THE RULES FOR THE ETHICS HEALTH ADVISORY COUNCIL WERE DETERMINED BY THE MINISTER FOR HEALTH IN ACCORDANCE WITH SECTION 17(3) OF THE HEALTH CARE ACT 2008 ON THE DAY OF JANUARY 2010

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MINISTER FOR HEALTH
# ETHICS HEALTH ADVISORY COUNCIL RULES

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PART 1 - PRELIMINARY

Establishment

1. The Minister has by notice in the Gazette established the Ethics Health Advisory Council ("the Advisory Council") as an unincorporated health advisory council pursuant to section 15 of the Health Care Act 2008 ("the Act"). In particular, the Advisory Council is established in relation to the Minister, the Chief Executive and the Department.

2. The Advisory Council is established to advise on health-related ethical issues of a general nature including those of interest to the community.

3. In fulfilling the roles for which it is established, the Advisory Council will:

   3.1. act in accordance with the Act and give effect to the policies from time to time determined by the Minister either generally or specifically;

   3.2. operate consistently with the strategic objectives of the Government of South Australia either generally or specifically and not act in any way to adversely affect the rights or interests of the Government of South Australia under the terms of any agreement.

Functions

4. The functions of the Advisory Council are, subject to clause 5 of these Rules, to:

   4.1. provide advice to the Minister, the Chief Executive and the Department on health-related ethical issues in connection with;

   4.1.1. organ donation
   4.1.2. assisted reproductive treatment and associated issues
   4.1.3. genetics
   4.1.4. stem cell research
   4.1.5. end of life
   4.1.6. confidentiality
   4.1.7. consent to medical treatment;

or any other health related ethical issues referred to the Advisory Council by the Minister, the Chief Executive or the Department.
4.2. provide advice to the Minister, the Chief Executive and the Department about goals, priorities, plans, projects, policies, programs and other relevant strategic initiatives with a health-related ethical impact or focus;

4.3. consult with other bodies with an interest in health-related ethical issues;

4.4. provide advice about any other health-related ethical issue referred to it by the Minister, the Chief Executive or the Department;

5. The Advisory Council will not provide advice on matters referred from or relating to individual health services, individual patients of a health service, to individual staff or individual clinical cases or trials.

PART 2 - ADVISORY COUNCIL MEMBERSHIP

The Council

6. The Advisory Council will comprise no more than 9 Members, appointed by the Minister in accordance with these Rules.

7. In making appointments to the Advisory Council, regard will be had to ensuring appointees have an appropriate balance of skills, qualifications or experience as appropriate to the powers and functions of the Advisory Council.

8. In making appointments to the Advisory Council, the Minister will ensure, as far as practicable, the appointees consist of equal numbers of men and women.

Deputies

9. The Minister may, from time to time, appoint a suitable person to be the deputy of a Member of the Advisory Council, and the Minister may revoke such an appointment.

10. The requirements of qualification and nomination set out in these Rules in relation to the appointment of a Member extend to the appointment of a deputy of that Member.

11. If a Member of the Advisory Council is unable to attend a meeting of the
Advisory Council, the Member’s deputy:

11.1. is, if available, to act in the place of the Member; and

11.2. while so acting, has all the functions of the Member and is taken to be a Member.

Vacancies

12. In addition to those matters set out in Schedule 2 clause 2(2) to the Act, the office of a member will become vacant if the member:

12.1. is absent for 3 or more consecutive meetings of the Advisory Council without the prior written permission of the Presiding Member of the Advisory Council;

12.2. fails to comply with a duty imposed under Part 2, Division 4 of the Public Sector Management Act 1995;

12.3. ceases to satisfy the qualification by virtue of which the Member was eligible for appointment to the Advisory Council.

Filling of Vacancies

13. Upon the office of a Member becoming vacant by expiration of the term of office, a person may be appointed to that office in accordance with these Rules.

14. The Minister may appoint a person to be a Member to fill a casual vacancy on the Advisory Council (namely a vacancy that has occurred by reason of other than the expiration of the Member’s term of office) who shall be a nominee of the body which had nominated the Member whose departure created the casual vacancy. Any such Member shall hold office from the date of appointment for the unexpired term of the Member whose office is being filled.

15. In the event that the casual vacancy filled in accordance with clause 14 is that of the person who has been appointed as Presiding Member of the Advisory Council, then the Members of the Advisory Council shall within 7 days of the filling of the casual vacancy, nominate one of their number to be appointed Presiding Member in accordance with clause 4 of Schedule 2 to the Act.
Terms of Appointment

16. Members will hold office for a term of up to 3 years.

17. A Member shall be eligible for re-appointment for a further term or terms, up to a maximum of nine consecutive years.

Appointment of Members

18. The Advisory Council will comprise no more than 9 Members appointed by the Minister, of whom:

18.1. 1 is to be selected from a panel of 2 lawyers with experience in bioethics, nominated by The Law Society of South Australia;

18.2. 1 is to be selected from a panel of 2 ethicists, nominated by the Ethics Centre of South Australia;

18.3. 1 is to be selected from a panel of 2 philosophers, nominated by the Ethics Centre of South Australia;

18.4. 1 is to be selected from a panel of 2 People of Aboriginal Descent, nominated by the Aboriginal Health Council of South Australia Inc;

18.5. 1 is to be selected from a panel of 2 persons, nominated by the Clinical Senate;

18.6. 1 is to be selected from a panel of 2 persons, nominated by the Heads of Churches in South Australia;

18.7. 2 are to be selected from a panel of 3 persons, nominated by the Health Consumers Alliance Inc of South Australia.

19. 1 person who has been selected and appointed as Member by the Minister in accordance with clause 18, will also be appointed by the Minister as Presiding Member of the Advisory Council after due consideration of the qualities he or she possesses, with a view to achieving an appropriate balance and level of skill and experience on the Advisory Council.

20. Each panel provided by the nominating bodies listed in clause 18 from which the Minister is to select a person for appointment as a Member of the Advisory Council must include 1 woman and 1 man.
21. The following provisions shall apply to the nomination of a Member in clause 18:

21.1. At least 12 weeks before the expiry of a term of a Member of the Advisory Council, the Advisory Council will send notice to the body from which the Member was nominated, calling for persons to be nominated to fill the offices that will become vacant.

21.2. The Advisory Council must provide the names of persons nominated for appointment by the nominating bodies listed in clause 18 to the Minister at least 6 weeks before the expiry of the term of the Member.

21.3. The Minister shall appoint 1 person from a panel provided by each of the nominating bodies listed in clause 18 to hold office as a Member of the Advisory Council for a term of up to 3 years.

21.4. In the event that any of the nominating bodies listed in clause 18 do not nominate a person to fill an office which will become vacant due to the expiry of the term of a Member, the Minister may appoint a person to fill the vacancy.

PART 3 - PROCEEDINGS OF THE ADVISORY COUNCIL

Ordinary Meetings of the Advisory Council

22. The Advisory Council is to hold ordinary meetings at times and places determined by the Advisory Council.

23. The Advisory Council will hold at least 4 ordinary meetings in any 12 month period and these meetings are to be held at regular intervals.

24. The Advisory Council may invite persons other than Members to any meetings of the Advisory Council, but such persons will not be entitled to vote and are not Members of the Advisory Council.

25. Written Notice of an ordinary meeting of the Advisory Council is to be given by a Nominated Officer at least 7 days before the meeting. Written Notice is to be given to all Members and persons invited to attend the meeting by the Advisory Council.

26. The Written Notice to a Member is to be accompanied by the following:
26.1. a copy of the agenda for the meeting;

26.2. a copy of the minutes of the previous ordinary meeting of the Advisory Council if a copy has not previously been distributed to Members; and

26.3. a copy of the minutes of any special meeting of the Advisory Council held since the Advisory Council’s last ordinary meeting if a copy has not previously been distributed to Members.

27. Written Notice is to be provided to persons invited to attend the meeting and will be accompanied by such of the material referred to in clause 26 as the Presiding Member considers appropriate.

28. The quorum for a meeting of the Advisory Council is a majority of the Members for the time being.

29. The Presiding Member of the Advisory Council or, in the absence of the Presiding Member, another Member elected to preside at the meeting by the Members present, is to preside at a meeting of the Advisory Council.

30. The person presiding at any meetings of the Advisory Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

31. A decision supported by a majority of the votes cast at a meeting of an Advisory Council at which a quorum is present is the decision of the Advisory Council.

32. A conference by telephone or other electronic means between the Members of the Advisory Council will be taken to be a meeting of the Advisory Council at which the participating Members are present if:

32.1. notice of the conference is given to all Members in the manner determined by the Members of the Advisory Council for that purpose; and

32.2. each participating Member is capable of communicating with every other participating Member during the conference.

33. A proposed resolution of the Advisory Council becomes a valid decision of the Advisory Council despite the fact that it is not voted on at a meeting of the Advisory Council if:
33.1. notice of the proposed resolution is given to all Members in accordance with procedures determined by the Members of the Advisory Council; and

33.2. a majority of the Members of the Advisory Council express their concurrence in the proposed resolution by letter, facsimile transmission or other written or electronic communication setting out the terms of the resolution.

Special Meetings of the Advisory Council

34. A special meeting of the Advisory Council is to be called by a Nominated Officer:

34.1. at the direction of the Presiding Member; or

34.2. within 48 hours of receipt by a Nominated Officer of a written request for a special meeting signed by at least 3 Members.

35. A special meeting is to be held not later than 7 days after receipt by a Nominated Officer of a request referred to in sub-clause 34.2.

36. A Nominated Officer is to give at least 24 hours notice of a special meeting to each Member and each person invited to attend the meeting by the Advisory Council.

37. Notice of a special meeting is to specify the business to be considered at that meeting. Only business specified in the notice of a special meeting is to be considered at the special meeting.

Minutes

38. The Advisory Council will cause minutes to be made of all proceedings of all meetings of the Advisory Council.

39. A motion for the confirmation of minutes of any meeting of the Advisory Council is to be put to the next ordinary meeting.

40. The Advisory Council must provide copies of its minutes to the Chief Executive as and when requested.

41. Clauses 38 to 40 do not limit the application of any other Act or policy of the Minister relating to the provision of information.
**Rescission**

42. The Advisory Council may at any ordinary or special meeting vary or rescind any resolution carried at any previous meeting of the Advisory Council only if the motion to vary or rescind the resolution has been included in or with the notice of the meeting.

43. If a motion to vary or rescind any resolution is considered at a meeting of the Advisory Council and is not carried, the motion is not to be reconsidered by the Advisory Council during a period of 3 months from the date of that meeting.

**Procedures**

44. The Advisory Council may develop a set of procedures to be followed by the Advisory Council at and between meetings. Such procedures may include provision for internal dispute resolution and identify persons or entities with whom the Advisory Council may consult when it requires assistance in relation to any matters.

**PART 4 - MISCELLANEOUS**

**Subcommittees**

45. Subject to clause 6 of Schedule 2 to the Act, the Advisory Council may establish subcommittees to advise the Advisory Council on any aspect of its functions.

46. The Advisory Council may appoint relevant persons, including experts, to participate as members of a subcommittee.

47. The functions of and procedures to be observed by a subcommittee, including its manner of reporting to the Advisory Council, will be determined by the Advisory Council.

**Vacancy in membership or irregularity in appointment of Member**

48. An act or proceeding of the Advisory Council is not invalid by reason only of a vacancy in its membership or a defect or irregularity in, or in connection with, the appointment of a Member.

**Access**
49. The Advisory Council will allow any employee of the Chief Executive of the Department with the consent in writing of the Minister, or any person authorised in writing in that regard by the Minister, to enter any premises occupied by the Advisory Council and to have access to and inspect all records, documents and other data in the possession of the Advisory Council and to interview officers of the Advisory Council.

Reports

50. The Advisory Council will prepare and submit to the Minister, when required from time to time, a report explaining any aspect of the activities of the Advisory Council.

51. Section 22 of the Act does not apply to the Advisory Council.

PART 5 - DEFINITIONS

52. In these rules whenever appearing:


“Chief Executive” means the Chief Executive of the Department and includes a person for the time being acting in that position.

“Department” means the administrative unit of the Public Service that is, under the Minister, responsible for the administration of the Act.

"Member" unless the contrary intention appears, means a Member of the Advisory Council for the time being and includes a person appointed to act in the office of a Member during the absence of the Member.

"Minister" means the Minister of the Crown to whom the administration of the Act is for the time being committed, and includes any Minister of the Crown for the time being discharging the duties of office of that Minister or, where the Minister has delegated the relevant power or function under the Act or these rules, any such delegate of the Minister.

"Nominated Officer" means any person or office nominated by the Advisory Council to discharge the powers and functions set out in Part 3 of these Rules.
“People of Aboriginal Descent” means people who identify as Aboriginal and who are accepted as such by their communities.

“Presiding Member” means the person appointed by the Minister pursuant to clause 4 of Schedule 2 to the Act.

"Rules" means these Rules and the Schedules and includes any amendment thereto.

"Staff" means employees of the Chief Executive.

"Written Notice" includes notice by electronic means.

53. Other terms in these Rules have the same meaning as that ascribed to them in the Act.