

Professional Association for Transgender Health South Africa (PATHSA)

Constitution



The Constitution is amended and adopted by the members as at the Annual General Meeting on 12 November 2022



.....

Chairperson: C. McLachlan



.....

Vice Chairperson: R.M. Addinall

Contents

1. NAME	4
2. LEGAL PERSONA	4
3. OBJECTIVES.....	4
4. MEMBERSHIP	5
5. BOARD.....	5
6. POWERS OF THE BOARD	6
7. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON.....	7
8. MEETINGS OF THE BOARD	7
9. OTHER SUB-COMMITTEES.....	8
10. CHAIRPERSON OF MEETINGS	8
11. REGISTERED OFFICE.....	8
12. FUNDS OF THE ASSOCIATION	9
13. GENERAL MEETINGS.....	9
14. BY-LAWS	10
15. REGISTER OF MEMBERS	10
16. FINANCIAL STATEMENTS AND AUDIT	10
17. INDEMNITIES	10
18. LIMITATION OF LIABILITY.....	11
19. AMENDMENT OF CONSTITUTION.....	11
20. WINDING UP.....	11

1. NAME

The name of the Association is Professional Association for Transgender Health South Africa (PATHSA), hereinafter referred to as the Association.

2. LEGAL PERSONA

The Association is a body corporate with its own legal identity which is separate from its office-bearers and members.

The Association can perform such acts as are necessary for or incidental to the achievements of its objectives and the exercise of its powers, or the performance of its functions and duties, under this Constitution or under any statute of the Republic of South Africa.

The Association is recognised by the South African Revenue Service as a Public Benefit Organisation (PBO) in terms of section 30B of the Income Tax Act No 58 of 1962 (the Act). Income Tax Exemption has been granted in terms of section 10(1)(d)(iv)(bb) of the Act, with effect from 02 November 2020. Tax Exemption Reference Number: 930074376

Donations made to or by the company are exempt from Donations Tax in terms of section 56(1)(h) of the Act

3. OBJECTIVES

The Association is an interdisciplinary health professional organisation working to promote the health, wellbeing and self-actualisation of trans and gender diverse people.

The Association is established for the following public benefit objectives:

- a) Facilitate networks and foster supportive environments for health professionals working with and for trans and gender diverse people.
- b) Develop, advocate for and promote best practices and clinical resources for gender-affirming health care.
- c) Encourage, promote, conduct and disseminate research, which is done in a respectful way towards the community, to expand knowledge and deepen understanding about trans and gender diversity.
- d) Advocate for institutional, policy, and legislative change by utilizing our collective knowledge and expertise.
- e) Provide education on holistic gender-affirming healthcare promoting the health, wellbeing, and supporting the self-actualisation of trans and gender diverse people.
- f) Develop leadership skills amongst trans and gender diverse health professionals and promote indigenous perspectives.
- g) To disseminate awareness around power dynamics that are typically inherent to all healthcare seeker/provider interactions involving people who are part of the trans and gender-diverse communities, to acknowledge the damage that has been done by such dynamics, and to insist that gender-affirming clinicians must take steps to dismantle these typical power hierarchies.
- h) Generally, to do such other things as may be incidental or conducive to the attaining of the above objectives.

4. MEMBERSHIP

- a) First and Subsequent Members: The first members of the Association shall sign Schedule A of this constitution.
- b) The Board may admit persons over eighteen as members of the Association.
- c) The Association shall have two categories of Members: professional membership and student membership.
- d) Professional memberships are available to individuals who are members of a health professional body or association and who provide direct health care (bio-psycho-social-spiritual) or indirect care, to trans and gender diverse persons.
- e) Student memberships are available to students who will be eligible for membership of a health professional body or association upon graduation and who intend to provide care, to trans and gender diverse persons.
- f) After receiving an application for membership, the Board must consider the application and decide whether to admit or reject the applicant. The Board need not give any reason for rejecting the applicant.
- g) Every member agrees to comply with this constitution and support the objectives laid out in 3.
- h) Membership fees will be determined on an annual basis at the annual general meeting.
- i) The Association has to maintain a register with the names and addresses of all the members.
- j) Membership to PATHSA may be terminated
 - i. when a member resigns in writing to the Board.
 - ii. when a member loses their registration with their professional body due to misconduct.
 - iii. when a member is convicted in the Republic of South Africa or elsewhere of any criminal offence which, in the opinion of the Board, is of a disgraceful or dishonourable nature.
 - iv. by Board resolution in terms of section 6 (o)

5. BOARD

- a) The affairs of the Association shall be managed by a Board consisting of a minimum of five and a maximum of twelve members who shall be resident in the Republic of South Africa during their term of office. Elections for filling of vacant positions shall be conducted at the annual general meeting.
- b) The term of office of the Board shall be three years and shall be from the end of the annual general meeting in the first year until the end of the next annual general meeting in the third year.
- c) Prior to the annual General Meeting, the Board by notice to members calls for the nomination of candidates in the manner and in the form prescribed by the Board.
- d) Voting for Board members may be conducted by electronic means.

- e) All members of the Board will be eligible for re-appointment.
- f) A casual vacancy occurring in the membership of the Board shall be filled by the Board; a Board member so elected shall retire at the next annual general meeting.
- g) The appointment of a member of the Board shall terminate ipso facto and they shall vacate their office on the happening of any of the following events:
 - i. they resign their office by notice in writing to the Board;
 - ii. they are absent for more than three consecutive meetings of the Board without acceptable reasons;
 - iii. they are declared unfit or incapable of managing their affairs;
 - iv. they are sequestered, provisionally or finally, or surrender their estate for the benefit of their creditors or make an offer of compromise to their creditors;
 - v. they are convicted in the Republic of South Africa or elsewhere of any criminal offence which, in the opinion of the Board, is of a disgraceful or dishonourable nature;
 - vi. they lose their registration with their professional body due to misconduct;
 - vii. they have not contributed to the responsibilities of the Board as set out in the agreed performance expectations. The performance evaluation process will be agreed by the Board and if necessary be set out in the By-laws.
- h) The appointment or removal of a member to the Board shall
 - i. In the case of removal be confirmed by a letter signed by a Board member, the Chairperson or Vice-Chairperson on behalf of the Board whichever is appropriate to the circumstance giving the name of the member removed and the date from which their removal took effect; and
 - ii. In the case of appointment, take effect only on receipt by the Association of a consent to act as a member of the Board signed by the person concerned.

6. POWERS OF THE BOARD

- a) In managing the affairs of the Association, the Board shall be entitled to exercise all the powers of the Association except such powers as are expressly reserved by the provisions of this Constitution to the Association in general meeting.
- b) Without in any way limiting the scope of its powers as generally described in paragraph (a) hereof and in addition to powers given to it elsewhere in this Constitution or the By-laws, the Board shall have power in the name of and on behalf of the Association:
 - c) to receive and accept donations, grants, and other money;
 - d) to purchase or otherwise acquire, take on lease or hire, exchange, improve, sell, mortgage, pledge, let, dispose of, or otherwise deal in property of any description whatsoever;
 - e) to raise or borrow or secure any sum of money or the performance of any obligation in such manner and upon such terms and conditions as it deems fit and, in particular, by the execution of mortgage or notarial bonds or the issue of debentures or debenture stock charged upon all or any of the property of the Association;

- f) to invest the funds of the Association or any portion thereof in such securities and in such manner as the Board may from time to time determine and to vary or transpose such investments in its discretion;
- g) to open and operate banking accounts and savings accounts with registered banking institutions;
- h) to apply and use the funds and income of the Association to promote the objectives of the Association;
- i) to institute and defend legal proceedings;
- j) to appoint and remove any person as an officer, contractor, administrator, supplier, or employee of the Association and to determine their designation, duties, salary, and other terms of employment;
- k) to pay reasonable travelling subsistence and other expenses incurred in connection with the affairs of the Association by any members of the Association or its Board or any officer or employee of the Association;
- l) to enter into contracts and to authorise the settling of the terms of and the signature of any contract or any other document;
- m) to interpret any clause of the Constitution or By-laws if any dispute arises as to its meaning, such interpretations being binding on the members of the Association if accepted by not less than 75% of the members of the Board;
- n) to prescribe the form of the instrument appointing a proxy;
- o) generally, to do whatever the Board deems necessary to enable it to carry out the objects of the Association, to exercise the powers, to perform the functions and discharge the duties given to or imposed upon it in terms of this Constitution.

7. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

- a) At its first meeting after taking office every year, the Board shall elect from amongst its members, a Chairperson and Vice-Chairperson of the Association, to hold office until the election of their successors. The Chairperson so elected, shall stand for an initial period of two years thereafter subject to annual election by the Board.
- b) The Board upon election will appoint an Honorary Treasurer of the Association or other Officers as they consider necessary for the management and conduct of the affairs of the Association. If such Officers are not themselves members of the Board, they shall be considered as ex officio members for the purpose of attending Board meetings where required to do so but shall be eligible to vote in the meetings.

8. MEETINGS OF THE BOARD

- a) The Board shall meet whenever and as often as it considers necessary but at least quarterly during its term of office at such times and places as it may determine.
- b) Meetings may be held by telephonic or electronic means and Board members who establish a communications link to a meeting shall be deemed to be present at that meeting.
- c) The quorum for meetings of the Board shall be not less than half its number.

- d) Questions arising at a meeting of the Board shall be decided by a majority of votes of members personally present and the Chairperson shall have a casting vote in addition to their deliberative vote.
- e) A resolution in writing approved via written confirmation or signed by not less than a quorum of the members of the Board shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and constituted.
- f) The Board shall cause proper minutes to be kept of:
 - i. all meetings of the Board;
 - ii. all general meetings of members of the Association.

9. OTHER SUB-COMMITTEES

- a) The Board may appoint other sub-committees to assist it in the performance of its functions and duties and shall be guided by the Sub-Committee Terms of Reference as approved by the Board. The sub-committee may appoint such of its members and such persons who are not members of the Board or the Association as it may deem fit to be members of any such sub-committee.
- b) One of the members of a sub-committee may be designated by the Board as chairperson of the committee. Should the Board not so designate a member as chairperson or should the member so designated not be present or be unable to act at any particular meeting, that sub-committee shall elect a chairperson.
- c) Any sub-committee so formed shall comply with any instructions given by the Board and shall keep minutes of its meetings if so directed. All decisions made by the sub-committee shall be presented to the Board for ratification.
- d) The Board may assign to a sub-committee so established such of its powers which it may deem fit, but it shall not be divested of any power which it may have assigned to a sub-committee and it may amend or revoke any decision of such sub-committee.
- e) Any sub-committees to whom the foregoing powers have been assigned shall continue to act and retain the powers so assigned until its appointment is revoked by the Board.

10. CHAIRPERSON OF MEETINGS

The Chairperson of the Association, or in their absence the Vice-Chairperson, shall preside at all Board meetings. In the absence of the Chairperson and the Vice-Chairperson, the members present at the meeting shall elect from their own number a chairperson for that meeting.

11. REGISTERED OFFICE

- a) The registered office of the Association shall be situated at such place as the Board may from time to time determine.
- b) The Board may form branches of the Association whenever and wherever deemed by it to be desirable and on such terms and conditions as may be prescribed in the By-laws from time to time.

12. FUNDS OF THE ASSOCIATION

- a) The Association shall, subject to the provisions of this Constitution, apply its funds and income solely for investment purposes or in promoting the objectives of the Association.
- b) The Association shall not distribute any profits or gains by way of dividend or otherwise to its members or to any other person.
- c) Members or officers of the Association shall not have rights in the property or other assets of the Association by virtue of their being members or officers.
- d) Should the Association be wound up, a person who has ceased to be a member of the Association or the executors, administrators, heirs or assigns of such person, shall in no circumstances have any claim to or against the Association by reason only of such previous membership.
- e) Should the Association be wound up, its funds shall be dealt with in accordance with the provisions of this Constitution.
- f) The financial year of the Association ends on the last day of February each year.

13. GENERAL MEETINGS

- a) A General Meeting of the Association may be convened only at the insistence of the Board and shall be held at a place and on a date and at a time determined by the Board.
- b) Meetings may be held by telephonic or electronic means provided that the Association ensures reasonable accessibility within South Africa for electronic participation by members. Members who establish a communications link to a meeting shall be deemed to be present at that meeting.
- c) Twenty-one days' notice of a General Meeting, specifying the place, date and time of the meeting and the business to be dealt with, shall be sent by electronic mail to each member at their registered e-mail address. The accidental omission to give notice to any member shall not invalidate the proceedings at any such meeting.
- d) The quorum at a General Meeting shall be 10 members of the Association personally present or by proxy who are entitled to vote. Unless that quorum are personally present within 15 minutes of the time appointed for the meeting, the meeting shall stand adjourned for a future date agreed to by those present.
- e) At an adjourned meeting, the members present shall form a quorum and shall have full power to transact the business of the meeting, which could have been transacted, had the meeting been held on the date for which it was called.
- f) Every member of the Association who is not in arrears in payment of their annual membership fee or any contribution or charge payable by them to the Association shall be entitled to be present in person or by proxy at a General Meeting. Each such member shall have one vote. Proxies in the form laid down by the Board shall be lodged at the head office of the Association of less than 48 hours before the time of the meeting.
- g) Every motion proposed and seconded at a General Meeting of the Association shall, if

so demanded at the meeting, be decided by a poll. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll was demanded.

- h) A poll shall be taken in such manner as the chairperson directs and the result of the poll shall be deemed to be the resolution of the meeting. Scrutineers not being proposers or seconders of the resolution shall be elected to declare the result of the poll and their declaration, which shall be announced by the chairperson of the meeting, shall be deemed to be the resolution of the meeting on the motion on which the poll was demanded, and an entry to that effect in the minutes of the proceedings shall be conclusive evidence of the result.
- i) An annual General Meeting shall be held each year not later than six months after the end of the previous financial year. The provisions of (a) to (e) above in respect of a General Meeting shall apply to an annual General Meeting. The business to be dealt with shall be to receive, consider and approve the annual financial statements and the annual report by the Chairperson on the state of affairs of the Association and the election of Board members. In addition, any business required to be dealt with at a general meeting may be dealt with at an annual General Meeting provided due and proper notice is given.

14. BY-LAWS

- a) The Board may from time to time establish, add to, rescind, and/or amend the By-laws.
- b) The Board, in making and/or rescinding and/or amending the By-laws may cover any matter, which the Board considers necessary or expedient to prescribe for the better execution of this Constitution and the furtherance of the objects of the Association.
- c) A resolution for the making and/or rescinding and/or amending of the By-laws shall be deemed to have been passed if carried by at least 75% of the Board members.

15. REGISTER OF MEMBERS

The Board shall maintain a Register of Members of the Association.

16. FINANCIAL STATEMENTS AND AUDIT

The Board shall cause:

- a) records to be meticulously kept of all transactions undertaken in the name of the Association;
- b) annual financial statements to be prepared and circulated to members. Such statements shall be audited by a member or firm appointed by the Board. The remuneration of the auditor shall be determined by agreement between the Board and the auditor and shall be disclosed in the annual financial statements.

17. INDEMNITIES

- a) Every member of the Board or of any committee appointed by it and every officer and

employee of the Association shall be indemnified by the Association against claims made against them and any losses and expenses incurred by them in or about the execution of their duties, except claims, losses or expenses arising from their own fraud or wilful default.

- b) No member of the Association shall have any claim against the Association, or against a member of the Board or of any committee appointed by it, or against any officer or employee of the Association, in respect of anything done bona fide by it or them or any of them in the execution of their duties.
- c) No member of the Board shall be liable for any act of dishonesty or other misconduct committed by any other Board member unless they knowingly allowed it or was an accessory thereto.

18. LIMITATION OF LIABILITY

- a) A member of the Association shall not have any liability for any commitments undertaken by the Association. All persons shall be deemed to contract or deal with the Association on this basis.
- b) The liability of a member shall be limited to the payment to the Association of any outstanding fees, membership fees and contributions and settlement of any other debts to the Association, which they may have incurred.

19. AMENDMENT OF CONSTITUTION

The Constitution may from time to time be amended, provided that such amendments are approved by not less than seventy-five percent of the members of the Association who are present in person or by proxy at a General Meeting of which the requisite notice has been given with full particulars of the proposed amendments and the quorum for such meeting shall be not less than 10 members of the Association.

20. WINDING UP

- a) The Association may be dissolved and/or wound up at any time by either:
 - i. a unanimous resolution to that effect taken by all the Board members then in office; and
 - ii. by a resolution of not less than seventy-five percent of the members who are present in person or by proxy at a duly convened and constituted General Meeting and in respect of which clause 15 (c) shall apply.
- b) Members shall not have any claim in respect of any surplus there may be on winding up of the Association.
- c) Upon its being wound up any funds or assets of the Association remaining after the payment of the debts and expenses of the Association and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions with objects similar to those of the Association, including educational institutions (but excluding individual members or firms or companies controlled by members) as the Board shall decide.
- d) The winding up shall be carried out in accordance and in compliance with any applicable legislation.

- e) Where appropriate the Association may invoke the application for business rescue provisions of the Companies Act. A unanimous resolution of the Board is required for this purpose.