MinterEllison.

4 April 2022

BY EMAIL ONLY

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Dear Mr Hatfield

State of Queensland as represented by Queensland Health for authorisation AA1000572 – Reporting requirements

1. On 2 December 2021, the Australian Competition and Consumer Commission (**ACCC**) granted authorisation to Queensland Health, together with specified owners or operators of private health facilities (**Participating Providers**)in Queensland (and their related bodies corporate) and each of Queensland's Hospital and Health Services (together, the **Applicants**) to 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 (the **Conduct**), (**Authorisation AA1000572**). The ACCC granted authorisation until 24 June 2023.

2. Authorisation AA1000572 was subject to the following conditions:

   (a) Subject to paragraph (b) below, Queensland Health 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; or

   (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, Queensland Health is not required to provide an update,

   (**Reporting Requirements**).

3. On 13 December 2021, the ACCC confirmed the first report under the Reporting Requirements would be due at the end of March 2022.

4. The purpose of this letter is to provide information necessary to comply with the Reporting Requirements, which is set out in **Annexure 1** to this letter.

Please let us know if the ACCC has any questions.

Yours faithfully
MinterEllison

Partner: Kathryn Finlayson

OUR REF: 1295011

Annexure 1 – Reporting Requirements

1. Meeting of the Private Health Facility Coordination Group

There were 8 meetings of the Private Health Facility Coordination Group between 2 December 2021 and the end of March 2022. A summary of the matters discussed at the meetings is set out in the below table.

Date of meeting	Summary of matters discussed
6 January 2022	**Update on current COVID-19 pandemic:** Update provided covering matters including Omicron situation, testing, doubling rate, hospital admissions, case numbers, and assessment and triage model. Update given that some Agreements are in place and being utilised, and amendments to other Agreements are being finalised. **National Cabinet announcement:** Update provided on changing isolation periods and emails sent to private facilities entailing updates on COVID. **Residential Aged Care**: Discussion about the suggestion of moving residential aged care patients into private hospitals; need for clear transfer and assessment processes, centralised standards, staffing concerns and existing facilities in the residential aged care space. **Change to financial reconciliation process**: Queensland Health provided an update on the financial reconciliation process and the level at which it would be undertaken. **Data template**: Queensland Health discussed use of data to assist private facilities to analyse where patients were coming direct to private emergency departments. **Surgery Connect update**: There was discussion about Surgery Connect being available to take referral to private facilities where there is capacity; managing referrals to private facilities, clinical category prioritisation; regular meetings and recommendations of the Elective Surgery Coordination group; thresholds for ceasing elective surgeries; workforce availability; and restrictions on emergency department pressure and beds. **Other business:** The meeting included a discussion about restrictions on visitors to public and private hospitals.
18 January 2022	**Current COVID peak case modelling**: Update was provided on case numbers, peak periods, hospitalisation numbers, predictions on future hospitalisation numbers, differing demographics between States and impact on peak periods. **PHFFA update**: Discussion occurred surrounding operational challenges in transferring beds from public to private sector, including numbers and transport options, communication, acceptance processes, support available from central pharmacies, central contact point, and the process for private facilities requiring COVID medications. **PPE and RAT testing**: An update was provided on the supply of PPE and RAT tests. **Reporting**: Discussions occurred on the accurate reporting of COVID numbers and bed numbers to Queensland Health, updating systems for reporting on patient/bed numbers, including, the requirement for situation reports, reporting on furloughed staff, a central list of patients under the agreement, patient numbers admitted to private facilities under agreement, the use of reporting to support operational discussions about the flow of patients to private facilities, queries about simplification of the existing processes, and reserve beds and occupied beds included in reporting. **Residential Aged Care Facilities (RACF)**: Discussion about assisting RACFs with COVID response plans, staffing, staff shortages, possibility of requests to admit RACF patients into private facilities as peak emerges, and Queensland Health arranging a meeting between the RACF representative and potential private facilities to discuss solutions. **Reservation Notices**: Discussions about reservation notices, bed numbers, duration, timing of giving notices, and the creation of a guide about the implementation of the process. **Public Hospital Visitor Directive:** Queensland Health provided an update about restrictions on visiting hospitals. Discussion occurred surrounding visitation at private facilities. **Action items**: The meeting touched on current COVID peak case modelling, the reporting template, determination of a consistent approach to reporting positive RAT cases, and Queensland Health to arrange an out of session RACF meeting with key operators.

Date of meeting	Summary of matters discussed
25 January 2022	**Current COVID peak case modelling**: Update was provided on case numbers, recovery numbers, fatalities, First Nation case numbers, testing rates, vaccination rates, COVID positive admissions in public facilities, occupation of requisition beds, and refinement of requisition process with private facilities. **Patient eligibility and barriers for acceptance by Operators**: Discussed exclusion criteria for patients going across as sub-acute and low acuity; fixed criteria was difficult to determine given it is based on local HHS demand and the private facility workforce/ environmental factors; local areas should be encouraged to work through patient criteria, and relevant to Clinical Services Capability Framework (**CSCF)** of sites, and should allow flexibility under current response. **Reporting of COVID patients**: Discussion about private facilities ensuring outsourcing services application is up to date to see in real-time what beds are occupied and available; once private facilities receive official reservation notice, they will need to contact the PHFFA office if some beds are no longer available, this will prevent issues with patient transfers with the HHSs. **Reporting**: Discussion about private facilities receiving capacity requests for information; private facilities providing data on furloughed staff and COVID reporting; weekly reporting against occupancy; and whether private providers have access to CRISP reporting for COVID positive patients. **Reconciliation**: Discussion about invoicing processes, including Queensland Health to provide a document regarding invoicing; one invoice per facility or provider, per month in arrears, with the total reservation service fee; if providers are applying for a viability fee that needs to be done in a separate invoice as it is reconciled differently, by a separate team; invoices from third parties would be declined; if providers have other agreements or other fee structure outside of the service fee, PHFFA will require evidence of that so it can be matched to the patient data as per the OSA; clarification around different transfer pathways could be flagged using 'Referral pathway' dropdown menu; invoice due dates. **Residential Aged Care:** Discussion around placement for residential aged care patients being discharged from hospital, COVID outbreaks impacting placement of RACF patients, staffing requirements and arrangements for placements in residential aged care facilities. Discussion occurred surrounding staffing shortages in private facilities and deployment of staff to residential aged care facilities, suggested incentive program for staff movement, widening the existing workforce, and emailing members with information about resources required by residential aged care facilities. **PHFFA update:** discussion of commencement, frequency and purpose of Service Review Group Meetings; purpose of meetings to discuss local issues facilities might have and the model of care. **Other Business:** Discussion occurred surrounding reminder to HHSs of type of patients to be accepted by private facilities; issues with patient flow in private facilities; the likelihood of increasing bed numbers; the provision of bed numbers to members; plans for transitioning patients back to public hospitals; Queensland Health advised request raised by correctional facility about FIT testing and asked if private facilities were interested in assisting, but also advised Queensland Health identified not within scope of PHFFA; provision of bed numbers to the unions, inclusion of discharge date as a mandatory field in the OSA.
1 February 2022	**Current COVID peak case modelling**: Discussion around COVID case numbers fatalities, ICU numbers, virtual Hospital in the Home (HITH) ward numbers, testing numbers, and reforming the out-of-hospital model of care to require patients to call the relevant number, where they will be risk stratified immediately and high risk patients will be flagged. **Patient eligibility and barriers for acceptance by Operators**: Discussion about whether any concerns unsuitable patients are being sent to private facilities, referrals of privately insured patients, expected spike in admissions with schools returning, ensuring maximisation of private capacity, circulating the Surgery Connect plan to maximise elective surgeries, surgical patients assisting with transition out process, transition out plans as arrangements only temporary while navigate peak of Omicron, numbers of reserved beds, elective surgery outlook, and availability of a new reporting system on State-wide elective surgery to assist providers to identify priority regions/specialisations. **Reporting**: Discussion about reporting systems.

Date of meeting	Summary of matters discussed
	Residential Aged Care: Discussion about staff lists, and Commonwealth Government RACF incentive. **Other Business**: Discussion about provision of union speaking notes to HHSs; pressures on private and public facilities; use of PHFFA for surgical activity if facilities have beds as part of transition out, using Surgery Connect prices; challenges with moving surgical patients, being influx of medical patients requiring beds; stability of models of care, and increase of Surgery Connect activity; forecasting of hospitalisations and provision of numbers to private facilities.
8 February 2022	**General COVID-19 update – current situation:** Discussion about case numbers, fatalities, testing, vaccination and booster shot rates, occupation of beds on reservation notices, reduction of bed requirements based on current utilisation and COVID admissions, expectation of COVID case spike post school commencing and during winter, and brief prepared detailing transition and recovery plan over next several months. **Reporting**: Discussion about implementation of reporting mechanism and positive compliance. **Invoicing and payments:** Discussion in relation to invoicing processes, including no changes to the prior updates regarding how invoices can be received; Queensland Health will not be accepting invoices from third parties; invoices should cover activity for the month; Queensland Health finalising a summary of invoicing and payment processes and will send out to the private facilities as soon as possible; invoice process for patients paid on a DRG under the surgical model, and Queensland Health advised that these patients would be covered under usual Surgery Connect processes and Surgery Connect will handle processing of these patients and their invoices. **Reservation notices:** Discussion around timeliness of approval processes and reporting from HHSs, distribution of information to private facilities on reservation notices for mid-February, indicative reservation numbers for next month from HHSs, provision of reservation numbers to private facilities, requirements for private facilities to bill reserved beds and discharges on same invoice, expected lower reserved bed numbers due to COVID patient numbers dropping, basis for reducing required reserved beds and funding arrangements for COVID and backlog support beds. **Residential Aged care:** Queensland Health advised Commonwealth taking charge of logistics of the process, identifying and transitioning staff to RACF, PHFFA are providing support around how to apply the contract and financial reconciliation, and Commonwealth potentially asking for FIT testing support at RACFs, but no direct requests received from the Commonwealth yet. **Transition Out**: Queensland Health advised expecting another COVID spike, brief being drafted about 'living with COVID', and once that point is reached the transition out process will be active formally and private facilities, along with the HHSs, will be able to start returning to BAU and normal practice. **Other Business**: Queensland Health advised that private facilities with First Nation patients in PHFFA beds but no Indigenous Liaison Office, could request the original Indigenous Liaison Team from HHS. Request for private facilities to ensure January data is accurate and invoices are timely.
22 February 2022	**Transition out**: Discussion about proposed final date to end transition of patients to private hospitals of 28 February, and expected date that all patients are either discharged or transferred back to the relevant public facilities by 15 March; exception for regional facilities; percentage of patients to be transferred into nursing homes or HHSs or HITH program; the facilitation of ongoing relationships between facilities and HHSs; requirements for site specific transition out programs; problems with transferring aged care patients due to full aged care facilities; payment transfers for aged care patients transfers; capacity and availability to support private facilities to accommodate patients; arrangements if patients admitted after proposed final date to end transition of patients; accommodating individual PHFFA arrangements if sites need more time to transition patients out; closing reservation of beds as patients are discharged; likelihood of reservation notices with significantly reduced numbers; requested reporting on reserved bed numbers and how many patients are currently at each facility, to assist with the transition out plan; whether facilities are likely to be placed back into abeyance; requirement of beds in Bundaberg due to delayed peak;

Date of meeting	Summary of matters discussed
	potential issue raised of number of patients that could be transferred from the public hospitals to private facilities up until the 28th February; aged care facilities on lock down; suggestions for long stay patients; keeping individual PHFFA agreements going if private facilities need too; invoices; approach in other states.
1 March 2022	**General COVID update**: Discussion on moving from COVID acute phase towards recovery and living with COVID; modelling on anticipated COVID numbers to determine anticipated COVID number, potential winter surges and performance recovery; potential leveraging of PHFFA relationships and use of Surgery Connect relationships to provide better support to medical cohort. **Invoices and payments**: Discussion about invoicing, covering Queensland Health progressing invoices for payment but have had to contact some suppliers for more clarity on service and reservation fees; working with sites individually to ensure invoicing and reconciliation is running smoothly processing progress and clarification requirement about service and reservation fees. **Transition out**: Discussion about reduction of reservation notices; aiming to cease transfers by 28 February; encouraged local HHS conversations with providers to maintain relationships formed under the PHFFA, and where support can be provided locally in an ongoing capacity; Queensland Health willing to assist with keeping the relationships between public and private providers and encourages providers to reach out if they are interested; majority of providers have no beds on reserve, with patients who are currently in beds, to be transferred out by 15 March; doing individual transition plans for each provider, however at time of meeting there are still patients who require a thorough transition out plan to meet the date of 15 March; if providers will still have patients admitted to their facilities after the 15 March, Queensland Health will contact those individual providers and discuss transition out plans; interest in developing a SCAN system to implement medical module used between HHSs and providers; usefulness of communicating with Queensland Health where providers take patients directly through the emergency department (ED); Commonwealth asked to provide a summary of what has taken place in the PHFFA.
8 March 2022	**General COVID update:** Update on case numbers, hospitalisation, ICU and ventilation numbers. **Invoices and payments**: Discussion about invoicing, covering Queensland Health requested minor changes from some providers regarding their invoicing; most of those providers who were contacted, have now returned a revised invoice based on the advice, and are now resolved. **Reservation notices**: Discussion about reducing reserved bed numbers, requirement for beds in regional areas particularly Central Queensland, Wide Bay, Mackay and Townsville, and the continuation of PHFFA arrangements where there are current COVID situations in a particular location or a large number of COVID inpatients. **Transition out**: Discussion about number of patients with estimated discharge date after 15 March; assumption that if haven't received a transition out plan from Queensland Health, patients will be discharged by the 15 March, and requested to contact Queensland Health if that won't occur. **Abeyance**: Discussion about remaining active until reserved beds hit zero. **Cancellation of ongoing meetings**: discussion about cancellation of ongoing meetings, reconvention of meetings if Queensland COVID status changes and PHFFA contract managers working with provider groups and HHSs to ensure discharges are as planned.

2. Meeting between Queensland Health and Participating Providers about support for RACFs

Date of meeting	Summary of matters discussed
24 January 2022	**Attendees:** Representatives from Queensland Health and a number of Participating Providers. **Summary**: Discussions about logistics of the Commonwealth request to provide staffing support to RACFs.

3. Service Review Group Meetings

Queensland Health and HHS representatives meet with the representatives from Participating Providers from time to time. The majority of these meetings are held between Queensland Health and one Participating Provider. However, one meeting was held in January 2022 where Queensland Health and multiple Participating Providers attended; a summary of that meeting is included in the table below.

Date of meeting	Summary of matters discussed
12 January 2022 at 2.00pm	**Capacity requests and patient cohort:** Discussions about transferring general rehab patients, use of wards for COVID patients, bed numbers, differing outlooks to low acuity medical patients, collaboration to support the State, supporting bed numbers for rehab, cancelling of surgeries and preventing entry to facilities, involvement of private facilities in relation to workforce, transferring rehabilitation patients when higher acuity clinical caseloads can be managed. Queensland Health will contact private facilities regarding capacity to take palliative care and sub-acute patients. **Medical Pathway – transfers:** Discussion about patients in the process of being transferred, transferring being done in stages, no transfers if they are being discharged within 72 hours, emergency department load share and concerns about transferring patient to facility then having to retransfer somewhere else. **Surgical Pathway**: Discussion about load share for surgeries, Visiting Medical Officers (**VMOs**) on trauma-call rosters and transferral of surgeries to private would be trauma on-call, lack of workforce capacity, keeping of existing pathways, reinstating bed management meetings and inclusion of Queensland Ambulance Service (**QAS**) and all private providers **Escalation – clinical**: Discussion about escalation being dealt with at local level. **Escalation – contractual:** Directed to the PHFFA Contract Managers. . **Other Business:** Discussion about agreed State bed rates, difficulties with costing, holding fees, availability of beds, potential stand-up of beds, co-payments where beds are allocated but not all beds are used, creation of a plan about flowing general medical patients to private facilities, proposal about splitting patients, pricing where no local contracts are in place, variation of existing contracts to accommodate new requirements, issues about allied health relation to rehab which is not covered by existing contracts, flexibility of new agreements to allow use of local contracts and changes in coding to reflect new contracts.