



**College of Intensive Care Medicine
of Australia and New Zealand**
ABN: 16 134 292 103

Date established: 2010
Date last reviewed: 2015
Incorporating the amendments
passed in May 2015

CONSTITUTION

OBJECTS

- 1.1 The objects for which the College is established are to:
- 1.1.1 promote excellence in healthcare services and cultivate and encourage high principles of practice, ethics and professional integrity in relation to intensive care medicine practice, education, assessment, training and research;
 - 1.1.2 promote and encourage the study, research and advancement of the science and practice of intensive care medicine;
 - 1.1.3 determine and maintain professional standards for the practice of intensive care medicine in Australia and New Zealand;
 - 1.1.4 advocate on any issue which affects the ability of College members to meet their responsibilities to patients and to the community;
 - 1.1.5 establish the status of Fellowship and other membership of the College and to admit appropriately qualified members of the College to that status;
 - 1.1.6 conduct and support programs of training and education leading to the issue of Fellowship or other certification attesting to the attainment or maintenance of appropriate levels of skills, knowledge and competencies commensurate with specialist practice in intensive care medicine in Australia and New Zealand;
 - 1.1.7 promote recognition of the College as the pre-eminent body in Australia and New Zealand and internationally for the establishment of training and education programs and the development of professional standards in intensive care medicine;
 - 1.1.8 disseminate information and to advise on any course of study and training designed to promote and ensure the fitness of persons who wish to qualify for recognition by the College;
 - 1.1.9 conduct and coordinate examinations and other assessment processes and to grant registered medical practitioners specialist recognition in intensive care medicine, either alone or in cooperation with other relevant bodies or institutions;
 - 1.1.10 hold or sponsor meetings, lectures, seminars, symposia or conferences, within or outside of Australia and New Zealand, to promote understanding in medicine and related subjects and professional relations among members of the College, members of other health professions, scientists and the community in general;
 - 1.1.11 facilitate the advancement of specialist education and training in intensive care medicine through the conduct of projects and research;
 - 1.1.12 ensure College members undertake continuing professional development and participate in effective, ongoing professional activities and learning;
 - 1.1.13 foster and promote cooperation and association with organisations which have objectives similar to the College in Australia and New Zealand as well as in the wider international arena, including particularly Asia and the Pacific region;

- 1.1.14 advance public education and awareness of the science and practice of intensive care medicine;
 - 1.1.15 provide authoritative advice, information and opinion to other professional organisations, to governments and to the general public;
 - 1.1.16 work with governments and other relevant organisations to achieve the provision of adequate, well-qualified, experienced and capable workforces in Australia and New Zealand and to improve public health services;
 - 1.1.17 facilitate medical education and medical aid support to developing nations;
 - 1.1.18 monitor issues affecting the interests of the College or the professional interests of its members and to take all such actions as may be deemed necessary for the protection of those interests;
 - 1.1.19 provide advice and support to members to assist them in establishing and maintaining an appropriate work / life balance and to meet effectively the challenges of their professional life.
- 1.2 In pursuit of the achievement of those objects, the College shall have all powers and functions necessary or desirable to the maximum extent permitted by law.

2. MEMBERSHIP OF THE COLLEGE

2.1 Classes of membership

Membership of the College shall consist of:

- 1.2.1 Fellows,
- 1.2.1 Honorary Fellows,
- 1.2.2 Associates

and such other classes or subclasses as specified in any regulations for that purpose with such rights and privileges as set out in those regulations.

2.2 Fellows

The College shall consist of such persons as are admitted as Fellows and Honorary Fellows under this Constitution and such persons as are admitted as members of any Faculty.

2.3 Associates

The Board may admit as an Associate of the College:

- 2.3.1 any medical practitioner who has completed such training and examinations as may be prescribed from time to time by the Board in regulations for that purpose; or
- 2.3.2 without further examination, any medical practitioner who is a resident of Australia or New Zealand and who has such higher qualifications as may be approved from time to time by the Board in regulations for that purpose;
- 2.3.3 Associates shall be entitled to attend and speak at any meeting of members of the College, but not vote.

2.4 Eligibility

Except in the case of Honorary Fellows, no person shall be eligible to be a Fellow or Associate of the College unless at the time of admission as a Fellow:

- 2.4.1 he or she is a registered Medical Practitioner of a State or Territory of Australia or of New Zealand or of some other country or State approved by the Board for the purpose of this clause; or

2.4.2 he or she holds some other medical qualification regarded as satisfactory by the Board.

2.5 Rights Not Transferable

The rights and privileges of every member shall be personal and shall not be transferred or transmitted.

2.6 Honorary Fellows

2.6.1 The Board may from time to time elect as Honorary Fellows people of renown, distinguished members of the medical profession and other eminent persons, whether or not those eminent persons are members of the medical profession.

2.6.2 An Honorary Fellow shall be a member of the College and shall have the same powers, privileges and liabilities as a Fellow, except that an Honorary Fellow shall not be required to pay any entrance fee or annual subscription or to satisfy the College's professional development requirements.

2.6.3 An Honorary Fellow shall be entitled to attend and speak but shall not be entitled to vote at general meetings.

2.7 Admission to Membership

2.7.1 The Board may admit an eligible and qualified person to membership of the College.

2.7.2 The admission to membership of any person is subject to payment of any fee or subscription applicable.

2.8 Names to be Entered in the Register

The name of any person admitted to membership of the College, shall be entered in the Register. Upon entry in the Register, members shall be entitled to use post-nominals as determined under Regulations, subject to this Constitution and the provisions, conditions and restrictions contained in Regulations.

3. MEMBERSHIP SUBSCRIPTIONS

3.1 The Board, if it believes there is a good and compelling reason for doing so, may determine different rates of annual subscription for members within the same class of membership. The subscriptions payable by members of the College shall be of such amount and at such time as the Board from time to time prescribes (and pro rata for any part of a year).

3.2 If the subscription of a member is unpaid for a period of 12 calendar months after it becomes due, the member shall cease to be a member of the College and shall lose all rights and privileges of membership. The Board may, if it thinks fit, reinstate the member upon payment of all arrears (on such conditions as the Board determines, including payment of interest of arrears of unpaid subscriptions).

4. CESSATION OF MEMBERSHIP

4.1 Automatic Termination of Membership

4.1.1 Subject to this Constitution, the membership of any person terminates if:

- a) the person resigns in writing;
- b) the person dies;
- c) the person's name is no longer present on the register of any medical or professional authority recognised by the Board ("an Authority") except where

such removal is due to retirement from practice and as a consequence is not participating in relevant professional development activities;

- d) the person is suspended from practice by an Authority; or
- e) the person becomes a person whose estate or person is liable to be dealt with in any way under the law relating to mental health or disability.

4.1.2 If the membership of a person terminates because the person is suspended from practice, the person may be readmitted to membership by resolution of the Board with or without the payment of a further membership fee if the suspension is lifted and subject to any conditions imposed by the Board.

4.2 Termination of Membership by Resolution of the Board

4.2.1 Subject to this Constitution, the Board may at any time terminate the membership of a member if the member:

- a) ceases to be eligible for admission to membership of the College;
- b) refuses or neglects to comply with the provisions of this Constitution or any applicable Regulation made by the Board;
- c) engages in conduct which in the opinion of the Board is unbecoming of members or is prejudicial to the interests of the College;
- d) has any condition or restriction imposed on his or her right to practise by an Authority;
- e) is found guilty by a Court of an indictable offence; or
- f) subject to clause 3.2, fails to pay any debt due to the College for a period of 6 months after the due date for payment.

4.2.2 For the purposes of this clause 4, a member shall not be deemed to have ceased to be eligible for membership by reason of the fact that the member has ceased to practise.

4.2.3 Subject to clause 3.2, a decision of the Board (or a committee of the Board appointed for that purpose) under this clause 4 is not effective unless:

- a) the member concerned has been given a notice of the resolution to be considered by the Board (or a committee of the Board appointed for that purpose) and a copy of any business papers circulated regarding the resolution not less than 14 days prior to the date of the meeting. If the business papers do not contain particulars of any allegations supporting the resolution that is to be considered, a statement setting out those allegations must be given;
- b) the member has been permitted to make submissions to the meeting in writing and orally;
- c) the member is given an opportunity to respond to any matters raised in the meeting. The Board (or committee) may ask the member to leave the meeting during its deliberations once submissions from all interested parties are complete; and
- d) notice of the decision of the Board (or committee) is given promptly to the member.

4.2.4 A decision under clause 4.2.3 may be subject to appeal under Regulations relating to appeals made for that purpose.

4.3 Name to be Removed from Register

The name of any person ceasing to be a member of the College shall be removed from the Register.

4.4 Consequence of Termination of Membership

Any member whose membership of the College terminates for any reason in accordance with this Constitution:

- 4.4.1 shall cease to be entitled to any of the rights and privileges of a member;
- 4.4.2 may be required to return his or her membership Certificate(s) to the College within 14 days of receiving notice of the termination of the member's membership of the College; and
- 4.4.3 must not represent that he or she is a member of the College or use the College post-nominals or nomenclature of the College, which may be applicable.
- 4.4.4 The Board may in its absolute discretion give notice or publish to the public generally or to any professional body or organisation the fact that any such person has ceased to be a member of the College.

4.5 Continuing Obligations

- 4.5.1 Any person who ceases to be a member of the College shall forfeit all the rights and privileges of membership and shall have no rights in or claim upon the College for the property or funds of the College except as a creditor.
- 4.5.2 Without limiting clause 4.5.1, termination of membership for any reason does not affect the liabilities and obligations of a member (whether they arise under this Constitution or otherwise), including any obligation to pay any membership subscriptions payable on or before termination, existing at the date of termination or which arise or become known after that date out of or by reason of facts or circumstances occurring or in existence at or before that date.
- 4.5.3 No former member of the College is eligible for readmission until all arrears of subscriptions and any interest imposed by the Board, if any, due to the College at the date when his or her former membership ceased are paid.

5. GENERAL MEETINGS OF THE COLLEGE**5.1 Annual General Meeting**

- 5.1.1 An Annual General Meeting of the members must be held in each year, unless otherwise permitted by law.
- 5.1.2 The Board shall determine the time and the place of the Annual General Meeting.

5.2 Calling Meetings of Members

- 5.2.1 The Board may call a meeting of members.
- 5.2.2 The Board must call a general meeting of the College as required under the Act or if the College receives a written request from the lesser of:
 - a) at least 5% of members who are entitled to vote at the general meeting; or
 - b) at least 50 members who are entitled to vote at the general meeting,
 and the written request:
 - c) states the resolutions to be proposed at the general meeting; and
 - d) is signed by all the members making the request.

- 5.2.3 If members requisition a general meeting in accordance with clause 5.2.2:
- a) the Board must call the general meeting within 21 days after the request is given to the College; and
 - b) the meeting must be held within 2 months after the request is given to the Board.
- 5.2.4 If the Board does not call a general meeting that was requisitioned by members in accordance with clause 5.2.3 within 21 days after the request is given to the College, then members with more than 50% of the votes of all the members who made the request under clause 5.2.2 may call and arrange to hold a general meeting.

5.3 Notice Requirements

- 5.3.1 At least 21 days notice must be given of a meeting of members unless the Act permits shorter notice.
- 5.3.2 Subject to clause 5.3.1, a notice of a meeting of members must:
- a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
 - b) state the general nature of the meeting's business; and
 - c) if a special resolution is to be proposed at the meeting-set out an intention to propose the special resolution and state the resolution; and
 - d) if a Fellow is entitled to appoint a proxy-contain a statement setting out:
 - i. that the Fellow has a right to appoint a proxy; and
 - ii. that the proxy must be a Fellow of the College.

6. PROCEDURE AT A GENERAL MEETING

6.1 Annual General Meeting Business

The business of the Annual General Meeting shall be:

- 6.1.1 to receive and consider the Report of the Board;
- 6.1.2 to consider the annual financial reports, reports of the Executive and the auditor's report;
- 6.1.3 to consider any proposed alteration of the Constitution;
- 6.1.4 in accordance with the Constitution, to declare the result of the election of members of the Board in place of those retiring;
- 6.1.5 to appoint an auditor, if necessary; and
- 6.1.6 to transact any other business which ought to be transacted at an Annual General Meeting of which notice has been given in the notice of meeting.

6.2 Quorum at a General Meeting

- 6.2.1 Business may not be transacted at a general meeting unless a quorum of members is present at the time when the meeting proceeds to business and while business is being conducted.
- 6.2.2 Except as otherwise set out in this Constitution, 20 Fellows present in person and entitled to vote at a general meeting is a quorum.
- 6.2.3 If a quorum is not present within 15 minutes of the time appointed for a general meeting, or a longer period allowed by the Chairperson, the meeting shall stand

adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Chairperson.

- 6.2.4 At an adjourned meeting, if a quorum is not present within 15 minutes of the time appointed for the meeting, the members present and entitled to vote shall be a quorum and may transact the business for which the meeting was called.
- 6.2.5 Members may participate in any meeting remotely by electronic means permitted under the Act.

6.3 Chairperson

- 6.3.1 A general meeting shall be chaired by:
- a) the President; or
 - b) if the President is absent or unable or unwilling to act, the Vice President; or
 - c) if the Vice President is absent or unable or unwilling to act, a member of the Board elected by the Fellows present.
- 6.3.2 Subject to this Constitution, the Chairperson's ruling on all matters relating to the order of business and the procedure and conduct of a general meeting (including any poll or ballot) is final and no motion of dissent from a ruling of the Chairperson may be moved.

6.4 Adjournment of Meetings

- 6.4.1 The Chairperson may, with the consent of any meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting to another time and to another place.
- 6.4.2 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 6.4.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

6.5 Voting

- 6.5.1 At a general meeting a resolution put to the vote of the meeting is decided on a show of hands unless a ballot is (before or on the declaration of the result of the show of hands) demanded.
- 6.5.2 Subject to this Constitution, every Fellow present in person has one vote on a show of hands and every Fellow present in person or by proxy has one vote on a ballot.
- 6.5.3 If there is an equality of votes, whether on a show of hands or on a ballot, the Chairperson has a casting vote in addition to the Chairperson's deliberative vote.
- 6.5.4 An objection to the qualification of a voter must be referred to the Chairperson who must rule on the objection before a vote is taken.
- 6.5.5 If a ballot is not duly demanded, a declaration by the Chairperson that on a show of hands a resolution has been carried or carried unanimously or by a particular majority or lost and an entry to that effect is made in the book containing the minutes of the general meeting of members is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

6.6 Conduct of a Ballot

- 6.6.1 A ballot may not be taken on the election of a Chairperson or on a question of adjournment.
- 6.6.2 A ballot may be demanded by:
- a) the Chairperson; or
 - b) any five members present in person or by proxy entitled to vote.
- The demand for a ballot may be withdrawn.
- 6.6.3 The demand for a ballot does not prevent the continuance of a meeting for the transaction of business other than the question on which the ballot is demanded.
- 6.6.4 If a ballot is duly demanded, it must be taken in the manner and at such time as the Chairperson directs. The result of the ballot is the resolution of the meeting on the question concerned.

6.7 Proxies

- 6.7.1 A document appointing a proxy by a Fellow (which for the purposes of this Constitution includes a power of attorney of a Fellow appointing another Fellow to vote on the first mentioned Fellow's behalf) may be in the form issued with the notice of the meeting or in a common or usual form approved by the Board.
- 6.7.2 Only a Fellow may be appointed as a proxy.
- 6.7.3 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution other than as specified in the document (if any).
- 6.7.4 The document appointing a proxy and any power of attorney or other authority (if any) under which the proxy is signed (or a copy of that power or authority certified to be a true copy by a legal practitioner or justice of the peace) must be given (and may be given by facsimile) to the Office, or at another place specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting.
- 6.7.5 A vote given in accordance with the terms of a document appointing a proxy is valid despite the occurrence of any one or more of the following events if no notice in writing of any of those events has been received at the Office before the commencement of the meeting or adjourned meeting at which the document is used:
- a) the previous death or unsoundness of mind of the principal; or
 - b) the revocation of the instrument or of the authority under which the instrument was executed; or
 - c) the termination of membership of the member.

6.8 Only Financial Members to Vote

No member is entitled to:

- 6.8.1 be present;
- 6.8.2 vote on any question either personally or by proxy;
- 6.8.3 vote as a proxy for another member; or
- 6.8.4 be reckoned in a quorum,

at any general meeting of the College if his or her annual membership subscription remains unpaid beyond the due date by more than six months.

6.9 Postal Ballot

- 6.9.1 In respect of any business which may be validly considered at a general meeting (including an Annual General Meeting) pursuant to this Constitution, the Board may (in lieu of a Meeting) conduct a Postal Ballot of Fellows (in this Constitution referred to as a "Postal Ballot").
- 6.9.2 At least thirty days prior to the closing date of a Postal Ballot, the College shall send to all Fellows entitled to vote ballot papers, giving particulars of the business in relation to which the Postal Ballot is conducted, an explanation of the method of voting and a voting form (all in a form and with such content as then the Board may approve) and shall give all members notice of the closing date of the Postal Ballot.
- 6.9.3 The College shall receive all voting forms received from Fellows in respect of a Postal Ballot and shall promptly advise the Board of the result of the Postal Ballot. Any voting form received at the office after 1700 hours on the closing date of a Postal Ballot shall be deemed to be invalid and not be counted.
- 6.9.4 In the event of an equal number of votes in respect of any business for which a Postal Ballot is conducted, the President (or acting President, in the President's absence) shall have a second or casting vote.
- 6.9.5 In all other respects, subject to this Constitution, the Board shall determine any other procedures or matters in relation to the conduct of any Postal Ballot and shall have power to make Regulations for that purpose.
- 6.9.6 In the event of any dispute by any Fellow in relation to the validity or conduct of any Postal Ballot, such Fellow shall within 30 days of the closing date of such Postal Ballot, give notice in writing to the Board stating the grounds of his or her complaint. The Board may thereupon either itself investigate the complaint or may appoint a committee for that purpose. After hearing the complaint the Board shall determine the matter and its decision thereon shall be final.

7. BOARD OF COLLEGE

7.1 Manage general business of the College

- 7.1.1 The business of the College shall be managed by the Board which may exercise all powers of the College as are not, by the Act or by this Constitution, required to be exercised by the College in general meeting or prescribed by the College in general meeting. No proper resolution or regulation made by the College in general meeting shall invalidate any prior act of the Board which would have been valid if that resolution or regulation had not been passed or made.
- 7.1.2 The Board shall invest the funds of the College not immediately required for the purposes of the College in any one or more of the modes of investment from time to time authorised by law for the investment of trust funds.
- 7.1.3 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the College shall be signed, drawn, accepted, endorsed or otherwise executed as the Board from time to time determines.

7.2 Power to delegate

- 7.2.1 The Board may delegate any of its powers (other than that of delegation) to committees comprising persons appointed by the Board.

- 7.2.2 The Board may revoke any delegation of its powers by ordinary resolution.
- 7.2.3 Any committee exercising the delegated power of the Board shall comply with any conditions or limitations imposed by the Board.

7.3 Regulations

- 7.3.1 The Board shall have power from time to time to make, amend and repeal all such regulations as it deems necessary or desirable for the proper conduct and management of the College, the regulation of its affairs and the furtherance of its objectives.
- 7.3.2 Without in any way limiting the power of the Board under clause 7.3.1, the Board may make, amend and repeal regulations in relation to:
- a) procedural matters in relation to application for all classes of membership of the College (whether by way of examination, election or otherwise);
 - b) entrance fees, annual subscriptions and other fees payable by all classes of membership of the College;
 - c) rights and privileges to be accorded to all classes of membership of the College;
 - d) the nomination and election of Board members and the Executive of the College;
 - e) the conduct of postal ballots of members of the College;
 - f) the membership, purpose and proceedings of committees of the Board and the College; and
 - g) the discipline of, and sanctions applicable to, Fellows, trainees and others, including suspension, counselling, reprimand, termination or expulsion.
- 7.3.3 No regulation shall be inconsistent with, nor shall it affect the repeal or modification of, anything contained in this Constitution.
- 7.3.4 All regulations shall be binding upon all members. A record of all regulations shall be kept in such place as the Board shall appoint for that purpose.

8. BOARD MEMBERS

8.1 Composition of the Board

- 8.1.1 The Board shall consist of:
- a) Up to ten Fellows elected in accordance with this Constitution and any applicable regulations (**Elected Board Members**).
 - b) One Fellow, within 5 years of admission to Fellowship, elected to represent trainees and New Fellows (**New Fellow Representative**). This election and appointment will take place in accordance with regulations made for that purpose.
 - c) Co-opted Representatives appointed under clauses 8.1.4 and 8.5.
- 8.1.2 Subject to clause 8.5, at least one of the Elected Board Members will be resident in New Zealand.
- 8.1.3 The Board will not be irregularly constituted by reason that there is not an Elected Board Member resident in New Zealand.
- 8.1.4 In the event that a Fellow resident in New Zealand is not elected, the Board will co-opt to the Board a Fellow resident in New Zealand ("**Co-opted Representative**")

8.2 Term of office of Elected Board Members

- 8.2.1 The elected term of office of Elected Board Member shall be 3 years commencing at the Annual General Meeting in the year of their election.
- 8.2.2 An Elected Board Member shall not serve more than 4 consecutive terms or 12 years in aggregate.
- 8.2.3 An Elected Board Member who has served his or her 3 year term of office as prescribed in clause 8.2.1 shall retire from office at the third Annual General Meeting held after that Elected Board Member is declared elected, provided that any retiring Elected Board Member shall be eligible for re-election subject to clause 8.2.2.
- 8.2.4 A retiring Elected Board Member shall be entitled to act as a member of the Board at the meeting at which he/she retires.

8.3 Official Observers

Official observers, as determined by the Board, may be invited to attend meetings of the Board (or parts of the meetings as determined by the Board). Official Observers may participate in such meetings on such basis as the Board determines, but not vote.

8.4 New Fellow Representative

The New Fellow Representative is elected for a maximum term of office of 3 years, and will not be eligible for re-election as a New Fellow Representative. A Fellow standing as an Elected Member of the Board will be unable to stand for the New Fellow Representative position. Time spent in this position shall be counted towards the 12 years that an Elected Member may spend on the Board. The New Fellow Representative shall be entitled to all rights and privileges as for an Elected Member, including the right to vote.

8.5 Co-opted Representatives

- 8.5.1 If at any time any State of Australia or New Zealand is not represented on the Board by an Elected Member, the Board will have power to co-opt a Representative from that region ("**Co-opted Representative**"). This Co-opted Representative will be a Fellow resident in that region.
- 8.5.2 All Co-opted representatives will be appointed annually by the Board (for a maximum period of 12 years, including any term as an Elected Member).
- 8.5.3 The Co-opted Representatives shall be entitled to attend and speak at all meetings of the Board, but not vote, and shall not otherwise by reason of becoming a Co-opted Representative, obtain any other powers or rights as a member of the College.

8.6 Removal of Board member

- 8.6.1 A Board member may be removed from office by ordinary resolution of a general meeting of the College.
- 8.6.2 If a Board member is removed from office by ordinary resolution of a general meeting of the College, that meeting may appoint another Fellow to fill the vacancy created for the remaining term of the Board member who was removed from office.

8.7 Termination of office of Board member

- 8.7.1 The office of a Board member becomes vacant if the Board member:
- a) resigns that office by notice in writing to the College;
 - b) ceases to be a member of the College;

- c) is absent from three consecutive meetings of the Board (other than meetings of the Board called on less than 48 hours notice) without leave of absence;
- d) becomes an employee of the College;
- e) is directly or indirectly interested in any contract or proposed contract with the College and fails to declare that interest in the manner required by the Act (or at the first meeting of the Board after the relevant facts have come to the Board member's knowledge) and the Board determines that the Board member should no longer be a Board member;
- f) is removed from office pursuant to clause 8.6.1;
- g) becomes bankrupt;
- h) becomes a person whose estate or person is liable to be dealt with in any way under the law relating to mental health or disability; or
- i) is removed from office by operation of the Act.

8.8 Casual vacancies

- 8.8.1 A casual vacancy shall mean any vacancy in the membership of the Board caused otherwise than by the retirement of a Board member at the end of his or her term.
- 8.8.2 A casual vacancy shall not be deemed to have arisen upon a Board member ceasing to reside in the State or Territory or in New Zealand in which that Board member was resident at the time of his or her election.
- 8.8.3 If the office of a Board member becomes vacant during the Board member's term of office that position shall be filled by the Board, subject to clause 8.6.2.
- 8.8.4 Any Board member appointed pursuant to this clause shall hold office only until the next election of Board members and shall be eligible for re-election in accordance with this Constitution.
- 8.8.5 For the purposes of this clause the period of time served pursuant to clause 8.8.4 shall not be counted as a period of office.

9. ELECTION OF BOARD

- 9.1** Nominations of candidates for election as Elected Board Members of the Board shall be:
 - 9.1.1 signed by two Fellows;
 - 9.1.2 contain a consent to act if elected signed by the person nominated; and
 - 9.1.3 left with or forwarded by post to the Chief Executive Officer so as to reach the Chief Executive Officer at least sixty (60) days before the Annual General Meeting.
- 9.2** Wherever used in this clause the term "candidates" shall be deemed to mean persons eligible for election as Elected Board Members or New Fellow of the Board under the provisions of this Constitution.
- 9.3** If a number of nominations of candidates for election as Elected Board Members or New Fellow of the Board does not exceed the number of vacancies the candidates so nominated shall be declared duly elected at the Annual General Meeting.
- 9.4** If the number of nominations of candidates exceeds the vacancies, balloting lists shall be printed containing in alphabetical order the names of the candidates nominated and one such list shall at least thirty (30) days before the Annual General Meeting be posted to each Fellow at his or her address for the time being appearing in the College register. Balloting

lists may be sent to Fellows by postal mail, facsimile or electronic mail, in accordance with Clause 20.1.

- 9.5** Fellows, if they elect to vote, shall be obliged to vote for as many candidates as there are vacancies to be filled and no more, provided that all votes must be received at the Chief Executive Officer's Office not later than 1700 hours on the closing date of the poll and any votes received thereafter shall be deemed to be invalid and shall not be counted. Voting may be carried out by postal mail or through a secure electronic voting system
- 9.6** At the Annual General Meeting there shall be first declared elected (assuming there is a candidate for the purpose and in order to ensure compliance as far as possible with clause a) hereof) a candidate resident in New Zealand and receiving more votes than other candidates (if any) so resident to bring the number of Elected Board Members of the Board resident in New Zealand up to one.
- 9.7** Then the vacancies shall be filled by declaring elected the necessary number of the remaining candidates who received the most votes.
- 9.8** In the event of two or more candidates receiving an equal number of votes then priority in election as between such candidates receiving an equal number of votes shall be determined in accordance with the regulations made for that purpose.

10. OFFICE BEARERS AND OFFICERS

- 10.1** The Office Bearers of the College shall be the President, Vice President and Treasurer.
- 10.2** At the first Board Meeting in each year, the Elected Board Members of the Board shall elect by secret ballot from among the Elected Board Members of the Board the Office Bearers who will take office at the first Board Meeting following the next Annual General Meeting.
- 10.3** Subject to clauses 8 and 9, the Office Bearers shall hold office for one year but shall be eligible for re-election for a further period of one year and shall continue to exercise their functions until their successors have been regularly appointed.
- 10.4** Where an Office Bearer dies while in office or resigns or is disqualified in any way from holding office the Board shall elect a replacement for the balance of that term of office.

11. MEETINGS OF THE BOARD

11.1 Meetings

- 11.1.1 The Board may meet for the transaction of business and adjourn and otherwise regulate its meetings as it thinks fit.
- 11.1.2 A meeting of the Board shall be convened on the requisition of the President or any two Board members.

11.2 Notice of Board meetings

- 11.2.1 At least 24 hours notice of a meeting of the Board must be given to each Board members specifying the place, time and date of the meeting and the general nature of items to be discussed.
- 11.2.2 Shorter notice may be given if at least 75% of the Board members agree or if the President considers that the business of the meeting is urgent.

11.3 Quorum

- 11.3.1 The quorum necessary for the transaction of the business of the Board is more than one half of the total membership of the Board unless the Board resolves that a greater number shall constitute a quorum.
- 11.3.2 If at any time the number of Board members is less than a quorum the Board may meet only for the purpose of filling any casual vacancies or for calling a general meeting of members.
- 11.3.3 The Board may act notwithstanding any vacancy on the Board.

11.4 Chairperson

- 11.4.1 The President shall take the Chair at all meetings of the Board (or in the absence of the President, the Vice President shall Chair).
- 11.4.2 If the President or Vice President are not present at any meeting of the Board within fifteen minutes after the time appointed for holding the meeting the Board members present shall elect a member of the Board present to be Chairperson of the meeting.

11.5 Voting

- 11.5.1 Questions arising at a meeting of the Board shall be decided by a majority of votes of Board members present and voting. A decision by a majority of the Board members present and voting is for all purposes a decision of the Board.
- 11.5.2 The Chairperson of the meeting has a casting vote in addition to a deliberative vote where there is an equality of votes.

11.6 Written resolution

- 11.6.1 A written resolution signed or approved by electronic mail by 75% of all Board members entitled to vote (other than any Board member on leave of absence) is taken to be a decision of the Board members passed at a meeting of the Board duly convened and held.
- 11.6.2 The written resolution may consist of:
 - a) several documents in like form, each signed by one or more Board member and, if so signed, takes effect on the last date on which a Board member signs one of the documents; or
 - b) the printed record of several electronic mail messages each indicating the identity of the sender, the text of the resolution and the sender's agreement or disagreement to the resolution, as the case may be, and such a resolution takes effect on the date on which the last Board member sends such a message.

11.7 Telephone or video conference meetings

A meeting of the Board may be held with one or more of the Board members taking part by telephone or other means of audio or audio-visual communication and when each of the Board members participating in the communication is able to read the written contributions or hear each of the other participating Board members. A meeting of the Board may only be held in this manner where all of the Board members (other than any Board member on leave of absence) have access to the communication facilities to be used for the meeting.

11.8 Defects in appointment or qualification of a Board member

All acts done in good faith by a meeting of the Board or of a committee of the Board or by any person acting as an Office Bearer, Board member or committee member of the College

will be valid and effective notwithstanding that it is afterwards discovered that there was some defect in the appointment of that person or that the person was disqualified from acting for any reason.

11.9 Board member's interest

11.9.1 This clause 11.9 applies if:

- a) a Board member has an interest or duty in relation to a matter that is not a material personal interest; or
- b) a Board member with a material personal interest in relation to the College's affairs:
 - i. complies with the requirements of the Act in relation to disclosure of the nature and extent of the interest and its relation to the College's affairs before acting in a matter that relates to the interest; or
 - ii. does not have to disclose his or her material personal interest to the other Board members under the Act.

11.9.2 Subject to clause 11.10, the Board member is not in breach of his or her duties to the College merely because he or she acts in matters that relate to the Board member's interest.

11.9.3 In relation to any transactions that relate to the Board member's interest:

- a) the transactions may proceed;
- b) the College cannot avoid the transactions merely because of the Board member's interest; and
- c) the Board member may retain benefits under the transactions despite the Board member's interest.

11.10 Participation by interested Board Members

11.10.1 This clause applies to a Board member who has a material personal interest in a matter that is being considered at a Board meeting.

11.10.2 Subject to clause 11.10.5, the Board member must not:

- a) be present while the matter is being considered at the meeting; or
- b) vote on the matter.

11.10.3 The Board member is not in breach of duty to the College merely because he or she does not act in relation to the matter.

11.10.4 The Board may vote on matters that relate to the Board member's interest in the Board member's absence.

11.10.5 The prohibition in clause 11.10.2 does not apply if:

- a) the Board member does not have to disclose his or her material personal interest to the other Board member under the Act; or
- b) Board members who do not have a material personal interest in the matter have passed a resolution that:
 - i. identifies the Board member, the nature and extent of the Board member's interest in the matter and its relation to the affairs of the College; and
 - ii. states that those Board members are satisfied that the interest should not disqualify the Board member from voting or being present.

12. REMUNERATION

12.1 Remuneration of Board members

- 12.1.1 The income and property of the College must be applied solely towards the promotion of the objects of the College as set out in this Constitution. Subject to this clause, no income or property of the College may be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to any Board member or member.
- 12.1.2 Nothing in this clause prevents:
- a) the payment in good faith of:
 - iii. remuneration to any Board member for services actually rendered to the College;
 - iv. an amount to any Board member in return for any services actually rendered to the College or for goods supplied in the ordinary course of business;
 - v. interest (at a rate not exceeding any rate which may at any time be fixed for the purpose of this clause by regulation but not exceeding the highest rate charged by trading banks carrying on business in Australia on overdraft accounts of less than \$100,000) on money borrowed from any Board member; or
 - vi. reasonable rent for premises let by any Board member; or
 - b) the College from providing services or information to members on terms which are different from the terms under which services or information are provided to persons who are not members.
- 12.1.3 No remuneration or other benefit in money or money's worth shall be paid or given by the College to any Board member except:
- a) for the payment of out-of-pocket expenses incurred by the Board member in the performance of any duty as a Board member, where the amount payable does not exceed any amount previously approved by the Board; or
 - b) for payment for any service rendered to the College by the Board member in a professional or technical capacity, other than in the capacity of the Board member, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and commercially would be reasonable payment for the service.
- 12.1.4 No Board member may be appointed to any salaried office of the College unless that Board member relinquishes his or her position on the Board prior to appointment.

13. EXECUTIVE

13.1 The Executive of the College shall comprise:

- 13.1.1 President
- 13.1.2 Vice President, and
- 13.1.3 Treasurer

13.2 The Executive shall be chaired by the President (or in his or her absence, the Vice-President).

13.3 The Board may at any time and from time to time remove any member of the Executive and may fill any vacancy which occurs among the members of the Executive.

13.4 Two Members present personally or participating by means of telephonic or electronic media (in the manner set out in clause 11.7 shall constitute a quorum of the Executive.

13.5 Casual vacancy

Any casual vacancy in any of the positions of Executive member shall be filled by election from and by the remaining Elected Board Members of the Board.

13.6 Term of office

13.6.1 The President shall hold office for one year. The President is not entitled to serve more than two consecutive terms.

13.6.2 For the purposes of this clause, the period of time served pursuant to clause 13.5 shall not be counted as a term of office.

13.7 Cessation of office

The term of office of an Office Bearer shall end on:

13.7.1 the end of the term provided for in this Constitution;

13.7.2 notice of retirement from the Office Bearer being given to the College;

13.7.3 the Office Bearer ceasing to be a Board member for any reason; or

13.7.4 removal from the office by a resolution of the Board.

13.8 Delegation

The Board may delegate to the Executive the supervision of the day to day business of the College and such other functions as the Board may in its discretion think fit.

13.9 Powers

The Executive shall during intervals between meetings of the Board be entitled to exercise all powers of the Board, subject to any restrictions or limitations imposed by the Board from time to time. In addition, in cases of emergency, the Executive shall have the absolute discretion to exercise such powers and functions as it deems necessary.

13.10 Meetings

The Executive may meet, convene and adjourn its meetings and otherwise regulate its proceedings in such manner as it thinks fit.

13.11 Records

The Executive shall keep a record of its meetings and forward copies of the Minutes of each meeting to each member of the Board within 30 days of the meeting.

14. COMMITTEES

14.1 The Board may otherwise delegate all or any of its functions, powers or discretions to committees comprising such persons as the Board determines.

14.2 The Board shall determine the powers and duties of each Board committee and each committee shall in the exercise of its powers conform to any regulations imposed on it by the Board.

14.3 Subject to any Regulation made pursuant to clause 14.2, each committee may meet, convene its meetings, adjourn and otherwise regulate its proceedings as it thinks fit.

14.4 The Board shall review the continuing need for each committee of the Board and the membership of each such committee at least every two years.

15. CHIEF EXECUTIVE OFFICER

The Board shall appoint a Chief Executive Officer (or acting Chief Executive Officer) for such term and at such remuneration and upon such conditions as it may think fit ("CEO"). The Chief Executive Officer may be removed by the Board.

16. SECRETARY

The Board shall appoint a Secretary for the purposes of the Act who shall be:

16.1 the Chief Executive Officer (or acting Chief Executive); or

16.2 a Fellow or employee of the College appointed by the Board in the event that the office of Chief Executive Officer, or acting Chief Executive Officer, is vacant.

17. THE SEAL

17.1 Custody of seal

The College must provide for the safe custody of the seal.

17.2 Affixing the seal

17.2.1 The seal may be used only by the authority of the Board or duly authorised persons.

17.2.2 Every document to which the seal is affixed must be signed by a Board member and witnessed by another Board member, the CEO or some other person appointed by the Board.

17.3 Seal register

17.3.1 The College must maintain a seal register. The seal register may be maintained in electronic form.

18. ACCOUNTS

18.1 The College to keep accounts

The Board must cause proper books of account to be kept in accordance with the Act.

18.2 Where accounts to be kept

The books of account must be kept at the Office or, subject to the Act, at such other place or places as the Board thinks fit.

18.3 Accounts open for inspection

The books of account must always be open for the inspection of Board members.

Subject to the Act, the Board may from time to time determine at what times and places and under what conditions the accounts and books of the College or any of them may be open for inspection by members.

18.4 Annual accounts

The Board must cause to be prepared, circulated to and laid before the members in general meeting such income and expenditure accounts, balance sheets, group accounts (if any) and reports as are from time to time required by the Act.

18.5 New Zealand Account

Where required by law, donations or gifts received in New Zealand will be retained in a separate bank account in New Zealand and applied solely for the purposes for which they were intended and as permitted by law.

19. AUDIT

Auditors of the College must be appointed and removed and their duties regulated in accordance with the Act.

20. NOTICES

20.1 Means of giving notices

20.1.1 A notice pursuant to this Constitution must be given in writing and may be sent by:

- a) mail (postal service)
- b) fax, or
- c) electronic mail

to the appropriate address or number of the addressee.

20.1.2 A Board member, Secretary or other person authorised by the Board may give notices on behalf of the College. The signature on a notice given by the College may be written, photocopied, printed or stamped.

20.1.3 Notices given to the College must be marked for the attention of the Secretary.

20.2 Address for service

The address for service is:

20.2.1 in the case of a Member or Board member, the home address (or postal address, electronic mail address or facsimile number in the case of postal, electronic main or facsimile dispatch) of the Member or Board member specified in the Register; and

20.2.2 in the case of the College, the address (or any postal address, electronic mail address or facsimile number in the case of postal or electronic or facsimile dispatch) of the Office for the time being specified on the official stationery of the College.

20.3 Notification of change of address

20.3.1 If the home address, postal address, electronic mail address or facsimile number of a member changes, the member must promptly give notice of the change to the College.

20.3.2 The College must promptly notify members of any change in its address.

20.4 Time notices are effective

Except if a later time is specified in a clause dealing with a notice or other communication, a notice is to be regarded as given, served, received and as having come to the attention of the address:

20.4.1 if delivered to the home address of the addressee, at the time of delivery;

20.4.2 if it is sent by post to the home address or postal address:

- a) if the notice is notice of a meeting – on the first business day after sending;
- b) otherwise – on the third (or seventh if outside Australia) business day after sending,

unless it is actually delivered earlier; or

- 20.4.3 if sent by electronic mail or facsimile to the electronic mail address or facsimile number of the addressee, at the time transmission is completed.

20.5 Proof of giving notices

- 20.5.1 Proof of the sending of a notice by facsimile and the time of completion of transmission may be established by production of a transmission report by the machine from which the facsimile or electronic transmission was sent which indicated that the facsimile or electronic mail was sent in its entirety to the facsimile number or electronic mail address of the addressee.
- 20.5.2 A certificate signed by a Board member or CEO that a notice was delivered or posted at a particular time is conclusive evidence that the notice was delivered or posted at the time.
- 20.5.3 A certificate signed by a Board member or CEO that a notice was sent by electronic mail at a particular time and that an “undeliverable mail” message has not been received in relation to it is conclusive evidence that the notice was sent and received at that time.

21. WINDING UP

- 21.1** Every member of the College undertakes to contribute to the assets of the College in the event of it being wound up while that member is a member, or within one year of that member ceasing to be a member, such amount as may be required not exceeding 50 dollars for the payment of the debts and liabilities of the College contracted before ceasing to be a member and to the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves.
- 21.2** Where, on the winding-up or dissolution of the College, there is a surplus of assets after satisfying all the College’s liabilities and expenses, the surplus shall not be paid to or distributed amongst the members but shall be given or transferred to some other institution having similar objects to those described in this Constitution situate within the Commonwealth of Australia and which:
- 21.2.1 is required by its Constitution to apply its profits or income in promoting its objects;
- 21.2.2 is prohibited from paying any profits or dividends to its members to the same extent as set out in this Constitution; and
- 21.2.3 itself, is exempt from income tax.
- 21.3** That institution shall be determined by the Board prior to the dissolution of the College or failing such determination, by application to an appropriate Court.
- 21.4** The Board shall:
- 21.4.1 Upon ceasing to conduct any business, operations and undertaking in or from New Zealand (whether upon the winding up or dissolution of the College or for any other reason whatsoever), ensure that any surplus property of the College used in the conduct of such business, operations or undertaking in or from New Zealand is, notwithstanding any provision in this Constitution to the contrary, given or transferred to one or more charitable objects in New Zealand.
- 21.4.2 Notify the New Zealand Inland Revenue Department of any proposed addition, alteration or amendment to this Constitution which may be inconsistent with the charitable nature of the business, operations or undertaking of the College conducted in or from New Zealand.

22. INDEMNITY

22.1 Every officer and past officer of the College must be indemnified by the College to the fullest extent permitted by law against a liability incurred by that person as an officer of the College or a subsidiary of the College including legal costs and expenses incurred in participating in, being involved in or defending any legal proceedings. This indemnity does not extend to any liability incurred by the officer arising from any claim made by that officer against the College (whether that claim is made solely by the officer or otherwise).

22.2 For the purposes of clause 22.1, “legal proceedings” means any claim, action, suit or demand, enquiry, Royal Commission or other regulatory investigations, whether civil or criminal, which relates to or arises in connection with the officer or agent being an officer or agent of the College.

23. LIABILITY INSURANCE

To the extent permitted by the Act, the College may enter into (and pay premiums on) a contract of insurance in relation to a person who is or has been an officer or agent of the College or any other person.

24. DEFINITIONS AND INTERPRETATION

24.1 In this Constitution:

“**Act**” means the *Corporations Act, 2001* (C’t);

“**Board**” means the Board of the College appointed under this Constitution, each member of which shall be a Director of the Company;

“**Board member**” means a member of the Board;

“**Constitution**” means this constitution of the College as amended from time to time;

“**College**” means the College of Intensive Care Medicine of Australia and New Zealand constituted as a company limited by guarantee under this Constitution;

“**Executive**” means the Executive of the Board established pursuant to this Constitution;

“**Fellow**” means a member who holds Fellowship of the College in accordance with this Constitution and whose membership of the College has not ceased or been terminated for any reason;

“**Honorary Fellow**” means a person specified in the Register as an Honorary Fellow;

“**member**” means any person for the time being admitted to membership of the College and unless a contrary intention appears includes Fellows and Honorary Fellows;

“**Member**” means any person admitted as a Member under clause 2.3 and whose membership of the College has not ceased or been terminated for any reason;

“**Membership Financial Year**” means the membership financial year of the College, from 1st January to 31st December;

“**Office**” means the registered office for the time being of the College;

“**Office Bearer**” means a person holding office pursuant to clause 10;

“**President**” means the person for the time being holding that office under this Constitution;

“**Register**” means the Register of members required to be kept under this Constitution and the Act (whether kept electronically or otherwise);

“**Regulation**” means any regulation made under this Constitution;

“**Seal**” means the common seal of the College;

“**Treasurer**” means a person for the time being holding that office under this Constitution;

“**Vice President**” means a person for the time being holding that office under this Constitution.

24.2 References to the Act

Unless the context otherwise requires, a reference to:

24.2.1 the Act includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; and

24.2.2 a section of the Act includes any corresponding section for the time being in force.

24.3 Presumptions of Interpretation

Unless the context otherwise requires, a word which denotes:

24.3.1 the singular includes the plural and vice versa;

24.3.2 a person includes an individual, a body corporate, a partnership, a firm, unincorporated association or institution and a government body; and

24.3.3 a notice includes any consent, publication or other written communication.

24.4 Application of the Act

Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

24.5 Headings

Headings do not affect the interpretation of this Constitution.

24.6 Replaceable Rules

The replaceable rules in the Act do not apply.

25. TRANSITIONAL PROVISIONS

25.1 Notwithstanding any provision in this Constitution to the contrary, the Board may, by Regulation, make provision for the transfer from, and incorporation of, the former Joint Faculty of Intensive Care Medicine (JFICM) of the Australian and New Zealand College of Anaesthetists, and the Royal Australasian College of Physicians, to the College, including (as may be agreed with the Australian and New Zealand College of Anaesthetists) its assets, liabilities, operations and members.

25.2 Fellowship

The Board may, without examination, upon application made before 31 December 2010, admit any Fellow of JFICM as a Fellow of the College.

25.3 Board

Upon incorporation, the Board of the College shall consist of the following:

President:	Peter Vernon van Heerden
Vice President:	John Alexander Myburgh
Treasurer:	John Alexander Myburgh
Members:	Nicole Anne Margaret Blackwell

Charles Frederick Corke
Ross Callum Freebairn
Gavin Matthew Joynt
Richard Priestly Lee
Bruce Gregory Lister
Peter Thomas Morley
Balasubramanian Venkatesh

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