


**COUNSELLING AND PSYCHOTHERAPY ASSOCIATION
CANBERRA AND REGION INC.** 

A member association of the Psychotherapy and Counselling
Federation of Australia Inc. (PACFA)

CONSTITUTION AND RULES

(Updated to include amendments passed at the Annual General Meetings of
5 March 2003 and 9 June 2004)

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PART I PRELIMINARY

1. Name

The name of the Association is the "Counselling and Psychotherapy Association Canberra and Region (CAPACAR) Incorporated".

2. Interpretation

- (1) In these rules, unless a contrary intention appears -
"committee" means the committee of management responsible for the affairs of the Association;
"financial year" means the year ending on 31 December;
"member" means a member, however described, of the association;
"ordinary committee member" means a member of the committee who is not an office-bearer of the association as referred to in paragraph 17(1)(a);
"secretary" means the person holding office under these rules as secretary of the association or, where no such person holds that office, the public officer of the association;
"the Act" means the Associations Incorporation Act 1991;
"the Regulations" means the regulations for the lawful operation of the Association as adopted or amended from time to time by the committee or a general meeting.
- (2) In these rules -
- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty.
- (3) The provisions of the Interpretations Act 1967 apply to and in respect of these rules in the same manner as those provisions would so apply if these rules were an instrument made under the Act.

3. Objects

The purpose and objects of The Counselling and Psychotherapy Association Canberra and Region Inc. are to support and advance the conduct and standing of the counselling profession in Australia by;

- (1) Providing a forum for the exchange of information, knowledge, practice & research on counselling matters;
- (2) Encouraging appropriate levels of qualifications & experience amongst counsellors;
- (3) Fostering awareness in the community of the place of counselling in individual, group & organisational settings;
- (4) Supporting appropriate standards and practice for counsellors

PART II MEMBERSHIP

4. Categories of membership

- (1) A person may apply for membership of the association as a
- (a) Member,
 - (b) Associate Member, or
 - (c) Student Member.
- A body corporate or unincorporated association may apply for membership as a
- (d) Institutional Member.
- (2) A Member of the association is a full professional member who meets the criteria specified in sub-section (3) (a).

- (3) A person may apply for full professional membership of the association if he or she
 - (i) has completed a tertiary or equivalent course in counselling of at least 200 contact hours extending over 2 years, for example, a Post-Graduate Diploma course,
 - (ii) has practised as a counsellor and received at least 50 hours of appropriate supervision, and
 - (iii) agrees to work within the standards of ethical practice established by the Association's Code of Ethics.
- (4) An Associate Member of the association is a person who meets the general criteria for membership specified in rule 6 of the constitution but does not meet the education and experience requirements to become a Member.
- (5) A Student Member is a person undertaking an educational or training course in counselling of at least one year's duration. The person may be a full-time or part-time student.
- (6) An Institutional Member is a body corporate or unincorporated association which employs counsellors either as paid staff or as volunteers and/or provides counselling services to the community.
- (7) The procedures for assessing applications for full professional membership of the association are those described in the Association's Regulations.
- (8) The Association shall issue a Certificate to each Member declaring that the person meets all requirements for full professional membership of the association. The Certificate will remain valid whilst the Member remains a financial member of the CAPACAR.
- (9) The Association shall grant Life Membership to Members who, in the opinion of the Committee, have provided outstanding service to the counselling profession and, in particular, the Association. Life membership may be granted based on the Committee's consideration of a written nomination or nominations received from a Member or Members. Nominations shall take into account the contributions made by the nominee and any other factors deemed relevant by the Committee. Committee decisions will be final. Members who are granted Life Membership will enjoy the full entitlements of a Member, but will be entitled to waiving of annual Association subscriptions.

5. General membership qualifications

In addition to the requirements specified in rule 4 a person is qualified to be a member if

- (a) the person is a person referred to in paragraph 21 (2)(a) or (b) of the Act and has not ceased to be a member of the association at any time after incorporation of the association under the Act, or
- (b) the person has applied for and been accepted by the committee for membership of the association in accordance with rule 6.

6. Nomination for membership

- (1) An application by a person for membership of the association shall be made
 - (a) in writing in the form determined by the committee from time to time, which will include agreement in writing to accept the standards of ethical practice established by the associations' Code of Ethics, or
 - (b) in another form acceptable to the committee, and shall be accompanied by payment of the appropriate subscription as set out in rule 10.
- (2) The committee may determine to reject an application for membership if the committee is of the opinion that the person would not be a suitable person for membership of the association.

- (3) As soon as practicable after receiving an application for membership, the committee shall, unless it has determined to reject the application, cause the applicant's name to be entered in the register of members and, upon the name being so entered, the person shall become a member of the association.
- (4) If the committee determines not to accept an application for membership, the secretary shall as soon as practicable after that determination notify the applicant of the committee's decision and the reasons for the decision.

7. Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the association

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates upon cessation of the person's membership.

8. Cessation of membership

A person cease to be a member of the association if the person

- (a) dies or, in the case of a body corporate, is wound up,
- (b) resigns from membership of the association,
- (c) is expelled from the association, or
- (d) fails to renew membership of the association.

9. Resignation of membership

- (1) A member is not entitled to resign from membership of the association except in accordance with this rule.
- (2) A member who has paid all amounts payable by the member to the association may resign from membership of the association by first giving notice (being not less than 1 month or, if the committee has determined a shorter period, that shorter period) in writing to the secretary of the member's intention to resign and, upon the expiration of the period of notice, the member ceases to be a member.
- (3) Where a person ceases to be a member, the secretary shall make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

10. Fees, subscriptions etc.

- (1) The annual membership subscription of the association is an amount that has been determined by resolution of the committee.
- (2) The annual membership subscription is payable, except as provided by subrule (3), before 1 January in each calendar year.
- (3) Where a person becomes a new member or rejoins the association after a break in membership of more than 12 months or after 1st October in any calendar year, the committee may waive the next annual subscription.

11. Members' liabilities

The liability of a member to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount, if any, unpaid by the member in respect of membership of the association as required by rule 10.

12. Ethical practice

- (1) The Ethical Responsibilities in the association's Code of Ethics establish the standards of ethical conduct required of members of the association.
- (2) In circumstances of possible misconduct or a breach of the Code of Ethics, the association's complaints procedures are to be applied without delay and in accordance with the regulations.

13. Ethics Committee

- (1) An Ethics Committee shall be appointed each year in accordance with the regulations to
 - (a) consider complaints of unethical conduct made to it in writing by a client of an association member or by a member of the association, and
 - (b) make recommendations to the committee.
- (2) There shall be a right of appeal against decisions taken by the committee following consideration by the Ethics Committee of a complaint of unethical conduct.
- (3) The procedures governing the appeal process and any disciplinary action shall be in accordance with rules 14 and 15 and the Regulations.

14. Disciplining of members

- (1) Where the committee is of the opinion that a member-
 - (a) has persistently refused or neglected to comply with a provision of these rules, or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the association, or
 - (c) has breached the association's Code of Ethics, the committee may, by resolution
 - (d) expel the member from the association;
 - (e) suspend the member from such rights and privileges of membership of the association as the committee may determine for a specified period, or
 - (f) censure the member.
- (2) A resolution of the committee under subrule (1) is of no effect unless the committee, at a meeting held not earlier than 14 days and not later than 28 days after service on the member of a notice under subrule (3), confirms the resolution in accordance with this rule.
- (3) Where the committee passes a resolution under subrule (1), the secretary shall, as soon as practicable, cause a notice in writing to be served on the member
 - (a) setting out the resolution of the committee and the grounds on which it is based,
 - (b) stating that the member may address the committee at a meeting to be held not earlier than 14 days and not later than 28 days after service of the notice,
 - (c) stating the date, place and time of that meeting, and
 - (d) informing the member that the member may do either or both of the following:
 - (i) attend and speak at that meeting;
 - (ii) submit to the committee at or prior to the date of that meeting written representations relating to the resolution.
- (4) Subject to section 50 of the Act, at a meeting of the committee mentioned in subrule (2), the committee shall

- (a) give to the member mentioned in subrule (1) an opportunity to make oral representations,
 - (b) give due consideration to any written representations submitted to the committee by that member at or prior to the meeting; and
 - (c) by resolution determine whether to confirm or revoke the resolution of the committee made under subrule (1).
- (5) Where the committee confirms a resolution under subrule (4), the secretary shall, within 7 days after that confirmation, by notice in writing inform the member of that confirmation and of the member's right of appeal under rule 15.
- (6) A resolution confirmed by the committee under subrule (4) does not take effect
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution where the member does not exercise the right of appeal within that period, or
 - (b) where within that period the member exercises the right of appeal, unless and until the association confirms the resolution in accordance with subrule 15 (4).

15. Right of appeal of disciplined member

(1) A member

- (a) may appeal to the association in a general meeting against a resolution of the committee which is confirmed under subrule 14 (4) within 7 days after notice of the resolution is served on the member by lodging with the secretary a notice to that effect, or
 - (b) disciplined for a breach of the association's Code of Ethics may appeal to the association's Appeals Committee against a resolution of the committee which is confirmed under subrule 14 (4) within one month after notice of the resolution is served on the member by lodging with the secretary a notice to that effect and setting out the grounds for appeal.
- (2) Upon receipt of a notice under subrule (1) (a), the secretary shall notify the committee which shall convene a general meeting of the association to be held within 21 days after the date on which the secretary received the notice or as soon as possible after that date.
- (3) Subject to section 50 of the Act, at a general meeting of the association convened under subrule (2)
- (a) no business other than the question of the appeal shall be transacted,
 - (b) the committee and the member shall be given the opportunity to make representations in relation to the appeal orally or in writing, or both, and
 - (c) the members present shall vote by secret ballot on the question of whether the resolution made under subrule 14 (4) should be confirmed or revoked.
- (4) If the meeting passes a special resolution in favour of the confirmation of the resolution made under subrule 14 (4), that resolution is confirmed.
- (5) Upon receipt of a notice under subrule (1) (b), the secretary shall within 7 days notify the committee, which shall convene the Appeals Committee in accordance with the regulations to consider the appeal as expeditiously as practicable.
- (6) The decision of the Appeals Committee to uphold or reject the appeal is final.

PART III- THE COMMITTEE

16. Powers of the committee

The committee, subject to the Act, the Associations Incorporation Regulations, these rules, the regulations and to any resolution passed by the association in general meeting,

- (a) shall control and manage the affairs of the association,
- (b) may exercise all such functions as may be exercised by the association other than those functions that are required by these rules to be exercised by the association in general meeting, and has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

17. Constitution and membership

- (1) The committee shall consist of
 - (a) the office-bearers of the association, and
 - (b) 3 ordinary committee members, each of whom shall be elected pursuant to rule 18 or appointed in accordance with subrule (4), and
 - (c) the immediate past president.
- (2) The office-bearers of the association shall be
 - (a) the president,
 - (b) the vice-president,
 - (c) the treasurer, and
 - (d) the secretary.
- (3) Each member of the committee shall, subject to these rules, hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election. The immediate past president shall hold office as immediate past president until the election of a new president.
- (4) In the event of a vacancy in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed shall hold office, subject to these rules, until the conclusion of the annual general meeting next following the date of the appointment.

18. Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members
 - (a) shall be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the nomination form), and
 - (b) shall be delivered to the secretary of the association not less than 7 days before the date fixed for the annual general meeting at which the election is to take place.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee shall be deemed to be vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot shall be held.
- (6) The ballot for the election of office-bearers and ordinary committee members shall be conducted at the annual general meeting in such manner as the committee may direct.
- (7) A person is not eligible to simultaneously hold more than 1 position on the committee.

19. Secretary

- (1) The secretary of the association shall, as soon as practicable after being appointed as secretary, notify the association of his or her address.
- (2) The secretary shall keep minutes of
 - (a) all elections and appointments of office-bearers and ordinary committee members,
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings of committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting shall be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting.

20. Treasurer

- (1) The treasurer of the association shall
 - (a) collect and receive all monies due to the association and make all payments authorised by the association, and
 - (b) keep correct accounts and books showing the financial affairs of the association with full details of all receipts and expenditure connected with the activities of the association.

21. Vacancies

- (1) For the purposes of these rules, a vacancy in the office of a member of the committee occurs if a member
 - (a) dies,
 - (b) ceases to be a member of the association,
 - (c) resigns the office,
 - (d) is removed from the office pursuant to rule 22,
 - (e) becomes an insolvent under administration within the meaning of the Corporations Law,
 - (f) suffers from mental or physical incapacity,
 - (g) is disqualified from office under subsection 63 (1) of the Act, or
 - (h) is absent without the consent of the committee from all meetings of the committee held during a period of 6 months.

22. Removal of committee members

The association in general meeting may by resolution, subject to section 50 of the Act, remove any member of the committee from holding office "of member of the committee" before the expiration of the member's term of office.

23. Committee meetings and quorum

- (1) The committee shall meet at least 3 times in each calendar year at such place and time as the committee may determine.
- (2) Any member of the committee may convene additional meetings of the committee.

- (3) The secretary shall give oral or written notice of a meeting of the committee to each member of the committee. At least 48 hours before the time appointed for the holding of the meeting (or such other period as may be unanimously agreed upon by the members of the committee).
- (4) Notice of a meeting given under subrule (3) shall specify the general nature of the business to be transacted at that meeting. No business other than that specified shall be transacted at the meeting, except business that the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) The committee shall transact no business unless a quorum is present. If within half an hour after the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same place and at the same hour of the same day of the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting shall be dissolved.
- (8) At meetings of the committee-
 - (a) the president or in the absence of the president, the vice-president shall preside; or
 - (b) if the president and the vice-president are absent, 1 of the remaining members of the committee may be chosen by the members present to preside.

24. Delegation by committee to sub-committee

- (1) The committee may, by instrument in writing, delegate to one or more sub- committees (consisting of such member's of the association as the committee thinks fit) the exercise of such functions as are specified in the instrument, other than-
 - (a) the power of delegation; and
 - (b) a function which is a function imposed on the committee by the Act, or any other law of the Territory, or by resolution of the association in general meeting.
- (2) A function, the exercise of which has been delegated to a sub-committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this rule may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this rule, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this rule.
- (7) A sub-committee may meet and adjourn, as it thinks proper.

25. Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee, shall be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of a committee or of any sub-committee is entitled to one vote. In the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.

- (3) Subject to subrule 23 (5), the committee may act notwithstanding any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or any sub-committee appointed by the committee, is valid and effectual notwithstanding any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

PART IV-GENERAL MEETINGS

26. Annual general meetings-holding of

- (1) With the exception of the first annual general meeting of the association, the association shall, at least once in each calendar year and within the period of 5 months after the expiration of each financial year of the association, convene an annual general meeting of its members.
- (2) The association shall hold its first annual general meeting-
 - (a) within the period of 18 months after its incorporation under the Act; and
 - (b) within the period of 5 months after the expiration of the first financial year of the association.
- (3) Subrules (1) and (2) have effect subject to the powers of the Registrar of Incorporated Associations under section 120 of the Act in relation to extensions of time.

27. Annual general meetings - calling of and business at

- (1) The annual general meeting of the association shall, subject to the Act, be convened on such date and at such place and time as the committee thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting shall be
 - (a) to confirm the minutes of the last preceding annual general meeting and of any general meeting held since that meeting,
 - (b) to receive from the committee reports on the activities of the association during the last preceding financial year,
 - (c) to elect members of the committee, including office-bearers, and
 - (d) to receive and consider the statement of accounts and the reports that are required to be submitted to members pursuant to subsection 73 (1) of the Act.
- (3) An annual general meeting shall be specified as such in the notice convening it in accordance with rule 29. An annual general meeting shall be conducted in accordance with the provisions of this part.

28. General meetings - calling of

- (1) The committee may, whenever it thinks fit, convene a general meeting of the association.
- (2) The committee shall, on the requisition in writing of not less than 5% of the total number of members, convene a general meeting of the association.
- (3) A requisition of members for a general meeting
 - (a) shall state the purpose or purposes of the meeting,
 - (b) shall be signed by the members making the requisition,
 - (c) shall be lodged with the secretary, and

- (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a general meeting within one month after the date on which a requisition of members for the meeting is lodged with the secretary, then one or more of the members who made the requisition may convene a general meeting to be held not later than three months after that date.
- (5) A general meeting convened by a member or members referred to in subrule (4) shall be convened as nearly as is practicable in the same manner as general meetings are convened. The committee and any member who thereby incurs expense is entitled to be reimbursed by the association for any reasonable expenses so incurred.

29. Notice

- (1) Except where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary shall, at least 14 days before the date fixed for the holding of the general meeting, cause to be sent by prepaid post to each member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) Where the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary shall, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be sent to each member in the manner provided in subrule (1) specifying, in addition to the matter required under that subrule, the intention to propose the resolution of a special resolution.
- (3) No business other than that specified in the notice convening a general meeting shall be transacted at the meeting except, in the case of an annual general meeting, business that may be transacted pursuant to subrule 27 (2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who shall include that business in the next notice calling a general meeting given after receipt of the notice from the member.

30. General meetings-procedure and quorum

- (1) No item of business shall be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- (2) Five members present in person (being members entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the 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 following week at the same time and (unless another place is specified at the time of adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being not less than three) shall constitute a quorum.

31 Presiding member

- (1) The president, or in the absence of the president, the vice-president, shall preside at each general meeting of the association.
- (2) If the president and vice-president are absent from a general meeting, the members shall elect one of their number to preside at the meeting.

32. Adjournment

- (1) The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) Where a general meeting is adjourned for 14 days or more, the secretary shall give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subrule (1) and (2), notice of the adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

33. Making of decisions

- (1) A question arising at a general meeting of the association shall be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (2) At a general meeting of the association, a poll may be demanded by the person presiding or by not less than three members present in person or by proxy at the meeting.
- (3) Where the poll is demanded at a general meeting, the poll shall be taken
 - (a) immediately in the case of a poll which relates to the election of the person to preside at the meeting or to the question of an adjournment, or
 - (b) in any other case, in such manner and at such time before the close of the meeting as the person presiding directs, and the resolution of the poll on the matter shall be deemed to be the resolution of the meeting on that matter.

34. Voting

- (1) Subject to subrule (3), upon any question arising at a general meeting of the association a member has one vote only.
- (2) All votes shall be given personally or by proxy but no member may hold more than five proxies.
- (3) In any case of an equality of votes on a question at a general meeting, the person presiding is entitled to exercise a second or casting vote.
- (4) A member or proxy is not entitled to vote at any general meeting of the association unless all money due and payable by the member and proxy to the association has been paid, other than the amount of the annual subscription payable in respect of the then current year.

35. Appointment of proxies

- (1) Each member shall be entitled to appoint another member as proxy by notice given to the secretary no later than 48 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy shall be in the form set out in Appendix 2 to these rules.

PART V MISCELLANEOUS

36 Funds-source

- (1) The funds of the association shall be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in a general meeting and subject to section 114 of the Act, such other sources as the committee determines.

- (2) All money received by the association shall be deposited as soon as practicable and without deduction to the credit of the association's bank account. ,
- (3) The association shall, as soon as practicable after receiving any money, issue an appropriate receipt.

37 Funds-management

- (1) Subject to any resolution passed by the association in a general meeting, the funds of the association shall be used in pursuance of the objects of the association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two members of the committee or employees of the association, being members of the committee or employees authorised to do so by the committee.

38. Alteration of objects and rules

- (1) Neither the objects of the association referred to in section 29 of the Act nor these rules shall be altered except in accordance with the Act.
- (2) Regulations may be altered by a majority vote of the committee or by a simple majority of members present and entitled to vote at a General Meeting.

39. Common seal

- (1) The common seal of the association shall be kept in the custody of the secretary.
- (2) The common seal shall not be affixed to any instrument except by the authority of the committee and the affixing of the common seal shall be attested by the signatures either of two members of the committee or of one member of the committee and the secretary.

40. Custody of books

Subject to the Act, the Regulations and these rules, the committee shall cause all records, books and other documents relating to the association to be kept in good order and safe custody in such place or places as the committee shall determine from time to time.

41. Inspection of books

The records, books and other documents of the association shall be open to inspection at a place in the Territory, free of charge, by a member of the association at any reasonable hour.

42. Service of notices

- (1) For the purpose of these rules, a notice may be served by or on behalf of the association upon any member either personally or by sending it by post to the member at the member's address shown in the register of members.
- (2) The document shall, unless the contrary is proved, be deemed for the purposes of these rules to have been served on the person at the time at which the letter properly addressing and prepaid would have been delivered in the ordinary course of post.

43. Surplus property

- (1) At the first general meeting of the association, the association shall pass a special resolution nominating
 - (a) another association for the purpose of paragraph 92 (1)(a) of the Act; or
 - (b) a fund, authority or institution for the purpose of paragraph 92 (1)(b) of the Act, in which it is to vest its surplus property in the event of the dissolution or winding up of the association.

- (2) An association nominated under paragraph (1)(a) must fulfil the requirements specified in subsection 92 (2) of the Act.

44. Transitional provisions

Consequent upon the amendment of the financial year of the association in November 1995

- (1) the 6 months period ending 31 December 1995 and the 12 months period ending 31 December 1996 shall be taken as one accounting period,
- (2) the committee members and office-bearers elected at the November 1995 annual general meeting shall hold office until the 1997 annual general meeting,
- (3) the committee may determine to not hold an annual general meeting in 1996,
- (4) unless an annual general meeting is held in 1996, the 1997 annual general meeting shall transact the business required under subrule 27 (2) (b) and (d) for the periods ending 31 December 1995 and 31 December 1996.

APPENDIX 1

NOMINATION FORM FOR OFFICE BEARERS AND COMMITTEE MEMBERS

See attached example used for 2000 elections

APPENDIX 2

FORM OF APPOINTMENT OF PROXY

See attached example used for 2000 annual general meeting

Regulations

Part D Ethics Committee Its Role and Functions

- D1. There shall be an Ethics Committee as follows:
- (a) three members of the association whose qualifications, experience and professional standing provide the Ethics Committee with credibility and authority, and
 - (b) the President ex officio, except when the Ethics Committee is considering a complaint against a member.
- All members of the Ethics Committee must be professional members of the association.
- D2. The CAPACAR committee shall appoint members of the Ethics Committee each year for a twelve month term. Members of the Ethics Committee may be re-appointed for successive terms.
- D3. The Ethics Committee shall meet as required.
- D4. The powers of the Ethics Committee shall include,
- (a) consideration of complaints of unethical conduct made to it in writing by a client of a CAPACAR member, or by a member of the association, and
 - (b) recommending changes or amendments to the Code of Ethics to the CAPACAR committee.
- D5. The Ethics Committee shall present its findings following its consideration of a complaint of unethical conduct together with its recommendations concerning disciplinary action, if any, to the CAPACAR committee for decision.
- D6. When breaches of the Code of Ethics have occurred, the Ethics Committee shall consider the appropriate form of disciplinary action to recommend to the CAPACAR committee. The association may apply three forms of disciplinary action: censure, suspension or expulsion.
- D7. The secretary, outlining the concern of the association, will convey a censure to the member in writing. The member must convey a written assurance that the breach of the Code of Ethics will not recur to the secretary within 14 days of receipt of the censure.
- D8. Suspension of membership may be for a period of one month or longer during which time the member will lose all rights of CAPACAR membership. The secretary will convey notice of the suspension in writing to the member. Notice of the suspension will be published in the CAPACAR newsletter.
- D9. The intention of the committee to expel a member from the association shall be conveyed in writing to the member. The expelled member loses all entitlements of membership. Notice of the expulsion will be published in the CAPACAR newsletter and PACFA will be informed if the member is included in the National Register of Practitioners.

Part E Ethics Committee Procedures

- E 1. The Ethics Committee, where it considers it appropriate, will seek to resolve the complaint of unethical conduct by bringing the parties together for private discussion, clarification and resolution of the complaint.
- E2. The Ethics Committee may, with the consent of the parties, establish a mediation process to facilitate resolution of the complaint of unethical conduct.
- E3. In all cases where discussion between the parties or a mediation process succeeds in resolving the complaint of unethical conduct, the Ethics Committee will report accordingly to the CAPACAR committee with a recommendation that no further action be taken.
- E4. The Ethics Committee will undertake a formal consideration of a complaint of unethical conduct in all instances where it considers that discussion between the parties or mediation is not appropriate. The Ethics Committee, with regard to confidentiality and other safeguards, shall

- (a) examine all documentation pertinent to the complaint,
 - (b) interview the parties ensuring that natural justice is applied,
 - (c) consider the application of the Code of Ethics in the particular context and take account of the spirit of the Code as well as its literal meaning, in coming to a conclusion.
- E5. The Ethics Committee shall report to the CAPACAR committee within a reasonable time informing the committee of its findings and, where appropriate, making a recommendation concerning disciplinary action.
- E6. The CAPACAR committee shall consider the report and recommendations of the Ethics Committee without delay. The committee shall inform the parties of its decision and the nature of any proposed disciplinary action within a reasonable time. If the committee decides that the complaint of unethical conduct is proven, the committee shall inform the member concerned of the appeal processes open to the member.

Appeals

- E7. An appeal must be lodged with the Secretary within one month following receipt of the decision of the CAPACAR committee following its consideration of the report of the Ethics Committee.
- E8. The grounds for appeal must be one or more of the following:
- (a) the process applied by the Ethics Committee in considering the complaint;
 - (b) the interpretation of the Code of Ethics made by the Ethics Committee; or
 - (c) the nature of the disciplinary action proposed.
- E9. The CAPACAR committee shall appoint an Appeals Committee to consider the appeal. The Appeals Committee shall comprise three members, all of whom have expertise in the evaluation of ethical issues. Two are to be drawn from PACFA member associations and one from outside the counselling profession. Members of the CAPACAR are not eligible to serve as members of the Appeals Committee.
- E 10. The decision of the Appeals Committee to uphold or reject the appeal is final.