

# **Ballan and District Soldiers Memorial Bush Nursing Hospital and Hostel Inc.**

**Trading as  
Ballan District Health & Care  
33 Cowie St Ballan Victoria**

## **RULES**

### **1. NAME**

The name of the incorporated association is the Ballan & District Soldiers' Memorial Bush Nursing Hospital & Hostel Incorporated (trading as Ballan District Health & Care) in these Rules called the Association.

### **2. INTERPRETATION AND DEFINITIONS**

2.1 In these rules, unless the contrary intention appears:

“Board” means the Board of Governance elected by the Members from time to time;

“Department” means the Commonwealth Department of Health and Aged Care or its successors;

“Financial Year” means the year ending 30<sup>th</sup> June;

“General Meeting” means any meeting of Members convened in accordance with these rules and shall include the Annual General Meeting and Special General Meetings;

“Hospital” means the hospital or nursing home conducted by the Association;

“Hostel” means the hostel conducted by the Association;

“Life Governor” means any person elected a Life Governor of the Association by the Board;

“Member” means a life governor or any person whose subscription to the Association is not in arrears;

“Membership Year” means the year commencing on the 1<sup>st</sup> day of July in one year to the 30<sup>th</sup> day of June in the following year;

“The Act” means the Associations Incorporation Act 1981;

“The Regulations” means regulations under the Act.

- 2.2 In these rules reference to the Secretary of the Association is a reference;
- 2.2.1 where a person holds office under the rules as Secretary of the Association – to that person;
  - 2.2.2 in any other case, to the Public Officer of the Association.
- 2.3 Words or expressions contained in these rules shall be interpreted in accordance with the provisions of the Acts Interpretation Act 1958 and its successors

### **3. MEMBERSHIP**

- 3.1 There shall be four categories of Members:
- a) Full Member of Association
  - b) Associate Member (Reduced Fee)
  - c) Life Governor
  - d) Corporate Member (special fee)
- All members will be entitled to one vote.
- 3.2 The annual rates of subscription shall be fixed by the Board and shall be payable before the 1<sup>st</sup> day of July in each year in respect of the year ending on the 30<sup>th</sup> day of June in the following year.
- 3.3 The Board may at any time elect as a Life Governor any person from whose membership it considers that the Hospital would benefit or who has in the opinion of the Board given beneficial assistance to the association and who agrees to become a Life Governor. A Life Governor shall be enrolled in the books of the Association as such and shall upon request be entitled to a Certificate of Appointment.
- 3.4 Any person who applies for membership and pays the prescribed subscription shall become a Member two months from the date of such payment provided however that the Board shall have discretion to refuse such application and return the subscription paid within one month of the date of the membership application.
- 3.5 A Member whose annual subscription is in arrears as at August 31<sup>st</sup> in any year shall be deemed to have ceased to be a Member but may rejoin at any time on payment of any arrears of subscription. The Board may at its discretion waive the payment of such arrears.
- 3.6 A Life Governor shall not be required to pay an annual subscription and will enjoy the same rights and privileges as any other Member.

3.7 There shall be no entrance fee to the Association.

#### **4. REGISTER OF MEMBERS**

The Secretary shall keep a Register of Members in which shall be entered the full name, address and date of entry of each member and the Register shall be available for inspection by Members, at the Registered Office of the Association, during normal office hours.

#### **5. MEETINGS**

5.1 A General Meeting of the Members to be called the Annual General Meeting shall in addition to any other General Meeting be held in each calendar year between the 1<sup>st</sup> day of July and the 31<sup>st</sup> of October on such date as may be appointed by the Board for the following purposes:

5.1.1 to approve the minutes of the preceding Annual General Meeting the minutes of which have not already been approved, no discussions being permitted thereon as to accuracy;

5.1.2 to receive the report of the Board and audited statements of the accounts and financial reports for the year ended the preceding 30<sup>th</sup> day of June;

5.1.3 to elect persons to fill vacancies on the Board;

5.1.4 to elect an Auditor for the ensuing year and fix the remuneration for auditing services;

5.2 In the case of an Annual General Meeting notice shall be given in accordance with Rule 5.3 not less than fourteen (14) days prior to the date fixed for the meeting. The notice shall state the names of the Members who offer themselves for election. Nominations for the Auditor and for Board Members shall be delivered to the Secretary not later than twenty-one (21) days before the meeting.

5.3 A General Meeting of Members other than the Annual General Meeting shall be called a Special General Meeting and shall be held upon the written requisition delivered to the Secretary of not less than one-third of the Board Members or of any ten members and shall be held at a date appointed by the secretary not more than twenty-eight (28) days after delivery of such

written requisition. No business shall be transacted at such meeting other than that notified in the notice of meeting and the approval of the minutes of any previous General Meeting.

- 5.4 All General Meetings shall, unless a date has been fixed at the preceding General Meeting be notified to Members by notice in writing or advertisement in a newspaper circulating regularly in the district served by the Association.
- 5.5 In the case of a Special General Meeting, notice shall be given in accordance with Rule 5.3 not less than seven (7) days prior to the date fixed for the meeting. The notice shall state the business for which the meeting has been called.
- 5.6 At a General Meeting the President, or in his or her absence, the Senior or Junior Vice President present or, failing them, a member elected by the meeting shall preside as Chairman.
- 5.7 Any Life Governor and each Member whose subscription is not in arrears who has attained the age of eighteen (18) years on or before the date of a General Meeting and is present in person shall be entitled to vote at that meeting and no person shall be entitled to more than one vote on any resolution except that in the event of equality of voting the Chairman of the meeting shall have a second or casting vote. No person shall be entitled to vote by proxy at any General Meeting.
- 5.8 At any General Meeting a resolution put to the vote at the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the show of hands) demanded:
  - 5.8.1 by the chairman; or
  - 5.8.2 by not less than four-tenths of the Members present; and unless a poll is so demanded a declaration by the chairperson that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes shall be conclusive evidence of the fact. The demand for a poll may be withdrawn.
  - 5.8.3 If a poll is demanded it may be taken immediately or on a date fixed by the chairperson being not more than fourteen (14) days after the date of the meeting at which the poll is demanded. If the poll is to be taken later than the date of that meeting, notice of the poll shall be given to Members not less than three days prior thereto any

notice in writing or advertisement in newspaper circulating regularly in the district served by the Association. The result of the poll shall be deemed to be the result of the resolution of the meeting at which the poll was demanded.

5.9 Quorum.

5.9.1 The quorum at a general meeting shall be ten (10) Members present in person and at a Board Meeting five (5) Board Members present in person or in either case such other number as the Members in General Meeting may appoint.

5.9.2 No business shall be transacted at any meeting unless a quorum of persons entitled to be present are present at the time when the meeting proceeds to business.

5.9.3 If a quorum is not present within 30 minutes of the time appointed for any General Meeting that meeting if convened upon the requisition of Members shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other place as the Chairman of the meeting may determine and if the quorum is not present within 30 minutes of the time appointed for such adjourned meeting the Members present (being not less than three) shall be a quorum.

5.9.4 If a quorum is not present within 30 minutes of the time appointed for any Board Meeting such meeting shall be adjourned to such other time and place as the Members present, may appoint.

**6. BOARD OF GOVERNANCE AND OFFICE BEARERS**

6.1 The Board shall have charge of the management, administration and control of the association and its funds and property.

6.2 The Board shall consist of such number of Members as may be fixed by the Members in General Meeting and until so fixed shall consist of nine (9) Members. The Members in General Meeting may from time to time reduce or increase or set a maximum or minimum limit for the number of Board members. Members whose subscription is in arrears shall not be eligible for election or appointment to the Board.

- 6.3 Except as provided in Rule 6.4 Board Members elected at an Annual General Meeting shall hold office until the close of the third Annual general Meeting following the Annual General Meeting at which they were elected.
- 6.4 Nominations for election to the Board shall be in writing and signed by two members and delivered to the Secretary no less than twenty-one (21) days prior to the Annual General Meeting.
- 6.5 If no more nominations than there are vacancies to be filled have been delivered to the secretary by the due date the chairman of the Annual General Meeting shall declare the persons nominated to be duly elected.
- 6.6 If more nominations than vacancies have been delivered the nominations shall be put before the Members at the Annual General Meeting, who shall decide thereon by secret ballot, the result of which shall be announced by the chairman at such meeting.
- 6.7 At every Annual General Meeting one-third of Board Members or if their number is not divisible by three the number nearest to one-third shall retire from office.
- 6.8 The Board Members to retire in every year shall be those who have been longest in office. A retiring Board Member is eligible for re-election.
- 6.9 Any casual vacancy occurring on the Board may be filled by the Committee from among the Members.
- 6.10 A Board Member appointed to fill a casual vacancy shall retire when the person to whose place the appointment was made would have retired had that person served a full term of office.
- 6.11 A casual vacancy on the Board shall be deemed to have occurred if a Board Member:
  - 6.11.1 dies, or resigns after giving one month's notice in writing of such resignation;
  - 6.11.2 is unable to fulfil the duties of a Board Member because of ill health;
  - 6.11.3 if absent from three successive Board meetings without obtaining the consent of the Board;

- 6.11.4 is shown to the satisfaction of the Board to have failed to comply with Rule 6.16;
  - 6.11.5 accepts paid employment within the Association;
  - 6.11.6 becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
  - 6.11.7 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.
- 6.12 At their first meeting after the Annual General Meeting which shall be held within one month after the date of the Annual General Meeting the Board Members shall elect from among themselves a President, a Senior Vice President, a Junior Vice President and a Treasurer.
- 6.13 The Board shall appoint some person who is not a Member of the Board as Chief Executive Officer and Secretary. Such appointment shall be made for such period at such remuneration and on such terms and conditions (to be set out in written job description) as the Board thinks fit.
- 6.14 Board Members and office bearers may offer themselves for re-election for further or successive terms.
- 6.15 No Board Member shall hold or be appointed to any paid office of the Association.
- 6.16 Any Board Member who is in any way, directly or indirectly, interested in any contract or arrangement or proposed contract or arrangement with the association shall declare the nature of such interest prior to the consideration of such matter by the Board at any meeting. Such declaration of interest shall be recorded in the minutes of the relevant meeting. The member with such interest may take part in discussion but shall not vote in relation to such matter and shall remove him or herself from the meeting when such a vote is taken.
- 6.17 The Board may from time to time appoint and disband such sub-committees or special committees as it thinks fit and may determine the powers and duties thereof and may delegate to any such sub-committee any of its powers and duties (other than this power of delegation). Membership of such special committees need not be confined to Board Members or Members of the Association.



- 6.18 The President or any four Board Members may convene a special committee meeting and no business may be transacted at such meeting other than business the general nature of which has been notified to Board Members.
- 6.19 Every Board Member shall be notified in writing at least seven (7) days before the date of each meeting unless they were present at a previous meeting at which the date, time and place of the next meeting was fixed.
- 6.20 The President, if unable or unwilling to act, the Vice Presidents in order of seniority, or if they are unable to, or unwilling to act, a Member elected by those present at the meeting shall preside as Chairman at every meeting of the Board.
- 6.21 Each Board Member present in person (but not by proxy) at a Board Meeting shall be entitled to one vote. Voting shall be done by show of hands, unless a secret ballot be demanded. The Chairman shall have a second or casting vote in the event of equality of voting.
- 6.22 The Board shall cause to be prepared and laid before the Members at each Annual General Meeting a report of the affairs of the Association, together with statements of account duly audited for the year ended on the 30<sup>th</sup> day of June preceding the date of such meeting.
- 6.23 Auxiliaries and other organisations raising funds in the name of the Association shall present an annual audited financial report to the Board, which may publish such report in the annual report of the Association.
- 6.24 The Board shall meet at least four times in each calendar year.
- 6.25 The Association shall meet at least once a year in addition to the Annual General Meeting.

## **7. TREASURER**

- 7.1 The Treasurer will be required to be satisfied and to confirm to the Board that all monies received for and on behalf of the Association are banked within seven days in the Association's bank account. Accounts for monies due and owing by the Association shall be paid by cheque and all cheques drawn on any bank account in the name of the Association shall be crossed "Not Negotiable".

- 7.2 The Treasurer shall cause the accounts of the Association to be balanced as at the 30<sup>th</sup> day of June in each year and financial statements as at this date to be prepared and audited for submission to the Members at the Annual General Meeting and shall exercise general supervision over the finances of the association and in particular ascertain that any statutory enactments from time to time in force are complied with insofar as they related to the accounts of the Association.

## **8. CHIEF EXECUTIVE OFFICER**

- 8.1 The Chief Executive Officer and Secretary appointed by the Board shall also be the Public Officer of the Association.
- 8.2 The Chief Executive Officer and Secretary shall be responsible to the Board for the total management of the Hospital and Hostel including observance of any of the statutory requirements and compliance with these Rules. He or she shall carry out other duties as determined from time to time by the Board of Governance.

## **9. BANK**

The Association shall keep an account or accounts at such bank or banks as the Board may from time to time determine. All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two Members of the Board or by the Secretary and one other Member of the Board.

## **10. AUDIT**

- 10.1 An Auditor shall be appointed and the remuneration fixed at each Annual General Meeting and shall hold office until the next Annual General Meeting unless her or she retires or is removed in accordance with these rules.
- 10.2 An Auditor shall not be a Board Member but shall:
- 10.2.1 be a certified member of one of the recognised Associations or Institute of Accountants preference in appointment being given to a person registered as an auditor with the Australian Securities Commission in accordance with the Corporations Law;

10.2.2 shall carry out such continuous audit as is required by the Board and government authorities.

10.3 If no person so qualified is available for election the appointee shall have such financial and business experience as is approved by the Board.

10.4 An Auditor may be removed from office only by the Members in General Meeting. The Board may fill any casual vacancy in the office of Auditor and may fix the remuneration of an Auditor so appointed.

## **11. FUNDS**

11.1 The funds of the association shall be derived from annual subscriptions, donations, government grants and subsidies, fees for services provided by the association, investments and such other sources as the Board may determine from time to time.

11.2 The fees for accommodation and services provided by the Hospital and Hostel shall be fixed by the Board in accordance with the directives of the Commonwealth, which may, in its discretion, waive payment of fees, or part thereof.

## **12. SEAL**

12.1 The Common Seal of the Association shall be kept in the custody of the Secretary.

12.2 The Common Seal shall not be fixed to any instrument except by the authority of the Board and the affixing of the Common Seal shall be attested by the signatures either of two Board Members or of one Board Member and of the Secretary.

## **13. AMENDMENT OF RULES AND STATEMENT OF PURPOSES**

13.1 These rules shall not be amended except in accordance with the act and any resolution purporting to amend these rules shall not become operative until such approval has been obtained.

13.2 The Statement of Purposes of the Association shall not be altered except in accordance with the Act.

- 13.3 Rule 15 relating to winding up shall not be altered without the consent of the minister.

#### **14. NOTICE**

Any requirement in these rules that notice be given to any person in writing shall be sufficiently complied with if such notice has been posted to the addressee at his or her most recent address appearing in the records of the Association.

#### **15. WINDING UP**

- 15.1 Where the Association has previously received capital funding from the Commonwealth of Australia for construction of a Nursing Home or Hostel, the Department must be informed of the intention to wind up and their approval sought for the plans for the care of any remaining residents.
- 15.2 Subject to the above approvals having been obtained the Members may by Special resolution as defined in the act resolve to wind up the Association and shall appoint a person to collect all moneys owing to the Association and to discharge all its just debts and then subject to Rules 15.3 and 15.4 to dispose of all the remaining assets of the Association as directed by such Special resolution.
- 15.3 A resolution to wind up the Association must specify that the net assets remaining after the payment of all liabilities shall be transferred to a fund approved under Section 78 (1)(a)(i) or (ii) of the Income Tax Assessment Act or any amendment or re-enactment thereof or for the relief of persons in Australia or any part thereof in necessitous circumstances as provided in section 78 (1)(a)(iii) of the said Act.
- 15.4 If and so far as effect cannot be given to the aforesaid provisions, then such remaining assets shall be given or transferred to some charitable purposes to be decided by the Association in conjunction with the Department.

#### **16. AUTHORISATION OF TRADING**

To the extent that these rules contemplate the Association engaging in activities which would be regarded as trading within the meaning of the act, the Association (its predominant purpose being charitable) is hereby authorised, in pursuance of Section 51(4)(a)(iii) of the Incorporations Act, to carry on such trading activities.

#### **17. DISTRIBUTION OF ASSETS**

The assets and income of the Association shall be applied solely in furtherance of its objects and no portion shall be distributed directly or indirectly to its Members except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

## **18. DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBERS**

- 18.1 Subject to these Rules, if the Board is of the opinion that a member has refused or neglected to comply with these Rules, or has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association, the Board may by resolution-
- 18.1.1 fine that member an amount not exceeding \$500; or
  - 18.1.2 suspend that member from membership of the Association for a specified period; or
  - 18.1.3 expel that member from the Association.
- 18.2 A resolution of the Board under sub-rule (1) does not take effect unless-
- 18.2.1 at a meeting held in accordance with sub-rule (3), the Board confirms the resolution; and
  - 18.2.2 if the member exercises a right of appeal to the Association under this rule, the Association confirms the resolution in accordance with this rule.
- 18.3 A meeting of the Board to confirm or revoke a resolution passed under sub-rule (1) must be held not earlier than 14 days, and not later than 28 days, after notice has been given to the member in accordance with sub-rule (4).
- 18.4 For the purposes of giving notice in accordance with sub-rule (3), the Secretary must, as soon as practicable, cause to be given to the member a written notice-
- 18.4.1 setting out the resolution of the Board and the grounds on which it is based: and
  - 18.4.2 stating that the member, or his or her representative, may address the Board at a meeting to be held not earlier than 14 days and not later than 28 days after the notice has been given to that member; and

- 18.4.3 stating the date, place and time of that meeting; and
- 18.4.4 informing the member that he or she may do one or both of the following-
  - 18.4.4.1 attending that meeting;
  - 18.4.4.2 give to the Board before the date of that meeting a written statement seeking the revocation of the resolution;
- 18.4.5 informing the member that, if at that meeting, the Board confirms the resolution, he or she may not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in general meeting against the resolution.
- 18.5 At a meeting of the Board to confirm or revoke a resolution passed under the sub-rule (1), the Board must-
  - 18.5.1 give the member, or his or her representative, an opportunity to be heard; and
  - 18.5.2 give due consideration to any written statement submitted by the member; and
  - 18.5.3 determine by resolution whether to confirm or to revoke the resolution.
- 18.6 If at the meeting of the Board, the Board confirms the resolution, the member may, not later than 48 hours after that meeting, give the Secretary a notice to the effect that he or she wishes to appeal to the Association in general meeting against the resolution.
- 18.7 If the Secretary receives a notice under sub-rule (6), he or she must notify the Board and the Board must convene a general meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- 18.8 At a general meeting of the Association convened under sub-rule (7) –
  - 18.8.1 no business other than the question of the appeal may be conducted; and

18.8.2 the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution; and

18.8.3 the member, or his or her representative, must be given an opportunity to be heard; and

18.8.4 the members present must vote by secret ballot on the question whether the resolution should be confirmed or revoked.

18.9 A resolution is confirmed if, at the general meeting, not less than two-thirds of the members vote in person, or by proxy, in favour of the resolution. In any other case, the resolution is revoked.

## **19. DISPUTES AND MEDIATION**

19.1 The grievance procedure set out in this rule applies to disputes under these Rules between:

19.1.1 a member and another member; or

19.1.2 a member and the Association.

19.2 The parties to the dispute must meet and discuss the matter in dispute, and if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.

19.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days, hold a meeting in the presence of a mediator.

19.4 The mediator must be-

19.4.1 a person chosen by agreement between the parties; or

19.4.2 in the absence of agreement-

19.4.2.1 in the case of a dispute between a member and another member, a person appointed by a formal resolution of the Board of the Association; or

19.4.2.2 in the case of a dispute between a member and the Association, a person who is a mediator appointed or

employed by the Dispute Settlement Centre of Victoria (Department of Justice).

- 19.5 A member of the Association can be a mediator.
- 19.6 The mediator cannot be a member who is a party to the dispute.
- 19.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 19.8 The mediator in conducting the mediation, must-
  - 19.8.1 give the parties to the mediation proceed every opportunity to be heard, and
  - 19.8.2 allow due consideration by all parties of any written statement submitted by any party; and
  - 19.8.3 ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 19.9 The mediator must not determine the dispute.
- 19.10 If the mediation process does not result in the settlement of the dispute, the Board may determine the dispute by resolution.

## **20. CUSTODY AND INSPECTION OF RECORDS**

- 20.1 Except as otherwise provided in these Rules the Secretary must keep in his or her custody or under his or her control all books, documents and securities of the Association.
  - 20.2 All accounts, books, securities and any other relevant documents of the association must be available for inspection free of charge by any member upon request.
  - 20.3 A member may make a copy of any accounts, books, securities and any other relevant documents of the Association.
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