



Addendum A

Resolutions for the proposed changes to the Australian Acupuncture and Chinese Medicine Association Ltd Constitution (2018).

Resolutions 1 to 20 (Under item 11 Special Resolution 11.3 in the Agenda)

1. That the definition of **Acupuncture**, which reads as;

Acupuncture means the therapeutic system of inserting fine needles at acupuncture points on the body for the promotion of health and for the treatment and prevention of various health conditions. The Acupuncture system includes but is not limited to:

- a) The theory and practice of acupuncture originally developed in China;
- b) The theory and practice of acupuncture developed in other countries including but not limited to Japan, Korea, Vietnam and France;
- c) Contemporary developments of acupuncture;
- d) Non-penetrative stimulation of acupuncture points by other methods.

Shall be changed to read as;

Acupuncture is the strategic insertion, penetration and manipulation of needles on the body for therapeutic benefit.

Rationale: This provides a more definitive definition of Acupuncture and all of its forms.

2. That the definition of **Term**, which reads as;

Term means a period of two (2) AGM cycles being the period for which a Director may serve.

Shall be changed to read as;

Term means a period of three (3) AGM cycles being the period for which an Elected Director may serve.

Rationale: This change is part of the proposal to better align the length of service for each Elected Director with the requirements of the Association and the new election cycle.

3. **That Clause 5.1.3, which reads as;**

The Association must not pay fees to or on behalf of Directors or a Secretary, but the Association may make payments to a Director or Secretary in good faith for:

- a) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director or Secretary in the performance of any duty as a Director or Secretary of the Association where that payment or reimbursement has been approved by the Board;
- b) money to any Director or Secretary, being a person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the



- Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- c) any salary or wage due to a Director or Secretary as an employee of the Association where the terms of employment have been approved by the Board;
 - d) an ex-gratia payment to a Director or Secretary as determined or approved by the Members in General Meeting by an Ordinary Resolution; or
 - e) an insurance premium in respect of a contract insuring a Director or Secretary for a liability incurred as an officer of the Association where the Board has approved the payment of the premium.

Shall be changed to read as;

The Association may make payments to a Director or Secretary in good faith for:

- a) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director or Secretary in the performance of any duty as a Director or Secretary of the Association where that payment or reimbursement has been approved by the Board;
- b) money to any Director or Secretary, being a person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- c) any salary or wage due to a Director or Secretary as an employee of the Association where the terms of employment have been approved by the Board;
- d) Directors' fees in accordance with section 10.8; or
- e) an insurance premium in respect of a contract insuring a Director or Secretary for a liability incurred as an officer of the Association where the Board has approved the payment of the premium.

Rationale: To ensure compliance with Australian Law, including Superannuation requirements, Directors are now treated as employees for the purpose of payment. This replaces the previous Honorarium system.

4. That Clause 10.1.1, which reads as;

The Board shall consist of at least five Elected Directors and a maximum of seven Directors.

Shall be changed to read as;

The Board shall consist of five Elected Directors and up to two Appointed Directors.

Rationale: This Clause is being amended to provide better clarity around the composition of the Board.

5. That Clause 10.1.2 be deleted

Rationale: This clause is not required within the Constitution.

6. That Clause 10.1.3 be deleted

Rationale: This clause is not required within the Constitution.

7. That Clause 10.2.1, which reads as;

The Board may appoint up to two additional Appointed Directors for the benefit of attracting additional expertise deemed beneficial to the effective balance of skill provided by the Board.

Shall be changed to read as;

The Board may appoint up to two Appointed Directors for the benefit of attracting additional expertise to the Board.

Rationale: This Clause is being amended to provide better clarity around the composition of the Board.

8. That Clause 10.2.4, which reads as;

To be eligible to act as an Appointed Directors, a person must not:

- a) have any business or other relationship that could materially interfere with, or could reasonably be perceived to interfere with, the independent exercise of his or her judgement in relation to the Association; or
- b) be an employee of the Association; or
- c) have been a Director under sub-section 10.4.6.

Shall be changed to read as;

To be eligible for appointment as an Appointed Director, a person must not:

- a) have any business or other relationship that could materially interfere with, or could reasonably be perceived to interfere with, the independent exercise of his or her judgement in relation to the Association; or
- b) be an employee of the Association; or
- c) have been a removed Director under sub-section 10.4.6.

Rationale: This Clause is being amended to provide better clarity for qualification of Appointed Directors.

9. That Clause 10.2.5, which reads as;

An Appointed Director shall hold office for a term as decided by the Board from the date of appointment up to a maximum of two years. An Appointed Director may be reappointed for a further one or two year term, such re-appointment to be announced with the announcement of new Board members at the AGM.

Shall be changed to read as;

An Appointed Director shall hold office for a term as decided by the Board from the date of appointment up to three years. An Appointed Director may be reappointed subject to a term limit of nine consecutive years. Such re-appointment to be announced with the announcement of new Directors at the AGM.



Rationale: This change is to ensure compliance with the Corporations Act.

10. That Clause 10.3.15, which reads as;

In the case that there are not a sufficient number of candidates nominated, the Board may fill the remaining vacancy or vacancies provided that the Elected Director is eligible for appointment and the appointment shall be passed by a resolution of at least 75% of the existing Directors for each additional Director.

Shall be changed to read as;

In the case that there are not a sufficient number of candidates nominated, the Board may appoint eligible Practising Member(s) to fill the remaining vacancy or vacancies and each appointment shall be passed by a resolution of at least 75% of the existing Directors.

Rationale: This change is to provide greater clarity around the appointment of replacement directors, should an out of cycle vacancy exist.

11. That Clause 10.3.16, which reads as;

The office of a Director shall become vacant if the Director:

- a) resigns his/her office by notice in writing to the Association;
- b) ceases to be a Member of the Association;
- c) is removed from office by virtue of the Act;
- d) becomes bankrupt or makes an arrangement or composition with his/her creditors generally;
- e) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- f) for more than three consecutive Board meetings is absent without prior permission of the Board;
- g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his/her interest in the manner required by the Act.
- h) becomes disqualified from being a Director under the Act or this Constitution; or
- i) is removed by a resolution of Members in accordance with this Constitution or the Act.

Shall be changed to read as;

The office of a Director shall become vacant if the Director:

- a) resigns his/her office by notice in writing to the Association;
- b) is an Elected Director who ceases to be a Practising Member of the Association;
- c) is removed from office by virtue of the Act;
- d) becomes bankrupt or makes an arrangement or composition with their creditors generally;
- e) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;



- f) for more than three consecutive Board meetings is absent without prior permission of the Board;
- g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his/her interest in the manner required by the Act;
- h) becomes disqualified from being a Director under the Act or this Constitution; or
- i) is removed by a resolution of Members in accordance with this Constitution or the Act.

Rationale: This change is to provide greater clarity as to why an Elected Director position become vacant.

12. That Clause 10.4.4, which reads as;

Each Elected Director must retire following a maximum of three (3) terms as an Elected Director or the equivalent of a maximum of six (6) years in office as an Elected Director and may not be elected again for a further Term.

Shall be changed to read as;

Each Elected Director must retire following a maximum of three (3) consecutive terms as an Elected Director or the equivalent of a maximum of up to nine (9) consecutive years in office as an Elected Director and may not be elected again for a further Term. For clarity, time served filling a casual vacancy under section 10.5 counts in determining the term limits in this section.

Rationale: This change is to provide better clarity around the length of service for each Director.

13. That Clause 10.4.5, which reads as;

The Board may fill an Appointed Director position which it is entitled to fill under sections 10.2 and 10.5 at any time and for such term as the Board determines. The Board may also terminate the appointment of an Appointed Director in accordance with sub-section 10.4.8.

Shall be changed to read as;

The Board may fill an Appointed Director position which it is entitled to fill under sections 10.2 and 10.5 at any time and for such term as the Board determines.

Rationale: This change is to ensure compliance with the Corporations Act.

14. That Clause 10.4.8 be deleted

Rationale: This change is to ensure compliance with the Corporations Act.

15. That Clause 10.4.9 be deleted

Rationale: This change is to ensure compliance with the Corporations Act.

16. That Clause 10.5.1, which reads as;

In a case of a casual vacancy created by the early retirement or removal of an Elected Director relating to sections 10.3.16 and 10.4.8:

- a) the Board shall notify the Members of the casual vacancy;
- b) at the recommendation of the Board, the position may be left vacant dependant on the time and cycle for elections, should it be deemed not necessary to replace a Director for a short tenure; or
- c) alternatively, the Board shall seek nominations from the Association's financial Members to fill the casual vacancy; and
- d) the Board shall make a selection from persons nominated from the Association Members for appointment to the Board and shall be entitled to rely on written member nomination form including a proposer and seconder provided by the nominating Member; and
- e) the remaining Board Members shall make the appointment from the list of members who nominated, by a resolution of at least 75% of the Board Members.

Shall be changed to read as;

In a case of a casual vacancy created by the early retirement or removal of an Elected Director relating to sections 10.3.16 and 10.4.8:

- a) the Board shall notify the Members of the casual vacancy;
- b) at the recommendation of the Board, the position may be left vacant dependant on the time and cycle for elections, should it be deemed not necessary to replace a director for a short tenure; or
- c) alternatively, the Board shall seek nominations from the Association's financial Practicing Members to fill the casual vacancy; and
- d) the Board shall make a selection from persons nominated from the Association Members for appointment to the Board and shall be entitled to rely on written member nomination form including a proposer and seconder provided by the nominating Member; and
- e) the remaining Board Members shall make the appointment from the list of members who nominated, by a resolution of at least 75% of the Board Members and the person so appointed will fill the vacancy until the end of the predecessor's term.

Rationale: This change is to provide greater clarity

17. That a Clause be added, which reads as;

Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors is reduced to fewer than 3 Elected Directors, in which case the continuing Directors may act only:

- a) to appoint Directors for the purpose of increasing the number of Elected Directors to 3 or higher;
- b) to convene a General Meeting; or
- c) in an emergency.

Rationale: This change is to ensure compliance with the Corporations Act.

18. That a Clause be added, which reads as;

Each Director is entitled to such remuneration out of the funds of the Company as the Board determines, subject to any aggregate limit on the amount of remuneration that has been fixed by the Company in general meeting by ordinary resolution.

Rationale: This change is to ensure compliance with Australian Law.

19. That Section 15 deleted

Rationale: The Association has grown beyond the position of Treasurer and as such it is no longer relevant for this Constitution.

20. That a Section be added, which reads as;

TRANSITIONAL ARRANGEMENTS

1.1. Definition

1.1.1. In this section 19,

- a) **AGM** means annual general meeting; and
- b) **Adoption Date** means the date on which this constitution is adopted by special resolution of the Members.

1.2. Transitional arrangements for the Board

1.2.1. For Directors in office as at the Adoption Date, for the purposes of section 10.4.4, the terms served prior to the Adoption Date will count. For clarity, this means they may not serve more than three (3) consecutive terms even if the three (3) terms are a total of less than nine (9) consecutive years.

1.2.2. Regarding the three Elected Directors elected at the 2022 AGM:

- a) One of them will retire at the 2024 AGM; and
- b) Two of them will have their term extended by one year and they will retire at the 2025 AGM.

1.2.3. The Elected Directors elected at the 2023 AGM will have their terms extended by one (1) year and will serve a three (3) year term i.e they will retire at the 2026 AGM.

1.2.4. At 2024 AGM:

- a) One of the three Elected Directors that were last elected at the 2022 AGM will retire. The Elected Directors in question will agree amongst themselves which of them is to retire at the 2024 AGM. If they cannot agree then the drawing of lots will determine which of them is to retire.
- b) Elections will be held to fill the one vacating position.

1.2.5. At 2025 AGM:

- a) The two remaining Elected Directors of those last elected at the 2022 AGM will retire.
- b) Elections will be held to fill the two vacating positions.



1.2.6. At 2026 AGM:

- a) The Elected Directors elected at the 2023 AGM will retire, but they may be nominated for re-election if otherwise eligible.
- b) Elections will be held to fill the two vacating positions.

Rationale: This section provides the roadmap for the transition from two year Elected Director terms to three and by extension, a redesign of the election cycle. Currently, the Association has five Elected Directors, with an election cycle of two directors in Year A and three directors in Year B. This change will allow for that to become one director in Year A, two directors in Year B and two directors in Year C.

This will provide the Association with greater stability and ensure the transition of knowledge from one director to the next.