

Schedule 4A Constitution and procedure of local health district boards

(Section 26)

Part 1 Preliminary

1 Definitions

In this Schedule:

Board means the local health district board for a local health district.

Chairperson means the Chairperson of a Board.

Chief Executive means the chief executive of a local health district.

Deputy Chairperson means the Deputy Chairperson of a Board.

medical staff council means the medical staff council of a local health district appointed under the district's by-laws.

medical staff executive council means the medical staff executive council of a local health district appointed under the district's by-laws.

member means a member of a Board.

Part 2 Constitution

2 Chairperson and Deputy Chairperson

- (1) The Minister may, from time to time, appoint a member (other than the Chairperson), by the instrument of appointment of the member or a subsequent instrument signed by the Minister, as the Deputy Chairperson of a Board.
- (2) The Minister may at any time remove the Chairperson or Deputy Chairperson from office as Chairperson or Deputy Chairperson of a Board.
- (3) A person who is Chairperson or Deputy Chairperson of a Board is taken to have vacated office as Chairperson or Deputy Chairperson if the person:
 - (a) is removed from that office by the Minister under subclause (2), or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.
- (4) The Deputy Chairperson may act in the office of Chairperson during the illness or absence of the Chairperson, and while so acting has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (5) For the purposes of this clause, a vacancy in the office of the Chairperson or Deputy Chairperson is taken to be an absence from office of the Chairperson or Deputy Chairperson.

Note. A Chairperson is appointed in accordance with section 26 (7).

3 Acting members and acting Chairperson

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member.
- (2) The Minister may, from time to time, appoint a member to act in the office of Chairperson during the illness or absence of both the Chairperson and Deputy Chairperson, and the member, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

- (3) The Minister may remove any person from any office to which the person was appointed under this clause.
- (4) A person who is acting as a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of a member or the Chairperson or Deputy Chairperson is taken to be an absence from office of the member, Chairperson or Deputy Chairperson (as the case may be).

4 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

5 Vacancy in office of Chairperson or Deputy Chairperson

The office of Chairperson or Deputy Chairperson becomes vacant if the person holding that office:

- (a) ceases to be a member, or
- (b) is removed from office under clause 2 (2).

6 Vacancy in office of member

The office of a member becomes vacant if the member:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings, or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
- (h) is removed from office by the Minister under section 29.

7 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A member does not have a pecuniary interest for the purposes of this clause in relation to a matter merely because the member is employed or otherwise holds an appointment at a hospital or health service that is or may be affected by the matter.
- (7) A contravention of this clause does not invalidate any decision of the Board.
- (8) The provisions of this clause extend to meetings of a committee of the Board.

8 Avoidance of conflicts when Board exercising employer functions

- (1) Any member of a Board who is employed by, or otherwise holds a clinical appointment or other type of appointment prescribed by the regulation with, the local health district for which the Board was established must not:
 - (a) be present during any deliberation of the Board relating to the Board's employer functions in respect of the employment (including appointment and removal) of the Chief Executive, or
 - (b) take part in any decision of the Board with respect to the matter.
- (2) A contravention of this clause does not invalidate any decision of the Board.
- (3) This clause does not prevent a person specified in subclause (1) from providing advice to the Board relating to the Board's employer functions in respect of the Chief Executive.

9 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.
- (2) If, by or under any Act, provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

10 No compensation for removal from office or failure to re-appoint

A member who is removed from office or not re-appointed at the end of his or her term of office is not entitled to be paid any compensation by reason of ceasing to hold office.

Part 3 Procedure

11 General procedure

The procedure for the calling of meetings of a Board and for the conduct of business at those meetings is, subject to this Act, the regulations and any by-laws relating to that Board, to be as determined by that Board.

12 Quorum

The quorum for a meeting of a Board is a majority of its members.

13 Presiding member

- (1) The presiding member for a meeting of a Board is:
 - (a) the Chairperson, or
 - (b) in the absence of the Chairperson, the Deputy Chairperson, or
 - (c) in the absence of both the Chairperson and Deputy Chairperson, another member elected to preside at the meeting.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

14 Voting

- (1) Only a member of the Board may vote at a meeting of the Board.
- (2) Subject to clause 23, any matter put to the vote at any meeting of the Board is to be decided by a show of hands or by secret ballot if requested by a member attending the meeting.
- (3) A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.
- (4) If any members present at the meeting are excluded from taking part in the decision by clause 8, the decision is a decision of the Board only if the number of members present and entitled to vote on the decision is not less than the majority of the number of members (whether or not present) entitled to vote on the decision.

15 First meeting of Board

The Chairperson may call the first meeting of a Board in such manner as the Chairperson thinks fit.

16 Ordinary meetings of Board

- (1) A Board is to hold ordinary meetings at such times and places as may be determined by the Board.
- (2) At least 6 ordinary meetings are to be held in any 12-month period with such meetings being held at regular intervals.

- (3) Written notice of an ordinary meeting (whether delivered by ordinary post or electronic means) is to be given by the Chief Executive, or by another person authorised by the Board to give notice, to each member and each person invited by the Board to attend the meeting, at least 7 days before the meeting.
- (4) The written notice of the meeting given to a member is to be accompanied by the following:
 - (a) a copy of the agenda for the meeting,
 - (b) except in the case of the first meeting of the Board, a copy of the minutes of the previous meeting of the Board,
 - (c) a copy of the minutes of any special meeting of the Board held since the last ordinary meeting,
 - (d) a copy of the minutes of any meeting of a committee held since the Board's last ordinary meeting.
- (5) A person invited to the meeting by the Board may be provided with such of the information listed in subclause (4) as the Chairperson considers appropriate.

17 Special meetings of Board

- (1) A special meeting of the Board is to be called by the Chief Executive:
 - (a) at the direction of the Chairperson, or
 - (b) within 48 hours of receipt by the Chief Executive of a written request for a special meeting signed by at least 3 members of the Board.
- (2) A special meeting is to be held not later than 7 days after receipt by the Chief Executive of a request referred to in subclause (1) (b).
- (3) The Chief Executive is to give at least 24 hours written notice, and such of the material referred to in clause 16 (4) as the Chief Executive considers appropriate, to each member of and to each person invited to attend the meeting by the Board.
- (4) Notice of a special meeting is to specify the business to be considered at that meeting.
- (5) Only business specified in the notice of a special meeting is to be considered at the special meeting.

18 Attendance at Board meetings

- (1) The Board is to invite the following people to attend its meetings:
 - (a) the Chief Executive or his or her nominee,
 - (b) the Chair of the medical staff executive council for the local health district or, if there is only one medical staff council for the district, the Chair of that medical staff council,
 - (c) at least one representative of the executive staff (being the persons appointed by the local health district to its management structure and any persons appointed to act for the time being in those positions).
- (2) A medical staff executive council or medical staff council (as the case requires) may nominate an alternate to attend meetings of the Board in the event that the Chair of the medical staff executive council or medical staff council is unable to attend a meeting. Any such alternate may attend a meeting to which the Chair is invited in the event that the Chair is unable to attend.
- (3) If a local health district has more than one medical staff council, the Board may invite a representative for such of the councils as the Board considers appropriate.

- (4) The Board may invite any other person to attend any meeting of the Board (including both ordinary and special meetings).
- (5) The Board may exclude any person (other than a member or the Chief Executive or his or her nominee) from attending any meeting or part of a meeting.
- (6) The Board may exclude the Chief Executive, or his or her nominee, from attending any ordinary or special meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the Chief Executive.

19 Annual public meeting

- (1) An annual public meeting of the Board is to be held between 1 July and 31 December each calendar year.
- (2) The Board is to prepare and present at each annual public meeting a report on the affairs of the local health district since the last annual public meeting, including audited financial statements for the local health district.
- (3) The presiding member is to determine the procedure for the conduct of business at the annual public meeting. The procedure adopted is to be consistent with the requirements of this Act.
- (4) Any person is entitled to attend the annual public meeting and seek leave to address the meeting.
- (5) The holding of the annual public meeting is to be advertised in at least one newspaper circulating generally in the area of the local health district and by such other means (including on the Internet) as the Board determines.
- (6) The provisions of this Schedule relating to the calling and conduct of ordinary and special meetings of the Board do not apply to the calling and conduct of the annual public meeting.

20 Minutes

- (1) The Chief Executive is to ensure that minutes are kept of all meetings of the Board.
- (2) A motion for the confirmation of minutes of a meeting is to be put to the next ordinary meeting.
- (3) No business is to be transacted until the minutes of the previous meeting have been confirmed or otherwise disposed of.

21 Decisions of the Board to be made available

- (1) The Board is to make available to staff of the local health district information concerning its decisions except where the Board determines that it is inappropriate to disclose that information.
- (2) The Board may make available to the public information concerning its decisions.

22 Rescission

- (1) The Board may, at any ordinary or special meeting, vary or rescind any resolution carried at any previous meeting of the Board, but only if the motion to vary or rescind the resolution has been included in or with the notice of the meeting.
- (2) If a motion to vary or rescind a resolution is considered at a meeting of the Board and is not carried, the motion is not to be reconsidered by the Board during the period of 3 months from the date of that meeting.