

MinterEllison

22 November 2021

BY EMAIL ONLY

David Hatfield
Director | Adjudication
Merger & Authorisation Review Division
Australian Competition & Consumer Commission
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Dear Mr Hatfield

State of Victoria as represented by the Department of Health for interim authorisation AA1000567 – ongoing reporting obligations

1. On 26 August 2021 the Australian Competition and Consumer Commission (ACCC) granted interim authorisation to the Department of Health (the **Department**), together with specified private healthcare providers and public hospitals and healthcare facilities operating in the State of Victoria (together, the **Applicants**) to:
 - (a) discuss, enter into and give effect to contracts, arrangements or understandings (**Agreement(s)**) which have the broad purpose of maximising healthcare capacity and ensuring the State-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic; and
 - (b) engage in other conduct that is related to the Agreements and is necessary or desirable to give effect to the Agreements and facilitate the objectives of the Agreements, at the request or direction of the Department or a Victorian public hospital or healthcare facility,

(the **Proposed Conduct**), (the **ACCC Interim Authorisation Decision**).
2. The ACCC Interim Authorisation Decision is subject to the following conditions:
 - (a) **Condition 1:** the Department provide regular updates to the ACCC in relation to the Proposed Conduct; and
 - (b) **Condition 2:** the Department notify the ACCC in the event that any additional private healthcare providers (to those listed in Attachment 1 of the ACCC Authorisation Decision) will participate in the Proposed Conduct.
3. The purpose of this letter is to provide the information necessary to comply with Condition 1, which is set out in the **Annexure** to this letter.
4. The Annexure to this letter contains information that is confidential to the Department. This confidential information has been highlighted in the Annexure in red highlighting. The Department requests that the ACCC treat the highlighted information as strictly confidential (subject to its usual confidentiality provisos) and that it be redacted from this document prior to publication on the ACCC's public register.

Please let us know if the ACCC has any questions.

Yours faithfully
MinterEllison

Contact: Tom Faulstich T: [REDACTED]

Partner: Geoff Carter T: [REDACTED]

Annexure – Condition 1 reporting

1. Summary of the agreements entered into under the Authorisation Decision

The Department and certain Participating Providers (as that term is defined in the ACCC Interim Authorisation Decision) have agreed to amend and restate the terms of their respective funding agreements (██████████). The amendments or restatement of amendments which have or are being implemented pursuant to the ██████████ are as follows:

- (a) the ██████████;
- (b) the ██████████;
- (c) the ██████████;
- (d) ██████████; and
- (e) minor and consequential amendments and clarifications.

Details of variation

Details of the ██████████ were provided in our reporting letter dated 21 October 2020 and are not repeated in this letter.

Details of the ██████████ were provided in our reporting letter dated 20 November 2020 and are not repeated in this letter.

Details of the ██████████ and ██████████ were provided in our reporting letter dated 21 October 2021 and are not repeated in this letter.

The following Providers have entered into the ██████████ (up to 21 November 2021)

Phase 1

- Cabrini Health Limited ACN 108 515 073;
- Epworth Foundation trading as Epworth HealthCare ABN 97 420 694 950;
- Health Care Surgical Holdings Pty Ltd ACN 636 439 524;
- Healthscope Operations Pty Ltd ABN 85 006 405 152;
- Ramsay Health Care Investments Pty Limited ABN 44 078 881 473;
- St John of God Health Care Inc ARBN 051 960 911; and
- St Vincent's Private Hospitals Ltd ABN 61 083 645 505.

The following Providers have delivered copies of an executed version of the ██████████ (up to 21 November 2021)

Phase 2

- Euroa Health Inc. ABN 92 619 716 188;
- Kitaya Holdings Pty. Ltd. trading as Jessie McPherson Private Hospital ABN 49 006 610 368;
- Mildura District Hospital Fund Ltd ABN 13 078 202 089;
- Stanlake Private Hospital Pty. Ltd. trading as Western Private Hospital ABN 47 006 896 322;
- The Bays Healthcare Group Inc ABN 35 146 117 211; and
- Wyndham Clinic Pty Ltd ACN 145 831 545 as trustee for Wyndham Clinic Unit Trust ABN 63 596 420 540.

Phase 3

- Nexus Day Hospitals Pty Ltd ABN 32 165 826 808;


- Victorian Centre for Mental Health Pty Ltd ABN 95 621 575 184;
- Monash House Private Hospital Pty Ltd ABN 91 603 236 755 as trustee for Monash House Private Hospital Unit Trust ABN 41 784 810 220; and
- Sunshine Private Day Surgery Pty Ltd ABN 46 614 055 739.



2. Summary of matters discussed at any meetings of the Private Hospital Coordination Group (PHCG)

We have set out a summary of matters discussed at the meetings of the PHCG that have occurred since 13 October 2021 aside from a meeting of the PHCG that occurred on Wednesday, 17 November 2021. The minutes for that meeting are still being finalised. As such, a report on that meeting will be included in next month's reporting letter.

Meeting date	Summary of matters discussed
20 October 2021	[Redacted]
27 October 2021	

Meeting date	Summary of matters discussed
	
3 November 2021	
10 November 2021	