
Timboon and District Healthcare Service

BY-LAWS

[Note: These By-Laws require formal approval by the Secretary of the Department of Health in accordance with the Act]

1. INTRODUCTION

- 1.1. These By-Laws supersede the existing by-laws of the Health Service. All existing by-laws which were in force prior to these By-Laws coming into operation are hereby repealed and replaced with these By-laws.
- 1.2. In addition to these By-Laws, the Board makes and maintains other policies and procedures necessary to guide its decision-making process.

2. DEFINITIONS AND INTERPRETATION

- 2.1. In these By-Laws, unless the context requires otherwise:
 - 2.1.1. "Act" means the *Health Services Act 1988* (Vic) as amended.
 - 2.1.2. "Auditor-General" means the Auditor-General within the meaning of the *Audit Act 1994* (Vic) as amended.
 - 2.1.3. "Board" means Board of directors of the Health Service.
 - 2.1.4. "Chairperson" means the person elected in accordance with these By-Laws to preside over meetings of the Board (however so described).
 - 2.1.5. "Chief Executive Officer" means the Chief executive officer of the Health Service and any person acting in place of such officer.
 - 2.1.6. "Chief Finance Officer" means the Chief finance officer of the Health Service and any person acting in place of such officer. 'CFO' and 'Chief Finance Officer' have the same meaning as *chief finance and accounting officer* in section 3 of the FMA.

- 2.1.7. **"Committee"** means a committee established by the Board for the discharge of its business, subject to Board approval.
- 2.1.8. **"Commonwealth"** means the Commonwealth of Australia or any Department of the Commonwealth of Australia.
- 2.1.9. **"Department"** means the Victorian Department of Health and its successors.
- 2.1.10. **"Directions"** means any written directions issued by the Minister, Secretary or Department under the Act or the *Public Administration Act 2004* (Vic).
- 2.1.11. **"Directors' Code of Conduct"** means the *Code of Conduct for Directors of Victorian Public Entities* that applies to and is binding on all directors of public entities and statutory office holders, as defined in section 4 of the *Public Administration Act 2004*.
- 2.1.12. **"Finance Directions"** means the *Standing Directions 2018 under the Financial Management Act 1994*, given under section 8 of the *Financial Management Act 1994* (Vic), as amended or replaced from time to time.
- 2.1.13. **"Funding Guidelines"** means the most recent Victorian Department of Health and Human Services publication titled *Victorian health policy and funding guidelines*, as amended or replaced from time to time.
- 2.1.14. **"Guidelines"** means any guidelines published in the Government Gazette by the Minister under the Act relating to the role and procedure of the Board and how it may carry out its functions and any other guidelines released by the Minister or Secretary in accordance with the Act.
- 2.1.15. **"Health Service"** means Timboon and District Healthcare Service.
- 2.1.16. **"Minister"** means the Victorian Minister for Health.
- 2.1.17. **"Officer"** means an office-bearer of the Health Service elected from amongst the directors of the Board in accordance with these By-Laws or appointed by the Minister under the Act. For the purpose of this definition, an 'Officer' includes the Chairperson (whether elected by the Board or appointed by the Minister or Governor in Council) and any other office-bearers so elected.
- 2.1.18. **"Remuneration Policy"** means the *Health Executive Employment and Remuneration (HEER) Policy* as amended or replaced from time to time.
- 2.1.19. **"Secretary"** means the Secretary to the Department.
- 2.2. In these By-Laws:
- 2.2.1. words in the singular include the plural and vice versa;

- 2.2.2. if a word or phrase is defined to have a particular meaning, the other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- 2.2.3. a reference to a clause is a reference to a clause in these By-Laws; and
- 2.2.4. a reference to any legislation or a legislative provision includes:
 - a) that legislation or legislative provision as amended or replaced from time to time; and
 - b) regulations and other instruments made under that legislation or legislative provision.

3. OBJECTS

3.1. The objects of the Health Service are:

- 3.1.1. to operate a multi purpose service in accordance with the Act, and any enabling Commonwealth or Victorian legislation, including the provision of the following services:
 - a) public hospital services;
 - b) primary health services;
 - c) aged care services;
 - d) community health services; and
 - e) disability care services
- 3.1.2. to provide a range of high quality, safe health and related services ancillary to those services described in clause 3.1.1;
- 3.1.3. to carry on any other activity or business that is convenient to carry on in connection with providing the services described in clauses 3.1.1 to 3.1.2, or intended or calculated to make more efficient or profitable any of the Health Service's assets or activities; and
- 3.1.4. to do all things that are conducive or incidental to achieving the Health Service's objects.
- 3.1.5. In fulfilling its objects and performing its functions, the Health Service will aim to—
 - a) meet the needs and take into account the views of patients and other users of the health services provided by the Health Service and of the community served by the Health Service;
 - b) ensure that the Health Service uses its resources in an effective and efficient manner;
 - c) ensure efficient and accountable systems are in place to monitor and improve the quality, safety and effectiveness of the Health Service;
 - d) facilitate health research and education to improve the training and knowledge of staff;
 - e) strive to improve continuously the quality and safety of the Health Service, individual health outcomes and to foster innovation; and
 - f) ensure that resources of the Health Service and the Victorian health sector generally are used effectively and efficiently.

3.2. The Health Service must not do or permit anything to be done that is inconsistent with its objects or is not otherwise authorised by or under the Act.

4. BOARD OF DIRECTORS

- 4.1. There will be a Board of directors for the Health Service whose appointment, functions and composition are as prescribed by the Act.
- 4.2. The Board shall consist of no less than 6 and no more than 12 persons who shall be appointed to the Board by the Governor in Council on the recommendation of the Minister in accordance with section 115 of the Act.
- 4.3. Subject to the Act, these By-Laws, and any Guidelines and Directions, the procedure of the Board is at the absolute discretion of the Board.
- 4.4. Unless a Chairperson is appointed by the Minister pursuant to section 115GA of the Act, there will be elected from amongst the directors of the Board a Chairperson who will hold office for a period of one year and will be eligible for re-election provided they are a director of the Board. A Chairperson appointed by the Minister will remain Chairperson for the period specified in the instrument of appointment and, provided they are still a director, will be eligible for re-appointment by the Minister or election by the Board.
- 4.5. A Chairperson may be removed from office by the Minister (whether appointed by the Minister or the Board) or, if elected by the Board, removed from office by the Board.
- 4.6. The Board must give notice to the Secretary as soon as practicable after the Board elects a director to be Chairperson or removes the Chairperson from office.
- 4.7. If an Officer ceases to hold office, the existing directors of the Board will elect from amongst themselves a director who will hold the office of that Officer until the next election of Officers in accordance with clause 4.4, and be eligible for re-election at that time.
- 4.8. A director of the Board may resign by notice in writing to the Governor in Council or the Governor in Council, on the recommendation of the Minister, may remove a director, or all directors, of the Board from office. A resignation or removal is not effective until an order is signed by the Governor in Council. Any vacancy or impending vacancy of a director of the Board will be filled in accordance with the Act and any Directions or Guidelines.
- 4.9. The Board may make rules and adopt policies and procedures, not inconsistent with the Act, these By-Laws, Guidelines and Directions for the administration of the Health Service.

5. MEETINGS OF BOARD

- 5.1. The Board will meet at least ten (10) times during each year, at such place and at such time as the Board may from time to time determine.
- 5.2. The Board may meet in person, or by using technology that provides a means of audio or audiovisual communication (which permits all directors present at the meeting to hear each other), or by using a combination of meeting in person and using such technology.
- 5.3. Special meetings of the Board may be convened by the Chairperson or any four directors.
- 5.4. A quorum for a meeting of the Board is not less than half the number of directors appointed and not less than 6 directors in total.
- 5.5. No business will be transacted unless a quorum is present and, if within half an hour of the time appointed for the meeting a quorum is not present, the meeting will stand adjourned.
- 5.6. A Board director present at the commencement of a meeting of the Board (whether in person or by using technology) will be presumed to have been present for the whole meeting, unless the minutes record that the person was not present at or after a particular time.

- 5.7. Written notice of each meeting will be served on each director of the Board by delivering it to ensure it arrives with the director, in the case of ordinary meetings, three (3) days, and in the case of special meetings, one (1) day, prior to the meeting being held. Such notice may be delivered by hand, or by post to the usual or last known place of residence or business of the director, or by facsimile or by electronic mail. Failure by any director of the Board to receive due notice of any meeting of the Board will not invalidate the proceedings of that meeting.
- 5.8. Notice of ordinary meetings must specify the time, date and location of the meeting, and must be accompanied by copies of:
- 5.8.1. the agenda for the meeting; and
- 5.8.2. documents or other information relevant to the items on the agenda for the meeting.
- 5.9. The Board will ensure that any delegate appointed to the Board by the Minister in accordance with section 115MB of the Act is provided with the same information or a copy of any notice provided to the directors of the Board at the same time as such information or notice is provided to the directors.
- 5.10. Nothing in clause 5.8 requires that a director of the Board be provided with a document or information if the director has previously been provided with a copy of that document or information.
- 5.11. Notice of special meetings called in accordance with clause 5.3 must specify the time, date and location of the meeting, and the general nature of the business that is intended to be transacted at the meeting.
- 5.12. At a special meeting called in accordance with clause 5.3, the only business that will be transacted will be that business specified in the notice of the special meeting.
- 5.13. All questions arising at any meeting of the Board will be decided by a show of hands and voting may be by proxy. Each director present will have one vote. The person presiding at a meeting in accordance with clause 5.14 will have a deliberative vote and, in the event of an equality of votes of any question, that person will have a casting vote also. Board decisions can be made by a simple majority of votes.
- 5.14. The Chairperson will preside at all meetings of the Board, or if the Chairperson is absent, the person specified as Chairperson in any rules or standing orders made by the Board, or otherwise the directors present will choose one of their number to preside.
- 5.15. Any director of the Board who has an actual or perceived conflict (including, but not limited to, a direct or indirect material financial and non-financial interest) in any matter brought before the Board for discussion must disclose that interest immediately to the other Board directors and must not be present during discussion on the matter or be entitled to vote upon the matter.
- 5.16. No resolution of the Board may be varied or rescinded before the expiration of one calendar month after such resolution has been passed, except at a special meeting of the Board called for that purpose and then only by an absolute majority of the Board.
- [Note: an absolute majority requires one more than half the votes of the total number of directors of the Board, whether all directors are present or not.]
- 5.17. An act or decision of the Board is not invalid by reason only of a vacancy or vacancies in the office of a director or defect or irregularity in the appointment of a director.
- 5.18. The Board must ensure the Minister and the Secretary are advised and informed about significant board decisions and are informed in a timely manner of issues of public concern or risks that affect or may affect the Health Service.

6. OFFICIAL SEAL

- 6.1. The Board must keep the official seal of the Health Service in safe custody.

- 6.2. The official seal of the Health Service must not be affixed to any document or item except by order or ratification of the Board. The seal must be affixed in the presence of a director of the Board and the Chief Executive Officer who will testify by their signatures that the seal has been duly affixed.

7. DIRECTIONS

- 7.1. The Board must comply with any Directions given by the Secretary or the Minister.

8. CONDITIONS OF FUNDING

- 8.1. The Board must comply with any conditions of funding issued by the Department or the Commonwealth, or as required by the Funding Guidelines.
- 8.2. The powers and duties of the Health Service are subject to any:
- 8.2.1. service agreements entered into with Commonwealth and the State under section 115O of the Act; and
 - 8.2.2. health service agreements made between the Health Service and the Secretary under section 115P of the Act.

9. STRATEGIC PLAN

- 9.1. If the Secretary directs, the Board must prepare and submit for approval by the Secretary a strategic plan for the operation of the Health Service in accordance with section 115NA of the Act.

10. CHIEF EXECUTIVE OFFICER

- 10.1. A Chief Executive Officer is subject to the direction of the Board and will be responsible for the day to day management of the Health Service and the performance of the functions set out in section 115JC of the Act.
- 10.2. The Chief Executive Officer's appointment, and the terms and conditions of that appointment, must be in accordance with the Act, HEER Policy, and must have Secretary approval.
- 10.3. The Board will monitor the performance of the Chief Executive Officer, and will, in accordance with section 115E of the Act, carry out at least one formal performance assessment in relation to each financial year, having regard to the objectives, priorities and key performance outcomes specified in the Health Service's health service agreement or strategic plan.

11. CHIEF FINANCE OFFICER AND FINANCIAL MANAGEMENT

- 11.1. The Board must comply with its obligations under the *Financial Management Act 1994* (Vic) and the Finance Directions
- 11.2. The Board must ensure that the Chief Executive Officer, after consulting with the Board, appoints a person as Chief Finance Officer in accordance with the Finance Directions.
- 11.3. The responsibilities of the Chief Finance Officer include:
- 11.3.1. endorsing financial reports submitted to the Board and senior management of the Health Service; and
 - 11.3.2. ensuring that the financial information in such reports is endorsed as to its completeness, reliability and accuracy.

12. DELEGATION

- 12.1. The Board may delegate any of its powers or functions (other than its power of delegation) to any employee of the Health Service or to a Committee.
- 12.2. The Board will review its delegations annually to ensure they are suitable for the Health Service.

13. COMMITTEES

- 13.1. The Board:
- 13.1.1. must establish the Committees listed in clause 13.2, and any other Committees required under Commonwealth or Victorian law, regulations or Directions; and
 - 13.1.2. may establish any other Committees as it considers necessary or convenient in order for the Health Service to carry out its functions or achieve its objects.
- 13.2. The Board must establish the following Committees in accordance with the Act:
- 13.2.1. an Audit Committee and a Finance Committee or a Finance and Audit Committee; and
 - 13.2.2. a Quality and Safety Committee.

- 13.3. In establishing each Committee, the Board must specify:
- 13.3.1. the name and membership of the Committee;
 - 13.3.2. the terms of reference of the Committee;
 - 13.3.3. the Chair of the Committee;
 - 13.3.4. the quorum of the Committee;
 - 13.3.5. any delegation of authority to the Committee in accordance with clause 12.1;
 - 13.3.6. the rules and procedures of the Committee;
 - 13.3.7. the manner in which the Committee must report to the Board in respect of the Committee's meetings and deliberations; and
 - 13.3.8. any other matters required under Commonwealth or Victorian laws, regulations or Directions.
- 13.4. Subject to any requirements under Commonwealth or Victorian laws, regulations, Guidelines and the Finance Directions:
- 13.4.1. Committee members will be appointed by the Board for a period of twelve (12) months and be eligible for reappointment;
 - 13.4.2. the Board may remove a member appointed to any Committee in its absolute discretion; and
 - 13.4.3. any Committee will have at least one (1) director of the board on the Committee.
- 13.5. Should a vacancy occur on any Committee, it will be for the Board and not the Committee to fill the vacancy.
- 13.6. Committees may not co-opt members without the approval of the Board.
- 13.7. Committees may establish sub-committees, however members of a sub- committee may only be drawn from the Committee of which it is a sub-committee.

14. ANNUAL MEETING

- 14.1. The Annual Meeting of the Health Service will be advertised and held in compliance with the Act.

15. ANNUAL REPORT

- 15.1. The report of operations and financial statements will be prepared and submitted by the Board in accordance with the Act, the *Financial Management Act 1994* (Vic), and any other applicable legislation.

16. CODES OF CONDUCT

- 16.1. Board directors must comply with the Directors' Code of Conduct and any other applicable codes of conduct issued by the Victorian Public Sector Commissioner under the *Public Administration Act 2004* (Vic).
- 16.2. The Board must adopt a code of conduct for the staff of the Health Service that is consistent with any applicable Guidelines.

17. REMUNERATION AND CONDITIONS OF EXECUTIVE STAFF

- 17.1. The Board must comply with any applicable directives or guidelines (including the HEER policy) issued by the Victorian Government or any department of the Victorian Government which relates to the remuneration or conditions of employment of executive staff of the Health Service.

- 17.2. Employment, including remuneration and conditions, of all executive staff by the Health Service must comply with HEER policy and any other Directions.

18. AUDITING

- 18.1. The Health Service will comply with the provisions of the Act, the *Audit Act 1994* (Vic), and any other applicable legislation by providing for audit of the financial statements of the Health Service by the Auditor-General.

19. FINANCIAL ACCOUNTABILITY

- 19.1. The Board will ensure that:

- 19.1.1. regular financial reports are examined and prepared in accordance with the Act and the Department's accounting requirements, sound accounting principles and the Australian Accounting Standards;
- 19.1.2. appropriate financial controls are in place to maintain integrity;
- 19.1.3. all accountable forms are securely held and an adequate register for all such forms is maintained; and
- 19.1.4. such accounting books and records as are required by the Act, the Department and other statutory bodies are in the manner prescribed.

- 19.2. The Board must provide to the Department such information, accounts and records as are requested or as is required under the Act, the *Public Administration Act 2004* (Vic) or the *Financial Management Act 1994* (Vic).

20. INVESTMENT

- 20.1. The Health Service may invest money in any manner authorised by law and in accordance with the Act, the *Financial Management Act 1994* (Vic) and any other applicable legislation or Directions for the investment of trust or other funds.

21. ACQUISITION AND DISPOSAL OF ASSETS

- 21.1. The Board may acquire and dispose of any assets of the Health Service in order to achieve its objects and in accordance with the Act, the Funding Guidelines and any other Guidelines and Directions.
- 21.2. In the event of amalgamation or closure of the Health Service:
- 21.2.1. any assets of the Health Service funded by the Commonwealth will be dealt with in accordance with any funding conditions contained in any agreement between the Health Service and the Commonwealth and after obtaining any necessary approvals of the Commonwealth; and
 - 21.2.2. all other assets will be dealt with in accordance with the Act, any Guidelines , and any Directions.

22. AMENDMENT

- 22.1. The Health Service may alter or amend these By-Laws at any time, subject to the necessary approval of the Secretary in accordance with the Act.
- 22.2. The Health Service must comply with any Direction given by the Secretary to amend or alter its objects or By-Laws or to make new By-Laws.

CERTIFICATION

We the undersigned hereby certify that these By-Laws which have been signed by us on each page, are the By-Laws made by the Board of the Health Service and approved by the Secretary.

Title of authorised signatory:

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(Sign)

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(Print name)

Date:

Title of authorised signatory:

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(Sign)

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(Print name)

Date: