



**PalliativeCare**  
AUSTRALIAN CAPITAL TERRITORY

# **PALLIATIVE CARE ACT INCORPORATED**

## **CONSTITUTION**

**13 November 2014**

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**PALLIATIVE CARE ACT INCORPORATED**

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**Palliative Care ACT Incorporated**

**Constitution**

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**CONSTITUTION**

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# PALLIATIVE CARE ACT INCORPORATED

## CONSTITUTION

### NAME OF ASSOCIATION

Clause 1        The name of the Association is ‘Palliative Care ACT Incorporated’ (‘the Association’).

### DEFINITIONS

Clause 2        In this Constitution, unless the contrary intention appears:

- (a) ‘palliative care’ means a concept of care which provides co-ordinated medical, nursing and allied services for people who are terminally ill, delivered where possible in the environment of the person’s choice, and which provides physical, psychological, emotional and spiritual support for patients and support for patients’ families and friends.
- (b) ‘hospice’ includes any building, program, system, service, or facility associated with palliative care, whether in a public institution or in the community at large.
- (c) ‘association’ includes any firm, corporation, association, institute, department , instrumentality of government or municipal authority.
- (d) ‘Board’ means Board of the Association referred to in Clause 11 of this Constitution.
- (e) ‘general meeting’ means a meeting to which all members of the Association are summoned.
- (f) ‘member’ includes an ordinary member, a corporate member, an organisational member, a life member and an honorary member.
- (g) ‘office-bearer’ means the holder of the offices of President, Vice President, Secretary and Treasurer.
- (h) ‘officer’ means any employee of the Association.
- (i) ‘person’ does not include a corporation.
- (j) ‘Bylaws’ means bylaws made in accordance with Clause 35 of this Constitution.
- (k) ‘Executive Delegate’ is a member of the Board so appointed to act on the Board’s behalf to manage the affairs of the Association.

### PRINCIPAL PURPOSE AND OBJECTS

- Clause 3        (a) The principal purpose of the Association is to promote the prevention or control of disease in human beings.
- (b) The principal purpose and objects for which the Association is established are to promote the prevention or control of disease in human beings and to facilitate the provision and improvement of palliative care in the ACT by:
- (i) providing a forum for the exchange of ideas on matters relating to palliative care and to encourage the dissemination of such

information to the community, health professionals, volunteers and caregivers through education and awareness campaigns;

- (ii) to consult with the ACT Government and the Health Department on the needs of those receiving or requiring palliative care and initiate action to meet those needs or act as an advocate on their behalf;
- (iii) to promote the maintenance of palliative care standards across the ACT; and
- (iv) to liaise and develop partnerships with other organisations which have like objectives that could improve palliative care in the ACT.

## **POWERS OF THE ASSOCIATION**

Clause 4        The Association *is able*:

- (a) To do all things incidental or conducive to attaining the Association's principal purpose and objects. In particular, to further its principal purpose and objects the Association may:
  - (i) purchase, acquire and receive any real and personal property, and sell, transfer, demise and otherwise deal with any real or personal property of the Association;
  - (ii) raise and borrow money, and secure the repayment of money raised or borrowed, or the payment of any debt or liability of the Association by any lawful means, including mortgage charge or debenture upon or over all or any of the real or personal property of the Association;
  - (iii) invest any monies of the Association for the purpose of the Association upon such terms and in such manner as it thinks fit;
  - (iv) undertake and execute any trusts within the principal purpose and objects of the Association and accept any gift, endowment, bequest or devise made to the Association generally or for the purpose of any specific charitable purpose of the Association and carry out any trust attached to any such gift, endowment, bequest or devise;
  - (v) draw, make, accept, endorse, discount, execute, issue and redeem promissory notes, bills of exchange, warrants and other negotiable instruments; and
  - (vi) establish and maintain operating accounts with a bank (or equivalent) in order to manage the monies received and paid for the principal purpose of the Association;
  - (vii) there shall be established a Gift Fund which shall be separately maintained and used solely for the principal purpose of the Association. All gifts of money and property made for the 'principal purpose' shall be credited to the gift fund. All monies received as a result of these gifts shall also be credited to the gift fund.

- (b) If the Board so resolves, to undertake any or all of the following activities:
  - (i) to engage in programs of education on matters relating to palliative care;
  - (ii) to provide facilities and services, including the provision of equipment, for palliative care;
  - (iii) to provide facilities and services, including maintenance, travelling expenses and accommodation, for the welfare of palliative care patients and their families;
  - (iv) to undertake, co-ordinate or stimulate research and investigation with respect to palliative care;
  - (v) to continue to advise Government, health workers and the community on the needs of palliative care in the ACT;
  - (vi) to co-operate and enter into arrangements with persons and associations having a principal purpose and objects similar to those of the Association;
  - (vii) in furtherance of the principal purpose and objects, to produce, or to encourage by any means, production of, and to make available, whether by sale or otherwise, things and materials including books, monographs, periodicals, pamphlets, lectures, radio and television programs and films; and
  - (viii) to appoint, employ, remove or suspend such persons as may be necessary or convenient for the purpose of attaining or furthering the principal purpose and objects of the Association.

## **MEMBERSHIP OF THE ASSOCIATION**

- Clause 5
  - (a) The members of the Association shall consist of ordinary members, corporate members, organisational members, life members and honorary members.
  - (b) The Board may admit any person as an ordinary member or a life member.
  - (c) The Board may admit any person or association as a corporate member or an organisational member.
  - (d) On the recommendation of the Board an honorary member may be elected at a general meeting of the Association. Honorary members may be elected for life or for such period as the Association deems fit.
  
- Clause 6
  - (a) A corporate member or an organisational member which is an association or business, may from time to time by written notice addressed to the Secretary of the Association designate a person to be its representative and, subject to this Constitution, the person so nominated has the same rights and privileges as a member.
  - (b) Where a person designated as a representative of a corporate member or an organisational member is or becomes a member of the Association, he or she may cast only one vote in any ballot, election, or vote in which a member is entitled to participate.

## **SUBSCRIPTIONS**

Clause 7            The annual subscription for an ordinary member, a corporate member and an organisational member, and the subscription for a life member shall be decided at the first Board meeting following the Annual General Meeting.

- Clause 8            (a)    The subscription of a member shall become due and payable in the first place on admission to membership and thereafter at the start of each new financial year of the Association (1 July each year).
- (b)    The Board may, in the case of a corporate member or an organisational member, which in the opinion of the Board, is a non-profit making association, reduce the subscription payable by that corporate or organisational member.

## **CESSATION OF MEMBERSHIP**

- Clause 9            (a)    Any member whose annual subscription remains unpaid after one year from the date on which it became due and payable shall cease to be a member.
- (b)    If the Board, by a resolution supported by at least three-quarters of the Board members, is of the opinion that a member has acted in a manner detrimental to the interests of the Association, the Board may suspend the membership of that member for such period as the Board determines. Any such suspension shall be reported to the next succeeding general meeting of the Association.
- (c)    A member may appeal to the Association in general meeting against a resolution of the Board that is confirmed under Clause 9 (b) within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (d)    On receipt of a notice, the Secretary must notify the Board which must call a general meeting of the Association to be held within 21 days after the date when the Secretary received the notice or as soon as possible after that date.
- (e)    Subject to the Associations Incorporation Act, section 50, at a general meeting of the Association subsequently convened:
- (i)    no business other than the question of the appeal may be transacted;
- (ii)    the Board and the member must be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
- (iii)    the members present must vote by secret ballot on the question of whether the resolution made under Clause 9 (b) should be confirmed or revoked.
- (f)    If the meeting passes a special resolution in favour of the confirmation of the resolution made under Clause 9(b) that resolution is confirmed.
- Clause 10            A member may, by notice in writing to the Secretary, resign his or her membership of the Association and ceases to be a member from the date on which such resignation is received.

## **BOARD COMPOSITION, POWERS AND RESPONSIBILITIES**

- Clause 11        The Board manages the affairs of the Association and is the governing body of the Association.
- Clause 12        (a)    The Board consists of not more than twelve elected members or members appointed in accordance with Clause 23(b) of this Constitution, and such additional members as are co-opted in accordance with Clause 13 of this Constitution.
- (b)    Elected members of the Board are those financial members of the Association who are elected at the annual general meeting of the Association and, subject to Clause 23 of this Constitution, are members of the Board until the third annual general meeting following election.
- (c)    A member of the Board, upon the expiration of his or her term, is eligible for further election.
- (d)    The composition of the Board should as far as possible, reflect the interests of community organisations concerned with palliative care.
- Clause 13        (a)    The Board may appoint a financial member of the Association to be a co-opted member of the Board.
- (b)    A co-opted member of the Board may hold his or her place until the next annual general meeting following appointment or until the occurrence of an event referred to in Clause 23 whichever first occurs.
- (c)    The Board shall not have among its members more than three co-opted members.
- Clause 14        (a)    The President, Vice President, Secretary and the Treasurer of the Association are elected by the Board from its members and become the Executive Committee.
- (b)    The position of a member of the Executive Committee shall be declared vacant if the member is asked to stand down as an Executive Committee member by a resolution of the Board for which a notice of motion has been given not later than 28 days before the motion is moved.
- Clause 15        A person elected to an office under Clause 14 holds that office until his or her place as a member of the Board becomes vacant.
- Clause 16        (a)    A member of the Board who is an office-bearer may resign from office without ceasing to be a member of the Board and may, subject to this Constitution, remain a member of the Board until the expiration of the term for which he or she was elected to the Board.
- (b)    In the event of such a resignation from office, the Board may elect a member of the Board to hold office and the member so elected shall hold that office until his or her place as a member of the Board becomes vacant.
- (c)    An office-bearer is eligible for re-election as long as he or she is a financial member of the Association.



- Clause 17 Unless the Bylaws otherwise provide:
- (a) Five members constitute a quorum at a meeting of the Board at which office-bearers are appointed.
  - (b) Five members of the Board, at least two of whom are office-bearers, constitute a quorum at any other meeting of the Board.
  - (c) Three office-bearers, one of whom is the President (or the Vice President if authorised to act as President), constitute a quorum at any Executive Committee meeting.
- Clause 18 Subject to this Constitution and the Bylaws, the Board has the sole control and management of the property, income, affairs and concerns of the Association and, subject to this Constitution, may act in such manner as appears to it to be best calculated to carry out and promote the principal purpose and objects of the Association.
- Clause 19 Without diminishing the powers vested in it by Clause 18, the Board may:
- (a) Employ staff and determine their conditions of employment.
  - (b) Exercise the powers of the Association referred to in Clause 4 of this Constitution to advance the principal purpose and objects of the Association.
- Clause 20 At least once every twelve months, the Board must:
- (a) Cause the financial affairs of the Association to be audited, by a person who is not a member or the Public Officer of the Association.
  - (b) Prepare, or cause to be prepared, a balance sheet setting out the assets and liabilities of the Association.
- Clause 21
- (a) The Board may establish sub-committees as required to meet the principal purpose and objects of the Association.
  - (b) If the Board establishes a medical advisory sub-committee, it must consist only of such medical practitioners registered to practice in a State or Territory of Australia as are appointed by the Board.
  - (c) The President, the Vice President and Secretary of the Association are ex-officio members of each sub-committee.
  - (d) The chair of each sub-committee is elected by its members; in the chair's absence, the sub-committee shall elect an acting chair.
  - (e) Subject to this Constitution, a meeting of a sub-committee may regulate its proceedings by resolution of a majority of members present and voting.
- Clause 22 Public Officer
- (a) The Board must appoint a person to be Public Officer of the Association in accordance with sections 57, 59 and 64 of the Associations Incorporation Act 1991.
  - (b) The Public Officer of the Association shall perform the functions and duties required to be performed by such a person under the relevant legislation incorporating the Association and such other functions and duties as the Board determines.

- (c) If the Public Officer is a member of the Board, then on appointment as the Public Officer the Public Officer also becomes a member of the Executive Committee.

Clause 23 Casual Board Vacancies.

- (a) The position of a Board member shall be declared vacant if he or she:
  - (i) Dies;
  - (ii) Declines to act;
  - (iii) Becomes of unsound mind;
  - (iv) Ceases to be a member of the Association;
  - (v) Is absent from three consecutive meetings of the Board without leave of absence from the Board and the Board so resolves;
  - (vi) By notice in writing to the Board, resigns from office;
  - (vii) Becomes bankrupt or compounds with his or her creditors;
  - (viii) Has membership suspended pursuant to Clause 7(b) of this Constitution;
  - (ix) Has not paid his or her annual membership subscription;
- (b) In the event of a vacancy occurring in the place of a member of the Board under Clause 23(a), the Board may appoint any financial member of the Association to be a member of the Board and the member so appointed shall remain a member of the Board, subject to Clause 23, until the next annual general meeting of the Association.
- (c) In the event of a vacancy occurring in the place of a member of the Board under Clause 23(a), the Association may at the first annual general meeting following the date when the vacancy occurred, elect a financial member of the Association to be a member of the Board and the member so elected, subject to Clause 23, remains a member of the Board for the residue of the term of the member creating the vacancy.

Clause 24 Replacement of office-bearers and officers. The Board may at any time authorise any office-bearer, employee, other person or sub-committee to perform any acts or functions which under this Constitution or the Bylaws may be performed by any office-bearer, employee, other person or sub-committee whenever the Board considers it desirable to do so by reason of death, absence, disability or other cause.

## **MEETINGS OF THE BOARD**

- Clause 25
- (a) The President convenes meetings of the Board and upon receipt by the Secretary of the Association of a request from at least six members of the Board, must convene a meeting of the Board within fourteen days of receipt of the request.
  - (b) The President presides at all meetings of the Board at which he or she is present. When the President is absent, the Vice President presides. In the absence of the Vice President the Board may elect one of its members to preside.
  - (c) The Board may resolve any matter by a majority of members present and voting.

- (d) The President or other person presiding at a meeting of the Board may exercise a deliberative vote and, in the event of an equality of votes, the motion is lost.

## **GENERAL MEETINGS**

- Clause 26        The Board may convene a general meeting whenever it deems fit.
- Clause 27        A general meeting to be called the annual general meeting of members of the Association must be held at least once in each calendar year at intervals not greater than fifteen months between meetings. The business of the annual general meeting shall include:
- (a) The presentation of the audited financial statements of account.
  - (b) The report of the Board on the transactions of the past year.
  - (c) The election, subject to this Constitution, of members of the Board.
  - (d) Such other business as is placed on the agenda:
    - (i) by the Board; or
    - (ii) pursuant to notice in writing, by two members, addressed to the Secretary and received by him or her at least ten days before the date fixed for the meeting.
- Clause 28        (a) Not less than twenty-one days, nor more than thirty days before any general meeting, the Board must send to the members a notice setting out the date, place and hour of the meeting and the business to be considered.
- (b) The non-receipt of such a notice by any member, or the accidental omission to give notice to any member, does not invalidate the proceedings of the meeting.
- Clause 29        (a) If the Secretary receives a request for a general meeting from at least ten members of the Association, the President or the Vice President acting for the President, must convene a general meeting of the Association within twenty-eight days of the receipt of the request.
- (b) In determining the items to be included in the notice convening a general meeting under Clause 29 (a), the Board shall have regard to the business which the members requesting the meeting desire to be considered at that meeting.
- Clause 30        (a) At a meeting of the Association, business not appearing in the notice convening the meeting may not be brought forward unless the meeting otherwise decides.
- (b) Nothing in the Clause 30(a) affects the operation of Clauses 34, 41 and 42 of this Constitution.
- Clause 31        The President presides at all general meetings when present and in the absence of the President, the Vice President presides. In the absence of the Vice President the meeting may elect one of its members to preside.
- Clause 32        (a) Twenty currently financial members, personally present at a general meeting of the Association shall constitute a quorum.

- (b) Within half an hour of the time appointed for a general meeting, a quorum must be present for the meeting to commence, otherwise the meeting is dissolved and shall stand adjourned to such other day and at such other time as the Board shall determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the financial members present shall constitute a quorum.

- Clause 33
- (a) Subject to this Constitution, a meeting of the Association may regulate its proceedings by resolution of a majority of members present and voting. Members of the Association are not entitled to vote by proxy at general meetings.
  - (b) At a meeting of the Association, the President or other person presiding, may exercise a deliberative vote and in the event of an equality of votes, the motion is lost.

### **AMENDMENTS TO THE CONSTITUTION**

- Clause 34
- (a) This Constitution may be amended at a general meeting by a resolution of which at least twenty-one days and not more than thirty days notice in writing has been given to the members, setting out the date, place and hour of the meeting and the business to be considered.
  - (b) A resolution to amend the Constitution may be submitted to the Board on request in writing signed by at least ten members addressed to the Secretary and received at least twenty-one days before the date fixed for the next general meeting.
  - (c) A proposed amendment under Clause 34(a) must be carried by a three-quarter majority of those present and voting.
  - (d) An amendment of the objects and principal purpose of the Association or of this Constitution is of no effect until a copy of the amendment is lodged with the Registrar General's Office in accordance with Section 33 of the *ACT Associations Incorporations Act 1991*.

Clause 35     Bylaws

- (a) The Board may make such Bylaws as it considers necessary or expedient for the purpose of giving effect to this Constitution or carrying out its powers, functions and duties under this Constitution.
- (b) Any Bylaw, made in accordance with Clause 35(a) ceases to operate if it is not approved by a majority of those present and voting at the first annual general meeting after it is made.

### **FINANCES AND ADMINISTRATION**

- Clause 36     The financial year of the Association will commence on 1 July and end on 30 June the following year.

Clause 37     Income and property

- (a) The income and property of the Association shall be applied solely to promoting and carrying out the principal purpose and objects of the Association.

- (b) The Association shall not carry on any trade or business or engage in any transaction, with a view to the pecuniary gain or profit of any member.
- (c) No part of the income or property of the Association shall be paid or transferred, by way of dividend or bonus or otherwise howsoever, by way of profit to the members of the Association.
- (d) Subject to Clause 37(f) nothing in this Clause shall prevent the payment in good faith of remuneration to any officer of the Association or to any member of the Association in return for any services actually rendered to the Association or for goods supplied in the ordinary and usual way of business.
- (e) Nothing in this Clause shall prevent the establishment of a benevolent fund for the officers of the Association or their dependants.
- (f) Subject to Clause 37(g) no member of the Board of the Association shall be appointed to any salaried office of the Association or to any office of the Association paid by fees, and no remuneration or other benefit in money or money's worth shall be paid or given by the Association to any member of the Board except repayment for reasonable out-of-pocket expenses.
- (g) Where the Board of the Association considers that it is appropriate to do so, the Association may pay, or cease paying, an honorarium to that member of the Executive Committee of the Board of the Association whom the Board has appointed as its Executive Delegate, provided that such an honorarium, or the ceasing of such an honorarium, be reported in writing to the next annual general meeting of the Association, and the honorarium must not continue or resume unless it is endorsed by a resolution of that annual general meeting.

Clause 38 Funds and Accounts. The funds of the Association are derived from monies received pursuant to Clauses 4(b) and 7 and, subject to section 114 of the *Associations Incorporation Act of 1991*, such other services as the Board may direct.

- Clause 39
- (a) The Treasurer, their nominee or other authorised personnel, on behalf of the Association, is to receive all monies paid to the Association and must issue official receipts for such monies as soon as possible.
    - (i) The Board must open with such banks (or similar) as the Board selects, one or more banking accounts in the name of the Association;
    - (ii) All monies received must be paid by the Treasurer, their nominee or other authorised personnel into such accounts as soon as possible after receipt.
  - (b) Payments from Palliative Care ACT's bank accounts may only be made by authorised signatories in accordance with 'limits of authority' set, which may be approved, reviewed and amended periodically by the Board.
  - (c) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by the Treasurer or other authorised signatory in accordance with the Association's 'limits of authority'.

## SEAL OF THE ASSOCIATION AND CUSTODY OF THE BOOKS

- Clause 40
- (a) ***Seal***
- (i) the common seal of the Association must be kept in the custody of the Secretary;
  - (ii) it must not be affixed to any instrument except by the authority of a resolution of the Board;
  - (iii) it may be affixed only in the presence of the President and the Secretary or such other persons as the Board may from time to time appoint for that purpose; and
  - (iv) at the time of affixing the seal, the President and the Secretary or other persons under Clause 40(a)(iii) shall sign every instrument to which the seal is affixed.
- (b) ***Custody of Books***
- Subject to the Associations Incorporation Act of 1991, Regulations, this Constitution and the Bylaws, the Secretary must keep in his or her custody, or under his or her control all records, books and other documents relating to the Association.
- (c) ***Inspection of Books***
- The records, books and other documents of the Association are open to inspection at a place in the Territory, free of charge, by a member of the Association at any reasonable hour.

## DISSOLUTION OF THE ASSOCIATION

- Clause 41
- (a) The Association may be dissolved at a general meeting by a resolution of which at least twenty-one days notice in writing has been given to the members.
  - (b) A proposed resolution under Clause 41(a) must be carried by a three-quarter majority of those present and voting.
  - (c) After the passing of a resolution for dissolution of the Association in accordance with this Clause, the Association must be wound up in the manner provided by the Associations Incorporation Act of 1991.
- Clause 42
- A resolution to amend the Constitution, or to dissolve the Association, may be submitted by the Board on request in writing signed by at least ten members addressed to the Secretary and received at least twenty-one days before the date fixed for the next general meeting.
- Clause 43
- Winding up the Association
- (a) If in the winding up or dissolution of the Association there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, that property shall not be paid to or distributed among the members of the Association but shall be given or transferred to some other institution or institutions.
  - (b) The institution or institutions referred to in Clause 43(a) must:
    - (i) have objects similar to the objects of the Association;

- (ii) prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association under or by virtue of Clause 37; and
  - (iii) enjoy the same status and exemptions as the Association in relation to the Goods and Services Tax (GST), Public Benevolent Institutions and Deductible Gift Recipients for the purpose of any Commonwealth Taxation Act.
- (c) The institution or institutions referred to in Clause 43(a) must be such as are determined by the members of the Association at a general meeting at or before the time of dissolution, and in default thereof by a Judge of the Supreme Court of the Australian Capital Territory acting as such.

Clause 44

Liability of members. Members are not liable for the debts and liabilities of the Association or the costs, charges and expenses of a 'winding-up' of the Association.