

AUSTRALIAN ASSOCIATION OF
PATHOLOGY PRACTICES
Incorporated

**OBJECTS
RULES
BY-LAWS**

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OBJECTS

The Objects of the Association are to promote the honourable and ethical practice of pathology and to protect and promote the practice of private pathology within Australia. The Association will undertake all actions necessary to ensure that it is best able to negotiate with and influence government and others in regard to matters relating to benefit payments made by Medicare Australia or any other authority in respect of claims made for pathology services. In particular and without affecting the generality of the foregoing the Association may:

- (a) purchase, take on lease or licence or in exchange, hire or otherwise acquire, and improve, manage, develop, turn to account or otherwise hold or deal with, any real or personal property, whether of an income producing, appreciating, depreciating, wasting or speculative nature or otherwise and including investments which by law may be made by trustees, and vary any investment, in such manner, in such places, and subject to such terms and conditions, as the Executive Committee thinks fit, and apply, invest and deal with the whole or any part of the money of the Association for the purpose;
- (b) sell, exchange, lease or license or grant rights to use or occupy, or otherwise dispose of, any rights, real or personal property or assets of the Association in such manner, in such places, and subject to such terms and conditions (including, where the Executive Committee sells, terms of deferred payment), as the Executive Committee thinks fit;
- (c) purchase or subscribe for shares, stock, debentures or debenture stock (secured or unsecured), notes, bonds, prescribed interests or other securities, or rights or options in respect of such securities, issued or proposed to be issued by any corporation wherever incorporated or domiciled and whether statutory, proprietary or public;
- (d) purchase or subscribe for contributing or redeemable shares or stock of or in any corporation wherever incorporated or domiciled and whether statutory, public, proprietary or private and whether having limited or unlimited liability or limited by guarantee or otherwise;

- (e) lend or advance money or give credit or financial accommodation to, or deposit money with, any person including a member, at interest or without interest, with or without security, and subject to such terms and conditions as the Executive Committee thinks fit;
- (f) guarantee and give guarantees and indemnities for the payment of money or the performance of contracts or obligations by, and secure or undertake the repayment of moneys lent or advanced to or the liabilities incurred by, any person including a member in any way and, in particular, by giving, executing, or agreeing to give or execute, or by permitting to subsist, any mortgage, encumbrance, charge, lien or other security interest, legal or equitable, fixed or floating, (including a security interest arising by operation of law) of or on the whole or any part of the rights, property and assets of the Association, and purchase, redeem or pay off such securities, and otherwise assist any person including a member subject to such terms and conditions as the Members' Council thinks fit;
- (g) borrow or raise or secure the payment of money in such manner, in such places, and subject to such terms and conditions, as the Members' Council thinks fit, and secure any such borrowing, raising or payment of money or the repayment, discharge or performance of any debt, liability, contract, guarantee, indemnity or other engagement or undertaking incurred or to be entered into by the Association in any way and, in particular, by giving, executing, or agreeing to give or execute, or by permitting to subsist, any mortgage, encumbrance, charge, lien or other security interest, legal or equitable, fixed or floating, (including a security interest arising by operation of law) of or on the whole or any part of the rights, property and assets of the Association, and purchase, redeem or pay off such securities;
- (h) raise funds by means of levy, subscription, donations, appeals, social functions and other means which the Executive Committee may deem expedient;
- (i) draw, make, accept, endorse, discount, negotiate, execute and issue promissory notes, bills of exchange, bills of lading, cheques and other negotiable or transferable instruments;

- (j) open and operate accounts with banks or other financial institutions in such manner, and subject to such terms and conditions, as the Executive Committee thinks fit and, in particular, in accordance with or subject to generally accepted banking customs and practices or otherwise;
- (k) make commodity futures contracts, currency futures contracts, financial futures contracts and any other futures contracts, at a futures market or otherwise, and whether or not any such contract is a contract by way of gaming or wagering; and
- (l) set aside, appropriate or provide out of or from the rights, property and assets of the Association any money or other part of the rights, property and assets of the Association to pay or discharge any debt or liability due or to become due;
- (m) acquire the whole or any part of the rights, property and assets, and undertake the whole or any part of the debts, liabilities and obligations, of any other association, whether unincorporated or incorporated, having objects the same as or similar to the objects of the Association;
- (n) apply for, purchase or otherwise acquire patents, patent rights, copyrights, trade marks, designs, formulas, licences, franchises, concessions and the like conferring an exclusive or non-exclusive or limited right to use, or secret or other information as to, an invention, and use, exercise, develop or grant licences in respect of, or otherwise turn to account, the property, rights, or information so acquired;
- (o) enter into partnership or into an arrangement for union of interest, cooperation, joint venture, reciprocal concession or otherwise, with any other association, whether unincorporated or incorporated, having objects the same as or similar to the objects of the Association;
- (p) enter into arrangements with any government or authority, supreme, municipal, local or otherwise, obtain from any such government or authority any rights, privileges and concessions that the Members' Council thinks it desirable to obtain and carry out, exercise, and comply with, such arrangements, rights, privileges and concessions;

- (q) establish and support, or aid in the establishment and support of, associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Association, or the dependants or connections of such persons, grant pensions and allowances, make payments towards insurance and subscribe or guarantee money for charitable or benevolent objects, for any exhibition or for any public, general or useful object;
- (r) promote any other association, whether unincorporated or incorporated, having objects the same as or similar to the objects of the Association or establish and support, or aid in the establishment and support of any trust or trusts, for the purpose of acquiring or taking over the whole or any part of the rights, property or assets of the Association or of the debts, liabilities or obligations of the Association;
- (s) invest and deal with the money of the Association not immediately required in such manner as the Executive Committee from time to time thinks fit;
- (t) adopt such means of making known and advertising the objects of the Association as to the Executive Committee seem expedient;
- (u) apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, exercise, carry out and enjoy, and pay for, aid in and contribute towards carrying into effect, any charter, licence, power, authority, franchise, concession, right or privilege that a government or authority, franchise, concession, right or privilege that a government or authority or corporation or other public body is empowered to grant, and appropriate any part of the money of the Association to defray the necessary costs, charges and expenses;
- (v) apply for, promote and obtain any statute, order, regulation or other authorisation or enactment that seems calculated directly or indirectly to benefit the objects of the Association and oppose any bill, proceedings or applications that seem calculated directly or indirectly to prejudice the objects of the Association;
- (w) insure and keep insured the insurable property of the Association against loss or damage by fire or otherwise and to insure and keep insured any officer, employee or agent of the

Association against risk, accident or breach of fidelity arising in the course of their involvement with the Association;

- (x) appoint, engage or employ such persons, on such conditions, including remuneration, as the Executive Committee shall determine;
- (y) commence, conduct and settle litigation on such terms as the Members' Council shall think fit; and
- (z) do all such other things as are expedient or conducive to the attainment of all or any of the above objects.

RULES

PART 1: PRELIMINARY

1.1 Name of the Association

The name of the Association shall be "Australian Association of Pathology Practices Incorporated" (in these Rules called "the Association").

1.2 Interpretation

(a) In these Rules, unless the contrary intention appears:

"Act" means the *Associations Incorporation Act 1984*;

"Appointed Member" means a member representative who is a member of the Executive Committee by virtue of By-law 7(a)(3) or 7(a)(4);

"By-laws" means the By-laws of the Association made in accordance with Rule 6.9;

"control" or "controlled", where used in the context of an entity controlling, or being controlled by, another entity includes, but is not limited to, circumstances where:

- (a) one entity is a subsidiary (as defined in the *Corporations Law*) of the other entity;
- (b) one entity is in a position to direct the business of the other entity; or
- (c) one entity has the right or ability to appoint or remove the persons running the business of the other entity.

"Elected Member" means a member representative who is a member of the Executive Committee by virtue of By-law 7(a)(2);

"entity" includes a natural person, body corporate, partnership or trust;

"Executive Committee" means the Executive Committee of the Association constituted in accordance with By-law 7;

"Large Member" means a member having at least thirty (30) Approved Collection Centre entitlements;

"Members' Council" means the Members' Council of the Association constituted in accordance with Rule 4.1(a);

"member" or "member organisation" means an organisation which is a member of the Association;

"member representative" means a natural person who is the representative of a member organisation nominated by that member for membership of the Members' Council or such alternative person nominated by a member organisation from time to time;

"Membership Applications and Review Committee" means the committee constituted in accordance with Rule 2.1;

"Office Bearer" means an office bearer of the Association pursuant to Rule 4.5;

"organisation" means a pathology practice or an entity that controls one or more pathology practices;

"pathologist" means a medical practitioner who fulfils the requirements, set by The Royal College of Pathologists of Australasia from time to time, which are needed in order to be recognised as a pathologist and who is eligible to be entered on the National Register of Medical Specialists;

"pathology practice" means a private specialist pathology practice which is an Approved Pathology Authority (APA) under the *Health Insurance Act 1973* and which may be incorporated, a partnership or owned by a natural person;

"personal representative" of a member means a representative or proxy of a member appointed pursuant to Rule 3.4(b) and includes, where the member is a natural person, the member;

"small member" or "small member organisation" means a member organisation having 30 approved collection centre units of entitlement or less as at the date on which such units of entitlement were last determined by the Medicare Australia.

"special general meeting" means a general meeting of the Association other than an annual general meeting.

- (b) In these Rules, expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and any other modes of representing or reproducing words in a tangible and permanent visible form including facsimile transmission.

- (c) Words or expressions contained in these Rules must be interpreted in accordance with the provisions of the *Acts Interpretation Act 1901*.

1.3 Association's office

The office of the Association shall be at such place as the Executive Committee may, from time to time, determine.

1.4 Determination of 'Control'

If any doubt arises whether an entity is controlled by another entity, the Membership Applications and Review Committee's determination on whether the first entity is so controlled will (in the absence of manifest error) be final and binding on all interested parties.

PART 2: MEMBERSHIP OF THE ASSOCIATION

2.1 Membership Applications and Review Committee

Matters relating to membership of the Association shall be managed by the Membership Applications and Review Committee, which must comprise one person from each region (region being as prescribed in the By-Laws) nominated and elected in accordance with Rule 4.6 or appointed in accordance with Rule 4.7.

2.2 Membership qualifications

An organisation is qualified to be a member of the Association if, and only if:

- (a) the organisation, or a pathology practice which is controlled by the organisation, was a member of the Association immediately prior to the grant of a Certificate of Incorporation under section 10 of the Act and has not ceased to be a member of the Association at any time after incorporation of the Association under the Act; or
- (b) the organisation has applied for membership of the Association as provided in Rule 2.3, and the Membership Applications and Review Committee has approved the admission of the organisation as a member of the Association.

2.2A Only one membership per organisation

A pathology practice that is controlled by an entity is not entitled to apply for membership of the Association in its own right.

2.2B Subsequent control of a member

A member that becomes controlled by another member or by another entity must:

- (a) within 60 days of that control commencing, notify the Membership Applications and Review Committee of the fact of the control; and
- (b) resign its membership as from the date that it notifies the Membership Applications and Review Committee.

2.3 Application for membership

- (a) An application of an organisation for membership of the Association must:
 - (1) be made in the form prescribed in the By-laws;
 - (2) include an agreement to be bound by these Rules, and an acceptance of the Association's Code of Ethics as prescribed in the By-laws; and
 - (3) be lodged with the Chief Executive Officer of the Association.
- (b) As soon as is practicable after the receipt of an application fully completed in the form prescribed in the By-laws, the Chief Executive Officer must refer the application to the Membership Applications and Review Committee.
- (c) Following the processing of an application as prescribed in the By-laws, the decision of the Membership Applications and Review Committee in respect of the application shall be final.

2.4 Cessation of membership

A member of the Association ceases to be a member if:

- (a) the member resigns;
- (b) the member is expelled; or
- (c) where the member is a natural person, that person dies.

2.5 Membership rights not transferable

A right, privilege, or obligation which a practice has by virtue of its membership of the Association:

- (a) is not capable of being transferred or transmitted to another organisation; and
- (b) terminates upon the cessation of its membership, whether by resignation or otherwise.

2.6 Resignation of members

- (a) A member of the Association may, at any time, resign from the Association by giving notice in writing to the Chief Executive Officer .
- (b) On receipt of a notice under Rule 2.6(a), the Chief Executive Officer must remove the name of the member from whom the notice was received from the register of members, whereupon that member ceases to be a member of the Association.
- (c) If a member ceases to be a member of the Association for whatever reason, the member forfeits any membership fee or subscription which has been paid to the Association and there will be no obligation on the Association to return any or all of such amounts.

2.7 Register of members

- (a) The Chief Executive Officer of the Association must establish and maintain a register of members of the Association specifying the name and address of each member of the Association together with the date on which the organisation became a member.
- (b) The register of members must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any member of the Association at any reasonable hour.

2.8 Member's liability

If the Association is wound up, the members are not liable to contribute towards the payment of debts and liabilities of the Association or the costs, charges and expenses of winding up the Association.

2.9 Disciplining of members

- (a) The Members' Council may, by resolution, request the Membership Applications and Review Committee to review the membership status of a member. Where, with or without such a request, the Membership Applications and Review Committee is of the opinion that a member of the Association:
- (1) has persistently refused or neglected to comply with a provision or provisions of these Rules; or
 - (2) has persistently and wilfully acted in a manner prejudicial to the interests of the Association; or
 - (3) is controlled by another member or by another entity,
- the Membership Applications and Review Committee may resolve to expel the member from the Association or suspend the member for a specified period.
- (b) A resolution of the Membership Applications and Review Committee under Rule 2.9(a) is of no effect unless the Membership Applications and Review Committee, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under Rule 2.9(c), confirms the resolution in accordance with this Rule.
- (c) Where the Membership Applications and Review Committee passes a resolution under Rule 2.9(a), the Chief Executive Officer must, as soon as practicable, cause a notice in writing to be served on the member:
- (1) setting out the resolution of the Membership Applications and Review Committee and the grounds on which it is based;
 - (2) stating that the member may address the Membership Applications and Review Committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice;
 - (3) stating the date, place and time of the meeting; and
 - (4) informing the member that the member may do either or both of the following:
 - (A) attend and speak at that meeting personally or, subject to Rule 2.9(h), appoint a personal representative to attend and speak at the meeting;and

- (B) submit to the Membership Applications and Review Committee at or prior to the date of the meeting written representations relating to the resolution
- and, at the same time, must send a copy of such notice to all members of the Members' Council.
- (d) At a Membership Applications and Review Committee meeting held as referred to in paragraph (c), the Membership Applications and Review Committee must:
 - (1) give the member an opportunity to make oral representations;
 - (2) consider any written representations submitted to the Membership Applications and Review Committee by the member at or prior to the meeting; and
 - (3) by resolution determine whether to confirm or revoke the resolution.
- (e) Where the Membership Applications and Review Committee confirms a resolution under Rule 2.9(d), the Chief Executive Officer must, within 7 days after that confirmation, by notice in writing inform the member of the fact and of the member's rights of appeal under Rule 2.9(g).
- (f) A resolution confirmed by the Membership Applications and Review Committee under Rule 2.9(d) does not take effect:
 - (1) until the expiration of the period within which the member is entitled to appeal under Rule 2.9(g) against the resolution where the member does not exercise the right of appeal within that period; or
 - (2) where within that period the member exercises the right of appeal, unless and until the Association confirms the resolution pursuant to Rule 2.9.
- (g) A member may appeal to the Association in general meeting against a resolution of the Membership Applications and Review Committee that is confirmed under Rule 2.9(d), within 7 days after notice of the resolution is given to the member, by lodging with the Chief Executive Officer a requisition to that effect.

- (h) A member is not entitled to legal representation in regard to any representation before the Membership Applications and Review Committee or Association in general meeting with respect to any matter being dealt with under Rule 2.9.
- (i) Upon receipt of a requisition under Rule 2.9(g), the Chief Executive Officer must forthwith notify the Executive Committee, which must convene a special general meeting to be held within 28 days after the date on which the Chief Executive Officer received the requisition.
- (j) At a special general meeting convened for the purpose of Rule 2.9(i):
 - (1) no business other than the question of the expulsion or suspension shall be transacted;
 - (2) the chairman of the Membership Applications and Review Committee may place before the meeting details of the grounds of the expulsion or suspension and the Membership Applications and Review Committee's reasons for the expulsion or suspension;
 - (3) the member must be given an opportunity to make oral representations and submit written representations;
 - (4) the members present must vote by secret ballot on the question of whether the expulsion or suspension should be revoked or confirmed; and
 - (5) every member present in person or by personal representative has one vote.
- (k) If at the special general meeting the members pass a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.
- (l) The Membership Applications and Review Committee may, in its discretion, reprimand a member and such reprimand must be in writing and must be given to the reprimanded member within 14 days of the meeting where the matter was resolved.
- (m) A member who has been suspended under this Rule may apply for reinstatement of membership at the termination of the period of suspension by application in writing lodged with the Chief Executive Officer. The Chief Executive Officer must, as soon as practicable after such an application has been received,

refer it to the Membership Applications and Review Committee which may, by resolution, reinstate the membership of the suspended member at its next meeting.

2.10 Annual membership subscriptions and fees

- (a) Each member organisation is required to pay an annual membership subscription which must be determined, as prescribed in the By-laws, on a basis that reflects the relative sizes of all member organisations.
- (b) In its first year of membership, a member must pay:
 - (1) a joining fee determined by the Executive Committee; and
 - (2) an amount which is equal to the unexpired portion of the annual subscription at the time membership commences, and in each subsequent year the member must pay the annual subscription referred to in Rule 2.10(a).
- (c) The annual subscription of a member is due and payable on a date to be determined by the Executive Committee. The Executive Committee may determine that the annual subscription shall be payable in instalments.
- (d) The Executive Committee may waive all or any part of the joining fee payable by a new member under Rule 2.10(b).

PART 3: GENERAL MEETINGS

3.1 Annual general meetings

- (a) The Association must, at least once in each calendar year and within 6 months after the expiration of each financial year of the Association, convene an annual general meeting of its members.
- (b) Rule 3.1(a) has effect subject to any extension or permission granted by the Commissioner for Consumer Affairs under section 26(3) of the Act.
- (c) The annual general meeting of the Association shall, subject to the Act and to the provisions of Rule 3.1, be convened on such date and at such place and time as the Executive Committee thinks fit.
- (d) The annual general meeting shall be in addition to any other general meetings that may be held in the same year.
- (e) The annual general meeting must be specified as such in the notice convening it.
- (f) In addition to any other business which may be transacted at an annual general meeting, the ordinary business of the annual general meeting shall be:
 - (1) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting;
 - (2) to receive from the Executive Committee, subcommittees, the auditor, employees and agents of the Association reports upon the activities of the Association during the preceding financial year;
 - (2A) to receive and consider the audited financial statements of the Association for the preceding financial year;
 - (3) to elect the Office Bearers and the other Elected Members of the Executive Committee;
 - (3AA) to appoint the Appointed Members of the Executive Committee (if applicable);

- (3A) to elect the members of the Membership Applications and Review Committee;
- (4) to appoint the public officer and the auditor.
- (g) The annual general meeting may transact other business of which notice is given in accordance with these Rules.
- (h) All general meetings other than the annual general meeting must be called special general meetings.

3.2 Special general meetings

- (a) The Executive Committee may, whenever it thinks fit, convene a special general meeting of the Association.
- (b) The Executive Committee must, on the requisition in writing of not less than one half of the members, convene a special general meeting of the Association.
- (c) A requisition for a special general meeting:
 - (1) must state the objects of the meeting;
 - (2) must be signed by the members making the requisition;
 - (3) must be delivered or sent by post to the Chief Executive Officer; and
 - (4) may consist of several documents in a similar form, each signed by one or more members making the requisition.
- (d) If the Executive Committee does not cause a special general meeting to be held within 21 days from the date on which a requisition therefore is received by the Chief Executive Officer, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (e) A special general meeting convened by members making the requisition in accordance with Rule 3.2(d) must be convened in the same manner as nearly as possible as that in which those meetings are convened by the Executive Committee, and all reasonable expenses incurred in convening the meeting must be refunded by the Association to the persons incurring them.

3.3 Notices of general meetings

- (a) The Chief Executive Officer must, at least 21 days before the date of a general meeting of the Association, give written notice of the meeting to each member. The notice must specify:
 - (1) the place, date and time of the meeting;
 - (2) the general nature of the business proposed to be transacted at the meeting; and
 - (3) any special resolutions to be proposed at the meeting.
- (b) The period of 21 days referred to in Rule 3.3(a) must be reckoned exclusive of the day on which the notice is received or deemed to have been received and exclusive of the day on which the meeting is held.
- (c) The accidental failure or omission to give notice of a general meeting to any member or other person entitled to receive notice of the meeting will not invalidate any act, matter or thing, or any ordinary or special resolution made, performed or passed by or at the meeting.
- (d) No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, the ordinary business of that meeting.

3.4 Business and quorum at general meetings

- (a) A special resolution:
 - (1) may be considered at any general meeting of the Association;
 - (2) must be specified as such in the notice of meeting referred to in Rule 3.3(a); and
 - (3) must be passed by a majority of not less than 75% of the votes cast by members present in person or by personal representative.
- (b) A member may:
 - (1) where the member is a natural person, attend and vote at general meetings in person or appoint a proxy to attend and vote on behalf of the member; or

- (2) where a member is incorporated, duly authorise or appoint a representative or proxy to attend and vote at general meetings on its behalf and the representative or proxy may, without limitation, be a director or secretary of the member; or
- (3) in all cases not covered by Rules 3.4(b)(1) and (2), appoint a proxy to attend and vote at general meetings on its behalf;

and any such representative or proxy must be counted in a quorum, and may speak and vote at general meetings to the same extent that the member represented is entitled to do so.

- (c) No item of business shall be transacted at a general meeting unless a quorum of members entitled under these Rules to vote is present during the time when the meeting is considering that item.
- (d) A simple majority of all members present in person at the meeting or by personal representative shall constitute a quorum for the transaction of the business of a general meeting.
- (e) If within two hours after the appointed time for the commencement of a general meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved, and in any other case, shall stand adjourned to the same time of the same day in the next week and (unless another place is specified by the chairperson at the time of the adjournment or by written notice to members given before the day to which the meeting is adjourned) at the same place. If, at the adjourned meeting, a quorum is not present within two hours after the time appointed for the commencement of the meeting, the meeting shall be dissolved.

3.5 President to preside at general meetings

- (a) The President, or in the President's absence one of the other Office Bearers, shall preside as chairperson at every general meeting of the Association.
- (b) If the President and all of the other Office Bearers are absent from a general meeting, the members present shall elect one of their number to preside as chairperson at that general meeting.

3.6 Adjournment of general meetings

- (a) The chairperson of a general meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (b) Where a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- (c) Except as provided in the foregoing provisions of this Rule, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

3.7 Determination of questions arising at general meetings

A question (including an election) arising at a general meeting of the Association must be determined on a show of hands or, where appropriate under these Rules or By-laws, by a ballot or poll. A declaration by the chairperson that a resolution has been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minutes of the meeting, is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

3.8 Voting

- (a) Subject to Rule 2.9(j), upon any question arising at a general meeting of the Association, each member organisation present in person or by personal representative:
 - (1) on a show of hands or ballot, has one vote; and
 - (2) on a poll, has one vote for each dollar that has been paid, or is due and payable, by the member organisation as the annual membership subscription in respect of the then current financial year.
- (b) All votes must be cast by the member or its personal representative.
- (c) If requested by any member, the personal representative of a member must verify his or her appointment in that capacity by

the production of a written nomination form or proxy form or power of attorney, that is not more than 3 months old and which is signed by the member.

- (d) In the case of an equality of voting on a question, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (e) A member is not entitled to vote at a general meeting unless all money due and payable by the member to the Association has been paid.

3.9 Taking of poll

- (a) If at a meeting a poll on any question (including an election) is demanded by the chairperson or by not less than two members present in person or by personal representative, it must be taken at that meeting in such manner as the chairperson may direct, and the result of the poll shall be deemed to be the resolution of the meeting on that question.
- (b) A poll that is demanded on the election of the chairperson, or on a question of adjournment, must be taken immediately, and a poll that is demanded on any other question must be taken at such time before the close of the meeting as the chairperson may direct.

PART 4: MANAGEMENT OF THE ASSOCIATION

4.1 Affairs of the Association

The affairs of the Association shall be managed by:

- (a) a Members' Council which shall comprise one or more (the number being determined in accordance with the By-laws) member representatives in respect of each member organisation.

4.2 The Members' Council

The Members' Council:

- (a) shall determine the policies of the Association;
- (b) may, subject to these Rules, exercise all such powers and functions as may be exercised by the Association other than those powers and functions required by these Rules to be exercised by a general meeting of the Association; and
- (c) subject to these Rules, has power to perform all such acts and do all such things as appear to the Members' Council to be necessary or desirable for the proper management of the business and affairs of the Association;
- (d) may delegate to the Executive Committee the implementation of the policies determined by the Members' Council and the control and management of the affairs of the Association;
- (e) shall appoint a Strategy Committee.
- (f) shall provide that the Strategy Committee decisions are always consistent with the requirements of the Members' Council. The constitution and powers of the Strategy Committee are outlined in the By-Laws at clause 7A.

4.3 The Executive Committee

- (a) The Executive Committee shall:
 - (1) subject to the provisions of Rule 4.9(a), meet as often as is necessary to discharge its functions;
 - (2) undertake all of the matters which the Members' Council may delegate to it from time to time;

- (3) if required, call a Members' Council meeting in addition to the prescribed meetings referred to in Rule 4.8(a).
- (b) In the event that a matter arises which requires resolution in the interests of the Association, the Executive Committee may take appropriate action.

4.4 Public officer

- (a) The public officer must be a natural person who is a resident of New South Wales.
- (b) If the office of public officer becomes vacant, the Executive Committee must appoint some other natural person who is a resident of New South Wales to be the public officer in his or her place, and the person so appointed may continue in office until the conclusion of the annual general meeting next following the date of the appointment.
- (c) The public officer must notify the New South Wales Department of Consumer Affairs of his or her:
 - (1) appointment and address, within 14 days of that appointment; and
 - (2) new address, within 14 days of any change of address.

4.5 Office Bearers of the Association

- (a) The Office Bearers of the Association shall be:
 - (1) the President;
 - (2) a Vice President;
 - (3) a second Vice President, who may or may not be a pathologist;
 - (4) a Vice President, who may or may not be a pathologist, but who must be a representative of a Small Member organisation.
 - (5) the Treasurer.
- (b) The Office Bearers shall, between meetings of the Executive Committee, assume responsibility for matters determined by the Members' Council, the Strategy Committee or the Executive Committee.

- (c) In the event that a matter arises which requires urgent resolution in the interests of the Association, the Office Bearers may take appropriate action.

4.6 Election of Office Bearers and Elected Members of the Executive Committee and of Membership Applications and Review Committee

- (a) Nominations of candidates for election as Office Bearers or Elected Members of the Executive Committee or members of the Membership Applications and Review Committee must:
 - (1) be made in writing signed by a member of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
 - (2) be delivered to the Chief Executive Officer of the Association at least 10 days before the date fixed for the holding of the annual general meeting.
- (b)
 - (1) If insufficient nominations are received to fill all vacancies on a committee, the candidates nominated shall, subject to the provisions of By-law 7, be deemed to be elected and further nominations shall be received at the annual general meeting.
 - (2) If insufficient further nominations are received, the remaining vacant positions shall be deemed to be casual vacancies.
- (c) If the number of nominations received is equal to the number of vacancies to be filled, the candidates nominated shall, subject to the provisions of By-law 7, be deemed to be elected.
- (d) If the number of nominations received exceeds the number of vacancies to be filled, an election must be held.
- (e) An election for any position of Office Bearer or Elected Member of the Executive Committee or member of the Membership Applications and Review Committee must be conducted at the annual general meeting as provided in the By-laws or, where no such provision is made, in such usual and proper manner as the Members' Council may direct.

- (f) A candidate for election under this Rule may not be elected to more than one Office Bearer position.
- (g) Subject to the By-laws, each Office Bearer or Elected Member of the Executive Committee shall hold office until the conclusion of the second annual general meeting following the date of election and shall, subject to paragraph (h), be eligible for re-election.
- (h) An Office Bearer may not serve more than two consecutive terms in the same position.
- (i) Each member of the Membership Applications and Review Committee shall hold office until the conclusion of the annual general meeting next following the date of election and shall be eligible for re-election.

4.7 Casual vacancies

- (a) For the purposes of these Rules, a casual vacancy in the office of an Office Bearer, any other member of the Executive Committee (whether an Elected Member or an Appointed Member) or a member of a standing committee occurs if:
 - (1) the person holding that office:
 - (A) dies; or
 - (B) becomes bankrupt or applies to take or takes advantage of any law relating to bankrupt or insolvent debtors or compounds with his or her creditors, or makes any assignment of his or her estate for their benefit; or
 - (C) becomes of unsound mind; or
 - (D) resigns office by notice in writing given to the Chief Executive Officer; or
 - (E) fails, without leave granted by the committee of which he or she is a member, to attend 3 consecutive meetings of that committee; or
 - (F) has his or her nomination to the office withdrawn by the member represented; or
 - (G) ceases to be eligible because of the requirements specified in Rule 4.5(a) or By-law 7(a)(3), 7(a)(4) or 7(aa); or

- (2) the member represented by the person holding that office:
 - (A) ceases to be a member of the Association; or
 - (B) fails to pay all arrears of subscription due by it to the Association within 14 days after it has received a notice in writing signed by the Chief Executive Officer stating that it has ceased to be a financial member of the Association.

- (aa) Rule 4.7(a)(1)(F) or Rule 4.7(a)(2)(A) does not apply if the person referred to in the Rule is, within 14 days of the occurrence of the circumstance referred to in the Rule, confirmed, in writing, by another member of the Association as that member's representative.

- (b) In the event of a casual vacancy in the office of an Office Bearer, the Executive Committee may do one of the following things:
 - (1) the Executive Committee may appoint any member of the Executive Committee to the vacant office, and the person so appointed shall hold office until the conclusion of the next annual general meeting following the date of the appointment; or
 - (2) call an election under which member organisations may, by simple majority vote by show of hands or ballot (which may include a postal ballot), elect a member representative to the vacant office, and the person so elected shall hold office until the end of the term of the vacating officer; or
 - (3) decide to leave the office vacant until the conclusion of the next annual general meeting.

- (bb) If:
 - (1) a vacant office is filled by appointment in accordance with Rule 4.7(b)(1) or is left vacant in accordance with Rule 4.7(b)(3); and
 - (2) the term of the person previously holding that office (in this Rule called the 'Original Officer') was not due to expire at the conclusion of the next annual general meeting after vacation of the office,

an election (in accordance with the By-Laws) for the office must be held at that annual general meeting. A person elected to office at that annual general meeting shall hold the office for the remainder of the Original Officer's term.

- (c) In the event of a casual vacancy in the office of an Elected Member of the Executive Committee, member organisations may, by simple majority vote by show of hands or ballot (which may include a postal ballot), elect a member representative to the vacant office, and the person so elected shall hold office for the remainder of the vacating officer's term.
- (ca) In the event of a casual vacancy in the office of an Appointed Member of the Executive Committee, the Executive Committee may appoint another member representative, who satisfies the requirements of the By-Laws, for the remainder of the vacating officer's term.
- (d) In the event of a casual vacancy in the office of a member of the Membership Applications and Review Committee, the remaining members of that committee may appoint a person from the relevant region to the vacant office, and the person so appointed shall hold office until the conclusion of the annual general meeting next following the date of election.

4.8 Meetings of the Members' Council

- (a) The Members' Council must meet at least twice in each period of 12 months on such date and at such place and time as the Executive Committee may determine.
- (b) Written notice of a Members' Council meeting must be given by the Chief Executive Officer to each member organisation at least 14 days (or such other period as may be unanimously agreed upon by the members of the Executive Committee) before the date of the meeting.
- (c) Notice of a meeting given under paragraph (b) must specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted at the meeting, except business which the member representatives present at the meeting unanimously agree to deal with.

- (d) A member representative may attend and vote at Members' Council meetings in person or appoint a proxy to attend and vote on his or her behalf. Any such proxy must be counted in a quorum, and may speak and vote at Members' Council meetings to the same extent that the member representative is entitled to do so.
- (e) A simple majority of all member representatives present in person at the meeting or by proxy shall constitute a quorum for the transaction of the business of a Members' Council meeting.
- (f) No business shall be transacted by the Members' Council unless a quorum is present. If, within one hour after the time appointed for the commencement of the meeting, a quorum is not present, the meeting shall stand adjourned to the same place and at the same time of the same day in the next week. If, at the adjourned meeting, a quorum is not present within one hour after the time appointed for the commencement of the meeting, the meeting shall be dissolved.
- (g) Upon any question arising at a Members' Council meeting, each member representative present in person or by proxy, has one vote on a show of hands or ballot. If a poll is demanded by the chairperson or by not less than two member representatives present in person or by proxy:
 - (1) a member representative who is the sole member representative of a member organisation, has one vote for each dollar that has been paid, or is due and payable, by the member organisation as the annual membership subscription in respect of the then current financial year:
 - (2) a member representative who is not the sole member representative of a member organisation but who is the principal member representative of the member organisation, has one vote for each dollar that has been paid, or is due and payable, by the member organisation as the annual membership subscription in respect of the then current financial year; and
 - (3) a member representative who is not the sole member representative of a member organisation and is not the principal member representative of a member organisation, is not entitled to vote.

- (h) If requested by any member representative, a member representative must verify his or her appointment in that capacity by the production of a written nomination form or proxy form, that is not more than 3 months old and which is signed by the member organisation represented.
- (i) In the case of an equality of voting on a question, the chairperson of the meeting is entitled to exercise a second or casting vote.
- (j) A member representative is not entitled to vote at a Members' Council meeting unless all money due and payable by the member organisation to the Association has been paid.
- (k) The provisions of Rules 3.5, 3.6, 3.7 and 3.9 relating to the conduct of general meetings apply so far as they are capable of application and *mutatis mutandis* to all meetings of the Members' Council.
- (l) For the purposes of this Rule, "principal member representative" of a member organisation means:
 - (a) the member representative notified as such from time to time by the member organisation to the Chief Executive Officer of the Association; or
 - (b) if the member representative notified in accordance with paragraph (a) is not present at a particular meeting, the member representative who is designated as such by the member representatives from the relevant member organisation who are present in person or by proxy at the meeting.

4.9 Meetings of the Executive Committee

- (a) The Executive Committee must meet at least four times in each period of 12 months on such date and at such place and time as the Executive Committee may determine.
- (b) Additional meetings of the Executive Committee may be convened by the President or by any two other members of the Executive Committee.

- (c) Oral or written notice of an Executive Committee meeting must be given by the Chief Executive Officer to each member of the Executive Committee at least 48 hours (or such other period as may be unanimously agreed upon by the members of the Executive Committee) before the time appointed for the holding of the meeting.
- (d) Notice of a meeting given under Rule 4.9(c) must specify the general nature of the business to be transacted at the meeting and no business other than that business shall be transacted at the meeting, except business which the Executive Committee members present at the meeting unanimously agree to deal with.
- (e) A simple majority of members of the Executive Committee shall constitute a quorum for the transaction of the business of an Executive Committee meeting. The Executive Committee may act notwithstanding any vacancy on the Executive Committee, provided that a quorum is present.
- (f) No business shall be transacted by the Executive Committee unless a quorum is present. If, within half an hour of the time appointed for the commencement of the meeting, a quorum is not present, the meeting shall stand adjourned to the same place and at the same time of the same day in the next week. If, at the adjourned meeting, a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting shall be dissolved.
- (g) A question arising at an Executive Committee must be determined on a show of hands and each member of the Executive Committee present in person or by alternate has one vote.
- (h) At an Executive Committee meeting:
 - (1) the President or, in the President's absence, one of the other Office Bearers shall preside; or
 - (2) if the President and all of the other Office Bearers are absent or unwilling to act, such one of the remaining members of the Executive Committee as may be chosen by the Executive Committee members present at the meeting shall preside.

4.10 Disclosure of interest in contracts etc.

- (a) A member of the Association or a natural person who is a member of the Members' Council or the Executive Committee which or who is interested in any way, whether directly or indirectly, in any contract or arrangement made or proposed to be made with the Association or in respect of any matter arising out of a contract, arrangement or proposed contract or arrangement with the Association must disclose its or his or her interest at the Members' Council meeting or Executive Committee meeting at which the contract or arrangement is first taken into consideration, if the interest then exists, or, in any other case, at the first Members' Council meeting or Executive Committee meeting after the acquisition of interest.
- (b) If a member of the Association or a natural person who is a member of the Members' Council or the Executive Committee becomes interested, directly or indirectly, in a contract or arrangement with the Association or in any matter arising out of a contract or arrangement with the Association after it is made or entered into, it or he or she must disclose its or his or her interest at the first Members' Council meeting or Executive Committee meeting after the interest arises.
- (c) Any member of the Members' Council or the Executive Committee who is (or who represents a member organisation who is) interested directly or indirectly in any contract or arrangement being discussed or voted upon at a Members' Council meeting or Executive Committee meeting:
 - (1) may, or if requested by the chairperson must, absent himself or herself from the meeting during the discussion and voting on that question; and
 - (2) must not be counted in a quorum or vote on that question and if he or she does vote, the vote must not be counted.

4.10A Subcommittees of the Association

- (a) A subcommittee of the Association may be termed a standing committee, a project team or a working party or such other name as is determined by the Executive Committee.
- (b) The Members' Council may establish one or more standing committees and the role and functions of each standing committee shall be prescribed in the Rules or By-laws.

- (c) The Executive Committee may establish project teams or working parties which shall operate in accordance with the Rules and By-laws.
- (d) The Membership Applications and Review Committee is a standing committee.

4.11 Delegation by Executive Committee to subcommittee

- (a) The Executive Committee may, by instrument in writing, delegate to one or more subcommittees the exercise of such of the functions of the Executive Committee as are specified in the instrument, other than:
 - (1) this power of delegation; and
 - (2) a function which is a duty imposed on the Executive Committee by Act or by any other law.
- (b) A function the exercise of which has been delegated to a subcommittee under this Rule may, while the delegation remains unrevoked, be exercised from time to time by the subcommittee in accordance with the terms of the delegation.
- (c) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.
- (d) Notwithstanding any delegation under this Rule 4.11, the Executive Committee may continue to exercise any function delegated.
- (e) Any act or thing done or suffered by a subcommittee acting in the exercise of a delegation under this Rule has the same force and effect as it would have if it had been done or suffered by the Executive Committee.
- (f) The Executive Committee may, by instrument in writing, revoke wholly or in part any delegation under this Rule.
- (g) A subcommittee may meet and adjourn as it thinks proper.

- (h) A simple majority of members of a subcommittee shall constitute a quorum at a subcommittee meeting.
- (i) The Chief Executive Officer is responsible for calling meetings of a subcommittee.
- (j) Oral or written notice of a subcommittee meeting must be given to each member of the subcommittee.

4.12 Voting and decisions

- (a) Questions arising at a meeting of any committee (being the Executive Committee, the Membership Applications and Review Committee or any subcommittee appointed by the Executive Committee) shall be determined by a majority of the votes (on a show of hands or ballot, as applicable under the Rules or By-laws) of members of the committee.
- (b) Each member of such a committee, other than a member of a subcommittee who is not a representative of a member of the Association, present at a committee meeting (including the chairperson of the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the chairperson may exercise a second or casting vote.
- (c) Any act or thing done or suffered, or purporting to have been done or suffered, by such a committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the committee.
- (d) Any committee meeting may be held by the committee members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (e) The committee members need not all be physically present in the same place for a committee meeting to be held.
- (f) Committee members who participate in a meeting held in accordance with this Rule 4.12 are taken to be present and entitled to vote at the meeting.
- (g) A committee member may withdraw his or her consent to a committee meeting held otherwise than by way of meeting in

person by giving notice to at least two committee members at least 48 hours before the committee meeting is scheduled to be held, whereupon the committee members need to be physically present in the same place for a meeting.

PART 5: INCOME AND PROPERTY OF THE ASSOCIATION

5.1 Source of funds

The funds of the Association shall be derived from joining fees and annual subscriptions of members, and, subject to any resolution passed by the Association in general meeting, such other sources as the Executive Committee may determine.

5.2 Management of funds

- (a) The income and property of the Association, however derived, must be applied solely towards the promotion of the objects and purposes of the Association and no portion thereof shall be paid or transferred, directly or indirectly, by dividend, bonus, or otherwise, to any member of the Association.
- (b) The Association must not:
 - (1) appoint a person who is a member of the Executive Committee to any office in the gift of the Association to the holder of which there is payable any remuneration by way of salary, fees, or allowances; or
 - (2) pay to any such person any remuneration or other benefit in money or money's worth (other than the repayment of out-of-pocket expenses).
- (c) Nothing in the foregoing provisions of this Rule prevents the payment in good faith to a member, officer, employee or agent of the Association of:
 - (1) remuneration in return for services actually rendered to the Association by the member, officer, employee or agent or for goods supplied to the Association by the member, officer, employee or agent in the ordinary course of business;
 - (2) interest at a rate not exceeding a rate to be fixed by the Executive Committee on monies lent to the Association by the member, officer, employee or agent; or
 - (3) a reasonable and proper sum by way of rent for premises let to the Association by the member, officer, employee or agent.

5.3 Accounts

- (a) The income and property of the Association, however derived, must be applied solely towards the promotion of the objects and purposes of the Association and no portion thereof shall be paid or transferred, directly or indirectly, by dividend, bonus, or otherwise, to any member of the Association.
- (b) The Association must not:
 - (1) appoint a person who is a member of the Executive Committee to any office in the gift of the Association to the holder of which there is payable any remuneration by way of salary, fees, or allowances; or
 - (2) pay to any such person any remuneration or other benefit in money or money's worth (other than the repayment of out-of-pocket expenses).
- (c) Nothing in the foregoing provisions of this Rule prevents the payment in good faith to a member, officer, employee or agent of the Association of:
 - (1) remuneration in return for services actually rendered to the Association by the member, officer, employee or agent or for goods supplied to the Association by the member, officer, employee or agent in the ordinary course of business;
 - (2) interest at a rate not exceeding a rate to be fixed by the Executive Committee on monies lent to the Association by the member, officer, employee or agent; or
 - (3) a reasonable and proper sum by way of rent for premises let to the Association by the member, officer, employee or agent.

5.4 Banking and finance

- (a) The Treasurer may, on behalf of the Association, receive all moneys paid to the Association and issue official receipts.
- (b) The Members' Council shall cause to be opened with such financial institution as the Executive Committee selects an account in the name of the Association into which all moneys received must be paid by the Treasurer as soon as possible after receipt.

- (c) The Members' Council may receive from the Association's bank or bankers for the time being the cheques drawn by the Association on any of its accounts with the bank or bankers and may release and indemnify the bank or bankers from and against all claims, actions, suits or demands that may be brought against the bank or bankers arising directly or indirectly out of those cheques or the surrender thereof to the Association.
- (d) No cheques shall be drawn on the Association's bank account except for the payment of expenditure that has been authorised by two officers of the Association approved by the Members' Council.
- (e) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two officers of the Association approved by the Members' Council.

5.5 Appointment of auditor

- (a) At each annual general meeting of the Association the members present must appoint a person who is not a member or the personal representative of a member as the auditor of the Association.
- (b) A person so appointed shall hold office until the next succeeding annual general meeting and shall be eligible for re-appointment.
- (c) If an appointment is not made at an annual general meeting the Executive Committee must appoint an auditor of the Association for the then current financial year of the Association.
- (d) The auditor may only be removed from office by special resolution.
- (e) If the office of auditor becomes vacant, the Executive Committee must appoint a person to fill the vacancy and the person so appointed shall hold office until the next succeeding annual general meeting.

5.6 Audit of accounts

- (a) Once at least in each financial year of the Association, the accounts of the Association must be examined by the auditor.
- (b) The auditor must certify as to the correctness of the accounts of the Association and report thereon to the members present at the annual general meeting.
- (c) The auditor's report must state whether:
 - (1) the auditor has obtained the information required;
 - (2) in the auditor's opinion, the accounts are properly drawn up so as to exhibit a true and correct view of the financial position of the Association according to the information at the auditor's disposal and the explanations given to the auditor and as shown by the books of the Association;
 - (3) the Rules relating to the administration of the funds of the Association have been observed.
- (d) The Treasurer of the Association must cause to be delivered to the auditor a list of all the accounts, books and records of the Association.
- (e) The auditor:
 - (1) has a right of access to the accounts, books, records, vouchers and documents of the Association;
 - (2) may request from the officers, employees and agents of the Association such information and explanations as may be necessary for the performance of the auditor's duties ;
 - (3) may employ persons to assist in investigating the accounts of the Association; and
 - (4) may, in relation to the accounts of the Association, examine any officer, employee or agent of the Association.

5.7 Indemnity of officers

Every member of a committee or subcommittee and every other officer of the Association must be indemnified out of the assets of the Association (including liability or indemnity insurance moneys properly payable) against any liability arising out of the execution of

the duties of his or her office, provided he or she acted in good faith without fraud, malice or criminal negligence. This indemnity shall apply notwithstanding that the officer may be responsible for civil negligence in the execution of his or her duties, including indemnity for damages and costs incurred by him or her in defending any such civil proceedings, and/or in defending any criminal prosecution in which judgement or verdict is given in his or her favour or in which he or she is otherwise acquitted or not proceeded against, or in connection with any application under the Act in which relief is granted to him or her by the Court in respect of any negligence, default, breach of duty or breach of trust. However, nothing contained or implied in these Rules shall amount to an undertaking or warranty by the Association to any such officer or member of the public that indemnity or liability insurance has been or can be obtained or maintained at any particular level and consideration of the initial or periodic renewal cost of any such insurance and whether or not to effect, maintain or maintain the level thereof shall be a matter entirely for the discretion of the Association.

PART 6: MISCELLANEOUS

6.1 Financial year

The financial year of the Association is the period beginning on 1 July in each year and ending on 30 June next following.

6.2 Notices

- (a) For the purpose of these rules, a notice may be served on or given to a person:
- (1) by delivering it to the person personally, or
 - (2) by sending it by pre-paid post to the address of the person last notified by that person, or
 - (3) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.
- (b) For the purpose of these rules, a notice is taken, unless the contrary is proved, to have been given or served:
- (a) in the case of notice given or served personally, on the date on which it was received by the addressee, and
 - (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
 - (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent or, if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

6.3 Complaints

Any complaint received by the Association must be made in writing, be signed by the complainant and be addressed to the Members' Council which must cause an investigation to be undertaken.

6.4 Insurance

- (a) The Association must effect and maintain insurance pursuant to section 44 of the Act.

- (b) In addition to the insurance required under Rule 6.4(a), the Association may effect and maintain other insurances.

6.5 Alteration of Objects and Rules

The Objects and Rules of the Association may be altered, rescinded or added to only by special resolution.

6.6 Disputes

- (a) Subject to this Rule, the Association and a member of the Association will attempt to resolve, without delay and in good faith, any dispute or difference (referred to in this Rule as a dispute) which may arise between them.
- (b) A member claiming that a dispute has arisen must first notify the Association by giving details of the dispute to the Executive Committee for resolution.
- (c) If the Executive Committee and the member are unable to resolve the dispute within a reasonable time as determined by the Executive Committee, the dispute must be referred to mediation.
- (d) The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on the Association or the member.
- (e) The Association and the member must bear equally the costs of any mediator engaged.
- (f) If the dispute is not resolved under this Rule, it will be referred to arbitration under the *Commercial Arbitration Act*. The decision of the arbitrator shall be binding and final.
- (g) Nothing in this Rule affects the operation or effect of Rule 2.9.

6.7 Seal of the Association

- (a) The seal of the Association must be in the form of a rubber stamp inscribed with the name of the Association encircling the word "Seal".

- (b) The seal of the Association must not be affixed to any instrument except by the authority of the Executive Committee, and the affixing thereof must be attested by the signatures either of two members of the Executive Committee or of one member of the Executive Committee and the Chief Executive Officer of the Association or of such other person/s as the Executive Committee may appoint for that purpose, and that attestation is sufficient for all purposes that the seal was affixed by authority of the Executive Committee.
- (c) A register of documents sealed must be kept by the Chief Executive Officer.
- (d) A report must be given at the next Executive Committee meeting noting the instances where the Association's Seal has been affixed.

6.8 Winding up

- (a) No resolution for the winding up of the Association shall be deemed to have been passed unless notice to propose a resolution to that effect at a special general meeting shall have been given to the members and unless the proposition is carried at such meeting by at least four-fifths of those voting at such meeting.
- (b) If the Association is wound up, no distribution of its surplus assets shall be made:
 - (1) directly or indirectly, to or for the benefit of members or relatives of members;
 - (2) to shareholders or officers of members;
 - (3) to relatives of shareholders or officers of members;
 - (4) to related corporations of members;
 - (5) to shareholders or officers of related corporations of members;
 - (6) to relatives of shareholders or officers of related corporations of members; or
 - (7) to beneficiaries under any trust estate of which any member organisation is an asset or of which the income of any member organisation forms part of the income of the trust estate.

- (c) Any surplus assets must be disposed of in either of the following ways:
- (1) by transferring the same to such one or more associations having objects substantially similar to those of the Association or to such one or more charitable institutions as is or are approved by a simple majority of those voting at the meeting which sanctions the winding up of the of the Association and if more than one such Association or charitable institution is approved as aforesaid then between them in such proportions as the said meeting by simple majority of those voting shall approve; or
 - (2) by transferring the same to one or more charitable institutions as may be approved by a Court of competent jurisdiction and if more than one charitable institution is approved as aforesaid then between them in such proportions as the said Court shall approve.

6.9 By-laws

The Members' Council or a general meeting of the Association, by simple majority vote, may make By-laws for the internal management of the Association and may at any time alter or rescind By-laws, provided that a By-law must not be inconsistent with the Objects or Rules of the Association.

BY-LAWS

1. Membership application

- (a) An application for membership of the Association must be in the following form:

MEMBERSHIP APPLICATION

<p>_____ [applicant's name] of _____ [address]</p> <p>hereby applies for membership of the Australian Association of Pathology Practices Incorporated.</p> <p>I/We certify that all the applicant information provided overleaf is true and correct and agree that the Association shall be the sole authority in regard to the assessment of this application and agree to be bound totally by the Association's decision in regard to this membership application.</p> <p>I/We acknowledge that I/we have sighted and understand the Association's Objects, Rules and By-laws and Code of Ethics. If admitted to membership of the Association, I/we agree to be bound by the said Rules and By-laws and to abide by the Code of Ethics.</p> <p>I/We further agree to do all things necessary in order to promote the aims of the Association as set out in the Objects of the Association.</p> <p>Signed for and on behalf etc.</p> <p>on this _____ day of _____ 20__</p>

Continued Overleaf

APPLICANT INFORMATION

Notes:

- n **A copy of the latest APA acceptance letters (from the Medicare Australia) for all APAs controlled by the applicant must be provided with this application.**
- n Additional information in support of the application may be attached.

- A. Name of applicant [in full]:
- B. Address of applicant (ie, street address for the service of notices):
- C. Postal address of applicant (if different from street address):
- D. Telephone no: Fax no:
- E. Contact person:
- F. Does the applicant control, wholly or in part, any APA?
 Yes No
 If yes, provide full details below or in an attachment:
- G. It is a requirement of the Association that your application be supported by two members of the Association. Which members are proposing and seconding your application?

 Proposer's practice name:
 Individual contact representative of the proposing practice is:

 Secunder's practice name:
 Individual contact representative of the seconding practice is:
- [Nomination forms will be sent to your proposer and secunder after this completed application is received by the AAPP]

- (b) An applicant for membership of the Association must be proposed and seconded by a member of the Association. The nomination by the proposer and seconder must be in the following form:

MEMBERSHIP NOMINATION

I/We _____ [member's name] being the proposer/seconder [strike out whichever is inapplicable], **hereby nominate** _____ [applicant's name] for membership of the Australian Association of Pathology Practices Incorporated.

I/We **certify** that we are familiar with and understand:

- (a) the Association's Objects (in particular, the opening paragraph thereof);
- (b) the Association's Rules and By-laws in relation to membership; and
- (c) the Association's Code of Ethics

and that, consequent upon that understanding, I/we consider the applicant to be **suitable for membership** of the Australian Association of Pathology Practices Incorporated.

Signed for and on behalf of _____
[member's name]

by _____,
[name, and position or title of authorised signatory]

on this ____ day of _____ 20__ Signature _____

Name of witness: _____ Signature: _____

2. Code of Ethics

The Code of Ethics referred to in the Rules and in By-law 1 is:

1. That I/we will ensure that the practice of pathology conducted within my/our pathology practice(s) complies with the requirements of the Codes of Ethical Practice of the Royal College of Pathologists of Australasia and of the Australian Medical Association as published and amended from time to time.
2. That I/we will adopt the most appropriate professional medical practice in regard to the undertaking of pathology services.
3. That I/we will ensure that my/our actions are in the best interests of the Association.

3. Processing of membership applications

- (a) The Chief Executive Officer must check carefully that a membership application lodged is fully complete in all respects. If a membership application is not fully complete in all respects, the Chief Executive Officer must return it to the applicant with advice as to the manner in which it is incomplete.
- (b) If the Chief Executive Officer has returned a membership application under By-law 3(a) and it is again lodged in an incomplete form, neither the Chief Executive Officer nor the Membership Applications and Review Committee shall be required to consider the application further.
- (c) When a fully complete membership application has been lodged, the Chief Executive Officer must advise all members that the application has been received and refer the application to the Membership Applications and Review Committee.
- (d) In considering applications for membership, or representations made by an applicant, the Membership Applications and Review Committee is entitled to take past performance into consideration only to the extent that it believes such performance bears upon the applicant's undertaking to be bound by the Association's Rules and By-laws and to abide by the Association's Code of Ethics.

- (e) In the event that an application is approved by the Membership Applications and Review Committee, the Chief Executive Officer must, with as little delay as possible, notify the applicant in writing that it has been approved for membership of the Association and, upon receipt of the sum payable by or on behalf of the applicant as its joining fee and first subscription payable under Rule 2.10, must enter the applicant's name in the register of members, whereupon the applicant shall become a member of the Association.
- (f) In the event that the Membership Applications and Review Committee decides that an application for membership should be declined, it must notify the applicant of its intention and provide the applicant with an opportunity to make written or oral representations to the Membership Applications and Review Committee. Such representations must be received and considered in accordance with the generally accepted principles of natural justice.

4. Determination of annual membership subscriptions

- (a) Each member organisation must provide to the Chief Executive Officer on request true copies of the most recent advice(s) from Medicare Australia (the "Medicare Australia advices") containing all data used to determine the approved collection centre units of entitlement for all approved pathology authorities (APAs) controlled by the member organisation.
- (b) Subject to the provisions of this by-law, the membership subscription payable by a member organisation for a financial year must be determined by calculating the ratio of the PEI items (as shown in the Medicare Australia advices provided under paragraph (a)) for all APAs controlled by the member organisation to the total number of such PEI items for APAs controlled by all member organisations and applying that ratio to the actual and forecast expenditure of the Association for that financial year as approved by the Members' Council.
- (c) The Members' Council may determine that the annual membership subscriptions so calculated shall be subject to a minimum subscription and/or a maximum subscription.

- (d) No member organisation or member representative shall have access to the PEI item data provided by another member organisation.
- (e) Membership subscriptions will be calculated in accordance with the provisions of paragraphs (a) - (d) above as well as on the basis of the latest Medicare Australia advices, Commonwealth and NSW health legislation and amendments to those statutes.

5. Qualified privilege

- (a) Reasonable criticism of the conduct or views of a member or applicant for membership at any meetings of the Association or of its Office Bearers, committees or subcommittees shall be privileged.
- (b) All communications, correspondence, reports and other papers and documents relating to the admission, reinstatement or disciplining of members (including reports of the Membership Applications and Review Committee) shall be privileged and must not be passed out of the custody of the responsible officer(s), nor shall any of the contents be disclosed other than to members of the Association or their duly appointed representatives.

6. Public statements

A member or its representatives must not make any public statement purporting to be the policy of the Association when such is not the case or when not authorised to do so.

7. Composition and powers of the Executive Committee

- (a) The Executive Committee comprise;
 - (1) the Office Bearers; and
 - (2) three other member representatives, elected by members ('Elected Members'); and
 - (3) a member representative of a small member organisation, if such a member representative has not been elected under sub-paragraphs (1) or (2) above; and
 - (4) the AAPP representative being a member of the Pathology Services Table Committee (PSTC), if this person has not

been elected under sub-paragraphs (1), (2) or (3) above;
and

- (aa) A member of the Executive Committee must be a member representative.
- (b) No more than 2 member representatives of one member organisation may be Office Bearers.
- (c) In addition to the limitation in paragraph (b) above, no more than a total of 3 of all Office Bearers and Elected Members of the Executive Committee may be member representatives of one member organisation.
- (d) Where a breach in one or both of paragraphs (b) and (c) results from:
 - (1) a member organisation becoming controlled by another member, or
 - (2) a merger of two or more member organisations; or
 - (3) the movement of a member representative from one member organisation to another,the member organisation with the excess number of member representatives must arrange for the excess member representatives to resign their position(s) from the date in which the event specified above took place, so that the provisions of paragraphs (b) and (c) are not breached.
- (e) **RESCINDED 7.5.99**
- (f) A member of the Executive Committee may nominate an alternate to attend and vote on his/her behalf at not more than one Executive Committee meeting in any period of twelve months following an annual general meeting.
- (g) The Executive Committee may not, unless specifically approved beforehand by the Members' Council, borrow money in the name of the Association or commit to capital expenditure exceeding \$10,000 in the name of the Association.

7A. Composition and powers of the Strategy Committee.

- (a) The Strategy Committee shall be a sub-committee of the Members' Council.

- (c) The Strategy Committee is responsible for the formulation of the Association's strategic decisions.
- (d) The decisions of the Strategy Committee shall be referred to the Executive Committee who shall be responsible for their implementation.
- (e) The Strategy Committee shall be constituted by:
 - I. the Chief Executive Officers or their nominated delegates of the Large Members of the Association who are for profit, and
 - II. A Chief Executive Officer of a small member or his or her delegate who will be representing all Small Members of the Association and
 - III. the President of the Association who shall act as Chairman of the Strategy Committee.
 - IV. The Chief Executive Officer, who shall be representing small members on the Strategy Committee, shall be elected by the Small Members at the Annual General Meeting. The term of membership of the Strategy Committee shall be until the following Annual General Meeting.
- (f) Should the elected Chief Executive Officer representing Small Members resign from Association membership during the term of membership of the Strategy Committee, the members of the Strategy Committee shall appoint a replacement member to fill that vacancy. Such appointee shall be the Chief Executive Officer of a Small Member. The appointment shall remain until the following Annual General Meeting of the Association.
- (g) The Strategy Committee shall meet as often as is deemed necessary. Any member of the Strategy Committee is able to require a meeting to be held by giving 3 days notice to the Association's Chief Executive Officer.
- (h) **The Terms of Reference of the Strategy Committee shall be determined by the General Council at its Annual General Meeting.**

8. Regions

There shall be 6 regions and they shall be identical to the 6 states of Australia, with:

- (a) the Australian Capital Territory being included in the New South Wales region; and
- (b) the Northern Territory being included in the South Australia region.

9. Election of Office Bearers and the Elected Members of the Executive Committee

- (a) If a vote is necessary for the election of any Office Bearers, such vote must be conducted in the order President, Vice President (who must be a pathologist), Vice President (who may or may not be a pathologist) Vice President (who may or may not be a pathologist who must be from a small member organisation as defined in By-law 7 (a)) Treasurer.
- (aa) If a vote is necessary for the election of the other Elected Members, such vote must be conducted after the election of the Office Bearers. The nominees with the five highest number of votes will be elected, unless the provisions of By-law 7(b) or 7(c) mean that the nominee is ineligible, in which case the nominee with the next highest number of votes will be elected.
- (b) If a vote is necessary for the election of any Office Bearers or any other members of the Executive Committee, it must be conducted by secret ballot or, if demanded under these Rules, by a poll.
- (c) If a nominee for election to the position of Office-Bearer or other Elected Member becomes ineligible for that position during the order of votes set out in paragraph (a) and (b) (for example, because of the provisions of By-law 7(b) or (c)), that nominee must withdraw his or her nomination.

9A Appointment of Appointed Members of the Executive Committee

- (a) If, after the election of the Office-Bearers and the other Elected Members, it becomes necessary to appoint Appointed Members of the Executive Committee:

- (1) if applicable, the chairperson of the meeting will call for nominations for the position of small member representative. Following the call for nominations:
 - (i) if one nomination is received, that person will be appointed the small member representative;
 - (ii) if more than one nomination is received, a vote it must be conducted by secret ballot or, if demanded under these Rules, by a poll during the meeting and the person receiving the most votes will be appointed the small member representative; and
 - (iii) if no nomination is received, the position will be declared a casual vacancy; and
- (2) if applicable, the meeting will appoint the AAPP representatives on the Pathology Services Table Committee (PSTC) and the Pathology Consultative committee (PCC) to the Executive Committee.

10. Representation at Members' Council meetings

- (a) A member organisation may nominate between 1 and 10 member representatives for membership of the Members' Council, the number concerned to be proportionate to the membership subscription payable and to be determined in a manner prescribed from time to time by the Members' Council.
- (b) Member organisations may nominate observers to attend a Members' Council meeting. Observers must be recorded as such in the minutes and are not entitled to vote but, at the discretion of the chairperson, may speak at the meeting.

11. Rescinded

12. PCC Support Committee

- (a) The PCC Support Committee is a standing committee.
- (b) The role of the PCC Support Committee is to provide support to the Association's representatives on the Pathology Consultative Committee and its subcommittees and to undertake such other functions as are delegated to it by the Executive Committee.

- (c) Arrangements for the election or appointment of members of the PCC Support Committee shall be determined by the Executive Committee.

13. PSTC Support Committee

- (a) The PSTC Support Committee is a standing committee.
- (b) The role of the PSTC Support Committee is to provide support to the Association's representatives on the Pathology Services Table Committee and its subcommittees and to undertake such other functions as are delegated to it by the Executive Committee.
- (c) Arrangements for the election or appointment of members of the PSTC Support Committee shall be determined by the Executive Committee.

14. NPAAC Support Committee

- (a) The NPAAC Support Committee is a standing committee.
- (b) The role of the NPAAC Support Committee is to provide support to the Association's representatives on the National Pathology Accreditation Advisory Council and its committees, and to undertake such other functions as are delegated to it by the Executive Committee.
- (c) Arrangements for the election or appointment of members of the NPAAC Support Committee shall be determined by the Executive Committee.

15. QUPC Support Committee

- (a) The QUPC Support Committee is a standing committee.
- (b) The role of the QUPC Support Committee is to provide support to the Association's representatives on the Quality Use of Pathology Committee and its subcommittees, and to undertake such other functions as are delegated to it by the Executive Committee.
- (c) Arrangements for the election or appointment of members of the QUPC Support Committee shall be determined by the Executive Committee.

16. SSC Support Committee

- (a) The SSC Support Committee is a standing committee.
- (b) The role of the SSC Support Committee is to provide support to the Association's representatives on the PCC/PSTC Statistics Subcommittee and to undertake such other functions as are delegated to it by the Executive Committee.
- (c) Arrangements for the election or appointment of members of the SSC Support Committee shall be determined by the Executive Committee.

17. Rescinded 13.5.04