- 29.3 Upon election or appointment to the Board or appointment as an employee of the Company all Directors and Members of staff and management must disclose any matters in which they have or

## **Company Constitution of Australian College of Mental Health Nurses Limited**

may have a direct or indirect interest and continue to do so from time to time as any such interest arises.

- 29.4 All such disclosures shall be forwarded to the chair of the Board and tabled at the next Board meeting after such disclosure arises in the form determined by the Board from time to time.
- 29.5 Any contract or benefit approved by the Board or by management in favour of the interested Director, member of staff or management shall, subject to the Act and the rights of third parties, be voidable at the option of the Company should it be discovered after the approval that the above procedures in this clause have not been followed and in particular, there has been a failure to make full disclosure of the nature and extent of the conflict or benefit prior to any approval being given.

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### **30. Initial Directors**

- 30.1 The initial Directors of the Company are the persons specified in the application for registration of the Company as directors.

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### **31. Term of Directors**

- 31.1 All Directors elected, nominated or appointed pursuant to subclause 28.2 (but excluding those appointed as a casual vacancy) will hold office for a term of three (3) years at which time they must retire but are eligible for re-election, re-nomination or re-appointment for another (second) term of office of three (3) years.
- 31.2 At the completion of a second term of office of three (3) years (i.e. a continuous period of six (6) years), a Director elected, nominated or appointed pursuant to subclause 28.2 who has held office pursuant to subclause 31.1, must stand down from office for at least two (2) years, after which time they may be again eligible to be either elected, nominated or appointed pursuant to subclause 28.2 and serve a term of office as a Director pursuant to subclause 31.1.
- 31.3 At each Annual General Meeting any Director appointed by the Directors to fill a casual vacancy during the previous year, must retire but is eligible to be elected, nominated or appointed pursuant to subclause 28.2 and serve a term of office as a Director pursuant to subclauses 31.1 and 31.2, noting that their period filling a casual vacancy does not count towards the terms of office pursuant to subclauses 31.1 and 31.2.
- 31.4 Except for the initial Directors at incorporation of the Company, a Director's term of office commences from the date the appointment or election was made.

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### **32. Remuneration of Directors**

- 32.1 At an Annual General Meeting the Voting Members may, by Majority resolution, pass a resolution on the remuneration payable to a Director. In the absence of such a resolution, the remuneration of Directors is zero (0).
- 32.2 A Director's remuneration must be a fixed sum and not a commission or a percentage of the turnover of the Company basis.
- 32.3 The Company may also pay travelling and other expenses that a Director properly incurs on the Company's business.
- 32.4 If a Director performs extra or special services for the Company, the Company may pay to the

## Company Constitution of Australian College of Mental Health Nurses Limited

Director any special remuneration the Board decides, in addition to the Director's normal remuneration.

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### 33. Re-election

- 33.1 An Elected Board Member cannot sit for re-election if they have held office for a continuous period of six (6) years.
- 33.2 Notwithstanding subclause 33.1:
- (a) an Elected Board Member shall be eligible for re-election if no other nomination is received by the Company for that position; and
  - (b) in the event that there are insufficient nominations received for the positions required to be filled at the Annual General Meeting, then the Chair of the Annual General Meeting shall be at liberty to accept such nominations from the body of the meeting as the Chair may deem appropriate.
- 

### 34. Termination of Director

- 34.1 Subject to the Act, the Voting Members may by Special Resolution remove any Director (including the President or Vice-President) before the expiration of their period of office.
- 34.2 The office of a Director becomes vacant if:
- (a) the Director dies;
  - (b) the Director becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (c) the Director becomes prohibited from being a Director of a Company by reason of any order made under the Act;
  - (d) the Director becomes of unsound mind;
  - (e) the Director's estate is liable to be dealt with in any way under the law relating to mental health;
  - (f) the Director is convicted of an indictable offence;
  - (g) the Director resigns their office by notice in writing to the Company;
  - (h) the Director for more than six (6) months is absent without permission of the Board from meetings of the Board held during that period;
  - (i) the Director holds any office of profit under the Company without the Board's consent;
  - (j) the Director ceases to be a Member; or
  - (k) the Director is directly or indirectly interested in any contract or proposed contract with the Company, except as permitted under this Constitution.

### **35. Casual vacancy**

- 35.1 Subject to clause ***Constitution of the Board and election, nomination and appointment of Directors***, the Board may appoint any person as a Director, either to fill a casual vacancy or as an addition to the Directors.
- 35.2 Any Director appointed under the preceding subclause will hold office until the next Annual General Meeting.
- 35.3 Notwithstanding the preceding subclause, a Director may continue to hold office if the Voting Members confirm their appointment at the next Annual General Meeting.

## **PART F - POWERS OF DIRECTORS**

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### **36. Powers**

- 36.1 The Board will:
- (a) control and manage the business and affairs of the Company; and
  - (b) exercise all such power and do all such things as may be exercised or done by the Company,
- except for anything which the Constitution or the Act is required to be exercised or implemented by the Company in General Meeting.
- 36.2 No action must be taken against the Board for any act or decision it makes in accordance with this Constitution, if there is a subsequent resolution by the Company in General Meeting invalidating the act or decision.

## **PART G - MEETING OF DIRECTORS**

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### **37. Board meetings**

- 37.1 The Board must meet at least three (3) times in each calendar year to carry out its duties and responsibilities at such place and at such times as the Board may determine.
- 37.2 Special meetings of the Board may be convened by the at least fifty percent (50%) of all Directors.
- 37.3 The Chief Executive Officer or Chair of the Board may at any time on notice to at least six (6) Directors constitute an emergency meeting of the Board. Provided that a quorum is present, such emergency meeting of the Board shall make such decision and give such direction as the circumstances may require.
- 37.4 The Board may adjourn and otherwise regulate its meetings and proceedings as it thinks fit.
- 37.5 A Director may at any time and the Secretary will on the request of a Director summon a meeting of the Board.
- 37.6 All Directors must be given at least forty-eight (48) hours' notice of a Board meeting, unless agreed otherwise by the Directors.
- 37.7 The Secretary must give each Director a written notice of a Board meeting in accordance with the

## Company Constitution of Australian College of Mental Health Nurses Limited

preceding subclause and the notice must:

- (a) specify the day, time and place of the meeting; and
- (b) state the business to be transacted.

37.8 A Board meeting may be held using any technology consented to by all the Directors.

37.9 The consent to use of technology may be a standing one and a Director may only withdraw consent within a reasonable period before the meeting.

37.10 At each Board Meeting:

- (a) the President will be the Chair; or
- (b) if the President is unable or unwilling to act as Chair, the Vice President will be the Chair.

37.11 If, at Board Meeting:

- (a) there is no Chair; or
- (b) the President and Vice President are not present within fifteen (15) minutes after the time appointed for holding the meeting; or
- (c) being present, the President and Vice President are unable or unwilling to preside, the Directors present will one (1) of the Directors present to be Chair for that meeting only.

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### 38. Quorum for Board meetings

38.1 No business can be transacted at a Board meeting unless a quorum is present.

38.2 The quorum for any Board meeting is any three (3) Directors and the President, and if the President is absent, any five (5) Directors or such greater number as determined by the Board from time to time.

38.3 If there are not enough Directors in office to form a quorum, the remaining Directors may act only:

- (a) to increase the number of Directors to a quorum; or
- (b) to call a General Meeting of the Company.

38.4 Subject to the preceding subclause, if within thirty (30) minutes of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned and in which case the Chief Executive Officer or Chair of the Board may nominate such other time as may be reasonably convenient to hold a further special meeting.

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### 39. Board voting

39.1 Subject to clause *Termination of Director*, all decisions of the Board are determined by majority vote of Directors present at the Board meeting.

39.2 The Chair of the Board meeting has a second or casting vote if the vote on a resolution is tied.

#### **40. Resolution outside Board meeting**

- 40.1 A written resolution signed by two (2) Directors entitled to vote is valid and effectual as if it had been passed at a Board meeting duly convened and held.
- 40.2 Any such resolution may consist of several documents in like form, each signed by one or more Directors.
- 

#### **41. Advisory committees**

- 41.1 The Board may appoint one or more advisory committees consisting of such persons as the Board thinks fit.
- 41.2 An advisory committee must only act in an advisory capacity and cannot bind the Company or the Board.
- 41.3 Any advisory committee must comply with any directions given by the Board.
- 41.4 The advisory committee must operate in accordance with the directions of the Board.

### **PART H – OFFICE BEARERS AND OTHER ROLES**

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#### **42. Appointment of Office Bearers**

- 42.1 The Office Bearers of the Company are the:
- (a) President;
  - (b) Vice President;
  - (c) Public Officer; and
  - (d) Secretary.
- 42.2 At the first meeting of the Board following each election or appointment of the Directors the Board may by majority elect one (1) of the Directors:
- (a) Public Officer; and
  - (b) Secretary,
- on such terms as they think fit.
- 42.3 Excluding the role of Public Officer, a Director is not eligible to simultaneously hold more than one (1) position as an Office Bearer on the Board.
- 42.4 A Director who is elected or appointed as an Office Bearer may resign from that position at any time by notice in writing to the Board without resigning from the position of Director.
- 42.5 An Office Bearer may be removed from office by a two thirds majority vote of Directors at their absolute discretion at any time.



### **43. President**

- 43.1 The President shall be elected by the Members as President and ipso facto a Director (pursuant to subclause 28.2 who has the same tenure as any other Director and who will hold office until the third Annual General Meeting but is eligible for re-election pursuant to subclause 31.1 but must retire pursuant to subclause 31.2.
- 43.2 If the President retires as a Director or otherwise ceases to be a Director or otherwise resigns or is removed from the position of President (pursuant subclauses 42.4 and 42.5) at any time during their tenure, the person ceases to be the President, and the Vice-President shall perform the duties of the President subject to subclauses. Should the President retire as, or cease to be a Director and thereby create a casual vacancy of a Director, the Board may act pursuant to Clause 35.
- 43.3 A person who is elected President is, for the purposes of this Constitution, first and foremost a Director who, in addition to their Director role, shall also as President, have all the corresponding authorities, powers, functions, responsibilities delegated in this Constitution and those further delegated by the Board and shall ensure the provision of the Constitution, any By-laws and any Board policies are complied with, noting that the Board may, subject to this Constitution, determine, or vary any determination of, the authorities, powers, functions, responsibilities of the President and may delegate any of its powers to the President for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the President.
- 43.4 The President shall preside as Chair at general meetings and meetings of the Board and shall conduct all meetings in accordance with any By-laws determined by the Board and shall exercise control of meetings at which they preside and shall use all necessary lawful powers to secure and enforce order and expedition in the conduct of the business and good order of the Members and shall preserve order thereat, and upon the minutes being confirmed, sign the minutes of the relevant meeting within one (1) month of the conclusion of the meeting and arrange for the signed minutes to be entered into the minute register.
- 43.5 In the temporary absence or unwillingness to act by, or otherwise in the vacancy of office of the President, the Vice-President shall perform the duties of the President for that temporary period, or in the case of a vacancy, until the next Annual General Meeting at which time the Members shall elect a President pursuant to subclause 28.2.

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### **44. Vice President**

- 44.1 At the first meeting of the Board after the Annual General Meeting in each year, the Board may elect, by simple majority, one (1) of the Directors from among their number to the office of Vice-President. The Vice-President will hold office until the next Annual General Meeting but is eligible for re-election.
- 44.2 If the Vice-President retires as a Director or otherwise ceases to be a Director (pursuant to Clause 34) or otherwise resigns or is removed from the position of Vice-President (pursuant subclauses 42.4 and 42.5) at any time during their tenure, the person ceases to be the Vice-President, at which time the Board may elect by simple majority a replacement from eligible Directors pursuant to the eligibility under Clause 44, as it sees fit, to serve the remaining term of that Vice-President until the next Annual General Meeting but the replacement is eligible for re-election. Should the Vice-President retire as, or cease to be a Director and thereby create a casual vacancy of a Director, the Board may act pursuant to Clause 35.

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- 44.3 The person elected Vice-President is, for the purposes of this Constitution, first and foremost a Director who, in addition to their Director role, shall also as Vice-President, have all the corresponding authorities, powers, functions, responsibilities delegated in this Constitution and those further delegated by the Board, noting that the Board may, subject to this Constitution, determine, or vary any determination of, the authorities, powers, functions, responsibilities of the Vice-President and may delegate any of its powers to the Vice-President for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to the Vice-President.
- 44.4 The Vice-President shall perform the duties of the President in their temporary absence or unwillingness to act by, or otherwise in the vacancy of office of the President, in accordance with this Constitution and any By-laws determined by the Board and subject to subclause 43.5.

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### 45. Chief Executive Officer

- 45.1 The Chief Executive Officer shall be appointed by the Board to perform such roles, functions, duties and responsibilities and on such terms and conditions (including as to remuneration) as determined by the Board, and may be removed by the Board (subject to the terms of any contract of employment between the Company and the Chief Executive Officer).
- 45.2 The Chief Executive Officer of the Company may be a Member of the Company but shall not be eligible to be a Director of the Company.

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### 46. Public Officer

- 46.1 A Public Officer (who may be either a Director, the Secretary, an employee, a Member or any other eligible person, i.e. has attained eighteen (18) years of age, is a resident of Australia and has consented to be the Public Officer of the Company) shall be appointed by the Board to discharge and perform all the roles and functions, duties and responsibilities required under the Act and any other relevant bodies.

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### 47. Secretary

- 47.1 The first Secretary of the Company is the person specified in the application for registration of the Company as Secretary.
- 47.2 The Board shall appoint a Secretary (who may be either a Director, the Public Officer, an employee, a Member or any other eligible person), who shall hold office for any period to perform such functions as required by this Constitution or any other duties and responsibilities and on such terms and conditions (including as to remuneration- if any) as the Board determines and who may vary or revoke any determination of, the powers, functions, responsibilities of the Secretary.
- 47.3 Subject to any agreement between the Company and the Secretary, the Board may vary or terminate the appointment of a Secretary at any time, with or without cause.
- 47.4 The person appointed Secretary has all the corresponding authorities delegated in this Constitution and those further delegated by the Board.
- 47.5 The Secretary may also, delegate some or all of the above duties, except this power of delegation, to another person from time to time.
- 47.6 The Board may suspend or remove the Secretary.

- 47.7 The Secretary must act in accordance with the Act.
- 47.8 The Secretary must discharge all functions conferred on the Secretary under this Constitution or the Act.
- 47.9 The Secretary is the public officer of the Company unless the Board determines otherwise.

## **PART I - RECORDS**

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### **48. Financial records**

- 48.1 The Company must keep the financial records required by the Act and in accordance with the ITAA 1997.
- 48.2 The financial records must be audited as required by the Act.
- 48.3 The audited financial records must be provided to Members as required by the Act.

### **49. Audit**

- 49.1 A properly qualified auditor(s) must be appointed and his or their duties regulated in accordance with the Act.

### **50. Inspection**

- 50.1 A Member is not entitled to inspect the Company's books, unless authorised by:
- (a) the Board;
  - (b) the Voting Members by majority resolution; or
  - (c) the Act.

### **51. Registers**

- 51.1 The Company must keep the registers required by the Act.
- 51.2 The Company must make the registers available to Members as required by the Act.
- 51.3 The Secretary must ensure the registers of the Company are accurate and up to date.

## **PART J - OTHER**

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### **52. Execution of documents**

- 52.1 The Company may execute any agreement, deed or other document in accordance with section 127 of the Act.
- 52.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by:

## Company Constitution of Australian College of Mental Health Nurses Limited

- (a) the Chief Executive Officer; or
  - (b) at least two (2) Directors as approved by the Board; or
  - (c) in such other manner as the Board from time to time determines.
- 

### 53. Notices to Members

53.1 The Company may give notice to a Member:

- (a) personally;
  - (b) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
  - (c) by sending it by post to the registered office of the Member if the Member is a company or association; and
  - (d) by sending it to the electronic address (email) nominated by the Member.
- 

### 54. Notices to Directors

54.1 The Company may give notice to a Director:

- (a) personally;
  - (b) by sending it by post to the Director's usual residential or business address or any other address nominated by them;
  - (c) if a notice calling a meeting – by sending it to the fax or electronic address (if any) nominated by the Director, only if all of the Directors have consented to the use of that technology; and
  - (d) if any other notice – by sending it to electronic address (email) nominated by the Director.
- 

### 55. Time of service of notice

55.1 A notice sent by post is taken to be given three (3) business days after posting.

55.2 A notice sent by fax or other electronic means, is taken to be given on the business day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number or electronic address).

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### 56. Application of income

56.1 The income and property of the Company must be applied solely towards the promotion of the Objects.

56.2 The Company must not pay or transfer (directly or indirectly) by way of dividend, bonus or otherwise any portion of the income or property to any Member.

56.3 Notwithstanding the preceding subclause, the Company may pay in good faith to any Member:

## Company Constitution of Australian College of Mental Health Nurses Limited

- (a) for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
- (b) for any out-of-pocket expenses incurred by any Member on behalf of the Company;
- (c) for any other bona fide reason or purpose for the attainment of the Objects.

56.4 Notwithstanding the second subclause in this subclause 56.2, the Company may pay in good faith to any Director:

- (a) for out-of-pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
- (b) for any service rendered to the Company by the Director in a professional or technical capacity as approved by the Board, other than in their capacity as Director.

56.5 Any payment under this clause must be commercially reasonable for the service.

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### 57. Members' liability

57.1 The liability of the Members is limited.

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### 58. Members' contribution

58.1 Every Member of the Company agrees to contribute to the assets of the Company in the event of the Company being wound up:

- (a) while they are a Member; or
- (b) within one (1) year after ceasing to be a Member,

for:

- (c) payment of the debts and liabilities of the Company (contracted before the time at which the Member ceases to be a Member);
- (d) the costs, charges and expenses of winding up; and
- (e) the adjustment of the rights of the contributories among themselves.

58.2 The maximum a Member is required to contribute under the preceding subclause is ten dollars (\$10.00).

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### 59. Not for profit

59.1 Subject to the clause *Remuneration of Directors*, the profits or other income or property of the Company must be applied solely for the promotion of the Objects in the preceding subclause and no portion of it may be paid or transferred, directly or indirectly, to any member whether by way of dividend, bonus or otherwise.

## 60. Winding up

- 60.1 The Company may be dissolved consequent upon the passing of a Special Resolution of all Ordinary Members, Fellows and Life Members (voting in person or by proxy and who are eligible to vote) at a General Meeting convened for this purpose, providing one (1) calendar months' notice in writing (stating the proposed dissolution of the Company) to all such voting Members.
- 60.2 If upon winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid or distributed among the ex-members of the Company but shall be transferred to some other institution or institutions having objects similar or in part similar to the objects of the Company and which shall also prohibit the distribution of its property amongst its members.
- 60.3 Such institution or institutions shall be determined by the Company Ordinary Members, Fellows and Life Members at or before the time of dissolution by Special Resolution or in default thereof by the Chief Judge of such Court as may have or acquire jurisdiction in this matter.
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## 61. Indemnity

- 61.1 Every person who is or has been a:
- (a) Director;
  - (b) Secretary; or
  - (c) other Office Bearer of the Company,
- is indemnified, to the maximum extent permitted by the Act and law, out of the property of the Company.
- 61.2 Subject to the subclause 61.4, the Company indemnifies the persons referred to in the preceding subclause against any liability for costs and expenses incurred by that person:
- (a) in defending any proceedings (whether civil or criminal) relating to that person's position with the Company; or
  - (b) in connection with any administrative proceedings (whether civil or criminal) relating to that person's position with the Company; or
  - (c) in connection with any application in relation to any proceedings (whether civil or criminal) relating to that person's position with the Company.
- 61.3 The indemnity in the preceding subclause only applies if:
- (a) judgment is given in that person's favour; or
  - (b) the person is acquitted; or
  - (c) the proceedings are withdrawn before judgment; or
  - (d) relief is granted to that person under the Act by a court.
- 61.4 The indemnity in this clause does not apply to a liability arising out of conduct involving a lack of good faith or dishonesty.

## **62. Alterations to Constitution**

- 62.1 The Constitution may be altered, repealed and amended by the Voting Members in a General Meeting in accordance with the Act.
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## **63. By-laws**

- 63.1 The Board may (by itself or by delegation) formulate, approve, issue, adopt, interpret and amend such By-laws as it thinks necessary or desirable for the proper advancement, management and administration of the Company, in particular:
- (a) the management and good governance of the affairs of the Company;
  - (b) the establishment of a credentialing program for the credentialing of mental health nurses by the Company; and
  - (c) any other matter the Board considers necessary.
- 63.2 The Board may only make By-laws which are consistent with this Constitution and the Act.
- 63.3 All By-laws made under this clause are binding on the Company and its Members, Directors and office bearers, Board committees and their members, officers, employees, contractors and agents of the Company who shall be bound by and must comply with any by-laws in force from time to time.