

MinterEllison

30 June 2022

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 2 December 2021 the Australian Competition and Consumer Commission (**ACCC**) granted 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 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 contracts, arrangements or understandings referred to above 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 **Authorisation**).
2. The Authorisation is subject to the following conditions:
 - (a) Subject to paragraph (b) below, the Department must provide updates to the ACCC on a quarterly basis (or as otherwise agreed with the ACCC), describing any conduct engaged in during that quarter in reliance upon this authorisation.
 - (b) If no conduct was engaged in during that quarter in reliance upon this authorisation, or if there has been no change in conduct since the last update was provided, the Department is not required to provide an update.
3. The purpose of this letter is to provide the information necessary to comply with the conditions, 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 Faulls T:

Partner: Geoff Carter T:

Annexure – Reporting Requirements

1. Meeting of the Private Hospital Coordination Group (PHCG)

We have set out below a summary of relevant matters discussed at the meetings of the PHCG that have occurred since 16 March 2022 aside from a meeting of the PHCG that occurred on 15 June 2022. The minutes for that meeting are still being finalised. As such, a report on that meeting will be included in the next reporting letter.

Meeting date	Summary of relevant matters discussed
30 March 2022	<p><u>Covid situation report and update</u> <i>Discussed matters as associated with staffing, including number of furloughed staff.</i> [Redacted]</p> <p><u>Information Sharing</u> Update on elective surgery and alternative models to manage capacity and demand Elective Surgery <i>Discussed matters associated with elective surgery restrictions.</i> [Redacted]</p> <p>Alternative models <i>Discussed details of two independent models for management during current and future pandemic situations, including maintenance (surge) model and recovery (elective surgery) model.</i> [Redacted]</p> <p>PHFA update <i>Discussed PHFA updates, including period of coverage by Commonwealth, status of facilities transitioning out of arrangement and particulars of requirements for claims under the arrangement.</i> [Redacted]</p> <p><u>Other business / questions from CEOs</u> Maternity Services highlighted as requiring immediate assistance. <i>Discussed request for the provision of maternity services assistance to the public sector.</i> [Redacted]</p> <p>Advice sought on what actions are required by facilities who are outside the PHFA if AV presents with COVID+ patients.</p>

Meeting date	Summary of relevant matters discussed
	<p><i>Discussed approach to facilities outside the PHFA, including developing guidance and communications on the same.</i></p> <p>[REDACTED]</p> <p>Question on what percentage of staff is currently being furloughed. <i>Discussed staffing matters, including number of furloughed staff and consideration of staff recruitment program.</i></p> <p>[REDACTED]</p>
27 April 2022	<p><u>Covid situation report and update</u> <i>Discussed matters associated with staffing, including number of furloughed staff.</i></p> <p>[REDACTED]</p> <p>Update on hospital visitor restrictions <i>Discussed changes to visitor restrictions, including guidance for managing visitors and risk assessments.</i></p> <p>[REDACTED]</p> <p>Case load strategy matrix <i>Discussed matters associated with case load strategy matrix, including current review and considerations for new matrix.</i></p> <p>[REDACTED]</p> <p>Aged care update <i>Discussed matters associated with aged care facilities, including management of outbreaks.</i></p> <p>[REDACTED]</p> <p>PPE update <i>Discussed PPE and RAT supply, including current stock, purchasing, and monitoring of supply chains.</i></p> <p>[REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Workforce update <i>Discussed matters associated with the workforce, including impact on patient movements and staffing between ICU and ED.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><u>Information Sharing</u> Update on elective surgery and alternative models to manage capacity and demand. PHFA March Quarter Reconciliations <i>Discussed matters associated with PHFA reconciliation payments, invoices and auditing.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Elective Surgery <i>Discussed matters associated with elective surgery, including assessment of consolidated private / public estimates by the Department, proposed next steps regarding contracting process.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Local COVID Support Plan <i>Discussed local Covid support plan, including status of meetings, review of trigger matrix and commercial contracts.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>PHFA update <i>Discussed PHFA update, including number of operators / facilities and transitional arrangements for facilities exiting the PHFA.</i></p> <p>[REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p>
11 May 2022	<p><u>Covid situation report and update</u> <i>Discussed matters associated with staffing, including number of furloughed staff. Discussed ED and AV demands, including capacity and staffing.</i></p> <p>[REDACTED]</p> <p><u>Information Sharing</u> Pandemic Roadmap <i>Discussed matters associated with updated roadmap model, including discussion of various factors to be taken into account (case load strategies, workforce indicators, ED demand, consideration of staff ratios and team-based management), approach to elective surgery restrictions, the proposed assessment, consultation and feedback process, process for recommending any changes to the roadmap and feedback already received from private providers.</i></p> <p>[REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Update on elective surgery and alternative models to manage capacity and demand <i>Discussed matters associated with elective surgery coordination, including progress of pandemic support plan, preparation and finalisation of contracts, next steps and timing of roll out.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>PHFA update <i>Discussed PHFA update, including future status of hospitals under the PHFA's and guidance regarding PPE sourcing for facilities that have exited from the PHFA.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
26 May 2022	<p><u>Covid situation report and update</u> <i>Discussed systems in place to manage hospitalisation, including care via COVID positive pathways, avoiding early hospitalisation, GP respiratory clinics and public health campaigns.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><u>Information Sharing</u> Winter Response Plan <i>Discussed draft Winter Response Plan (previously, Pandemic Roadmap), including timing of review and governance.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>Update on Local COVID-19 Support Plans <i>Noted timeline for feedback and finalising contracts related to surge support plans, noting proposed reporting and payments under contracts.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>PHFA update <i>Discussed coordination of matters relating to PHFA exit.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

2. Meeting of the Day Procedure Centre CEO (DPC)

We have set out below a summary of relevant matters discussed at the meetings of the DPC that have occurred since 8 February 2022 aside from a meeting of the DPC that occurred 14 June 2022. The minutes for that meeting are still being finalised. As such, a report on that meeting will be included in the next reporting letter.

Meeting date	Summary of relevant matters discussed
8 March 2022	<p><u>Covid system update</u> <i>Noted implementation of Healthcare workforce recovery plan, including staff ratios under Healthcare Act.</i> [REDACTED]</p> <p><u>Information Sharing</u> PHFA update <i>Discussed current PHFA status, including status and number of operators with PHFA's in place.</i> [REDACTED]</p> <p>International recruitment of healthcare staff <i>Noted consideration of international recruitment of workforce.</i> [REDACTED]</p> <p>Private deployment survey results <i>Discussed survey results, including response rate and feedback from hospitals.</i> [REDACTED]</p> <p>Update on staff deployment clause <i>Discussed amendments to staffing, including expanding secondment eligibility and historical work hours for casual staff.</i> [REDACTED]</p> <p>Alternative models to managing capacity and demand <i>Discussed future planning for the two independent models – pandemic maintenance and pandemic recovery, including timing for reviews / meetings to commence.</i> [REDACTED]</p>
12 April 2022	<p><u>Information Sharing</u> Update from the Deputy State Controller <i>Discussed health system capacity, including number of staff furloughed, vacancy and sick leave rate, ED presentations, COVID streaming, transition from Pandemic Orders to policy / recommendations / guidance and planning for upcoming winter season.</i> [REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Acting premier's announcement on "COVID Catch-Up Plan to Deliver For Patients "and the opportunities for day hospital (Accessible via the link COVID Catch-Up Plan To Deliver For Patients Premier of Victoria) <i>Noted the plan's aims, including maximising public services, use of private facilities, recruitment of international healthcare workers, health service partnerships, surge requirements and supporting continuation of activities.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Update on alternative models to manage capacity and demand <i>Discussed focus of new model on inpatient multi day stays, including options for redeployment and building connections / relationships.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>PHFA update <i>Discussed PHFA update, including number and status of operators with PHFA's in place, expectations regarding exit from PHFA and quarterly report of PHFA activities.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><u>Round table Q & A</u> Opportunities for day hospital to contribute to pandemic recovery / surgery catch up <i>Discussed opportunities for day hospitals to contribute to pandemic recovery.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p>
10 May 2022	<p><u>Covid situation report</u> Update from the Deputy State Controller <i>Discussed matters associated with the workforce, including possibility of recruiting international healthcare workers, restrictive workforce pressures and status of roadmap.</i></p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Update on alternative models to manage capacity and demand <i>Discussed timing of PHFA and matters associated with the development of alternative models.</i></p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>