

6 October 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. In accordance with the Reporting Requirements, the reports are due at the end of each quarter.
4. The purpose of this letter is to provide information necessary to comply with the Reporting Requirements for the quarter ended 30 September 2022, 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 (**PHFCG**) between 30 June 2022 and the end of September 2022. A summary of the matters discussed at the meetings is set out in the below table.

Date of meeting	Summary of matters discussed
4 July 2022	<p><b>General COVID-19 update – current situation:</b> Update provided on case numbers for inpatients, increased staff furloughing due to new variant, virtual patient numbers, correspondence to Health and Hospital Services (<b>HHS</b>) about reducing planned care, reduction of planned care in private facilities. Discussion about greater visibility of COVID and the Queensland impact.</p> <p><b>National Partnership Agreement (NPA) and Financial Viability Payment (FVP) update:</b> Discussion about the extension of the NPA and FVPs, awaiting update from the Minister about extension of FVP, reconciliations with the Audit Office, issues with QHAPDC activity where facilities have not submitted data against the correct code for the PHFFA, Queensland Health advised that it will work with suppliers to identify and correct.</p> <p><b>Other Business:</b> Discussion about alternative approaches to Private Health Facility Funding Agreements (<b>PHFFA</b>) for transfer of non-planned care patient types, importance of understanding HHS trigger points where surge capacity is required, more visibility and communication of trigger points, turning off elective surgery will not impact inpatient medical beds, more information on the COVID response, recommencing PHFCG meetings on a fortnightly basis.</p>
18 July 2022	<p><b>General COVID-19 update – current situation:</b> Update was provided on inpatient numbers, access to the State-wide COVID status report, availability of Rapid Antigen Tests (<b>RATs</b>) for concession card holders, setting up of access and distribution model to make RATs accessible, supply of RATs and handout tests as single use supplies.</p> <p><b>National Partnership Agreement update:</b> Discussion occurred about FVP availability until September and discussion to be had about next steps, potential changes following meetings of the National Cabinet, continuing conversations for those willing to work together after September around contractual paths for post-September arrangements, trying to get into Surgery Connect to work that way with non-surgical based support, desire for flexible contracts within Surgery Connect for inpatient bed relief in the public sector, continuation of NPA support to fund PHFFA arrangements, models to re-adjust from PHFFA arrangement.</p> <p><b>HHS Planned care restrictions:</b> Discussion about elective surgery and outpatient activity in HHSs, consideration of suspension of HHS category 3 patients, potential for system level to close category 3 outpatients, reduction in elective surgeries in different States, mixing the reserved bed process for flexibility on a day-to-day basis for patients outside of reservation notices, process for reserving capacity where demand from HHS and capacity for providers, patients flowed over putting in the OSA to make clear cohorts, establishing flexibility of reservation notices, formalisation of agreement.</p> <p><b>Other Business:</b> Discussion about new model report, peaks, call out and continuation for support, balancing the system to maintain beds and the other work pressures, staffing concerns, obtaining directive on workforce. Action items of getting the Statewide COVID status reports current data for PHFCG meetings, providing interim options past October and providing directives around staff directives and COVID.</p>
19 July 2022	<p><b>Inpatient capacity planning:</b> Update was provided on occupied hospital beds, impact on workforce, continuity of current peak, forecast for occupied beds over the next few weeks, HHSs deferring non-critical planned care, demands for staff, pressure in emergency department to process patients, utilising pre-existing private sector relationships, billing and insurance of patients, substantial system demand to grow, preparedness and alertness to risks around capacity, struggles with sick leave and occupancy, decisions to be made around referrals, planned care and balancing capacity around public and private, case numbers inaccurate where no testing or reporting, modelling for hospital occupancy, case numbers to increase and then plateau, identification of new strains in Southeast Asia. Discussion about challenges in private sector because of staff furloughing, possible solution</p>

Date of meeting	Summary of matters discussed
	<p>of getting patients from emergency department to private hospital, elective surgery restrictions because staff levels are not strong.</p> <p><b>Action items:</b> Action items being to explore reimbursement models to entice private patients to private facilities, explore pricing models aligning with patients cohorts being transferred to private sector, HHSs to identify local demand for extra beds, continuation of weekly group meetings.</p>
25 July 2022	<p><b>General COVID-19 update – current situation:</b> Update was provided on hospital admissions numbers and demographics, deaths, predictions for bed requirements, vaccine uptake, future COVID waves, new COVID variant. Also received a COVID in Queensland update document, which included hospitalisation case numbers for inpatients, inpatient numbers broken down by HHS, and actual and predicated modelling.</p> <p><b>Issues:</b> Update on inpatient and furloughed staff numbers in private sector. Discussion about requests from Private Provider Group (PHAQ) including sharing reservation numbers, agile process with reservation numbers and when beds get dialled back down, looping back to HHSs to discuss plan, trigger points to initiate an urgent review of reservation numbers, forward planning for private providers for next few years, accommodating COVID, long-term contractual vehicle for access of inpatient beds for public patients in private facilities, and workshops where private operators can have input into model of care and operation of same.</p> <p><b>Other Business:</b> Discussion about management of COVID patients in hospitals.</p> <p><b>Update on actions from previous meetings:</b> Update was provided on consideration of pricing model to move patients back to private facilities.</p> <p><b>Actions from this meeting:</b> Action items including getting consent about sharing reservation numbers and utilisation data, and distributing National Guidelines on best practice infection prevention.</p>
1 August 2022	<p><b>Action items:</b> Update was provided on action items contained on the action register, about sharing information and reducing beds, where unutilised, in line with COVID admission.</p> <p><b>General COVID-19 update – current situation:</b> Update was provided on current COVID inpatient numbers, trends in admission, predictions for future peak. Also received a COVID in Queensland update document, which included hospitalisation case numbers for inpatients, inpatient numbers broken down by HHS, and actual and predicated modelling.</p> <p><b>Issues/discussions:</b> Discussion about current reserved beds and under-utilisation, concerns about inefficient use of public funding, resistance of surgeons to do public work, impacts on surgery, downsizing of beds in accordance with hospital numbers, workshop in relation to short-term capacity management, models of care/operating model for next 2-3 years, action item to deliver workshop, brief for options after 30 September 2022. Action item to deliver workshop.</p> <p><b>Actions from this meeting:</b> Deliver workshop to discuss capacity planning and feedback on long term contractual mechanisms/model of care.</p>
8 August 2022	<p><b>Action items:</b> Update was provided on sharing of information about reserved beds and utilisation, and reduction of beds in line with COVID admission.</p> <p><b>General COVID-19 update – current situation:</b> Update was provided on case numbers, number of deaths, hospitalisation numbers in public and private hospitals, trends, Queensland Government stall at the EKKA distributing RATs, availability of masks and handwashing stations at the EKKA, predictions of future waves, size of predicted waves, paediatric vaccine as a high management process model, availability and uptake of paediatric vaccine program and review of health directives about isolation and vaccination for healthcare workers. Also received a COVID in Queensland update document, which included hospitalisation case numbers for inpatients, inpatient numbers broken down by HHS, and actual and predicated modelling.</p> <p><b>Other Business:</b> Discussion about trigger for reducing or increasing beds, forward planning with HHS to understand mechanisms for dealing with surge to help with planning leave, workforce shortages and surgery backlog of Private Providers. Update was provided on finance model and PHFCG meetings were reduced to fortnightly occurrences.</p>

Date of meeting	Summary of matters discussed
15 August 2022	<p><b>General COVID-19 update – current situation:</b> Update was provided on guidance documents, which included updates to linen management, patient placement advice, escalating and de-escalating personal protective equipment (PPE) in healthcare facility, community health and correctional services, advice for care of the deceased, recommended approach to assessing close contact exposures, optimising supply of PPE, managing HCWs exposed to COVID-19, management of COVID-19 outbreak in hospital settings, and fever/testing clinics. An update was also provided on the potential for changes to the Chief Health Officer mask mandate.</p> <p><b>Action register:</b> Update was provided on action items, including advice in relation to the current MBS rules for clinical care and a reimbursement model for hospital accommodation, bed numbers, workshops to plan for December surge in absence of PHFFA and capture lessons learnt to inform inpatient agreement project, termination of PHFFA contracts.</p> <p><b>Issues/discussions:</b> Discussion about termination of PHFFAs, discharging patients, including transition out plans, flipping patients to local agreements with HHSs if required, risk level for patients after 1 October 2022, notice of termination of PHFFAs, workshops to discuss future models, what worked well and what could work well in the future.</p>
22 August 2022	<p><b>Action register:</b> Update was provided on action items contained on the action register, current MBS rules for clinical care and reimbursing costs and a reimbursement model for hospital accommodation, reduction in beds as part of transition out plan, workshops to plan for December surge in absence of PHFFA and capture lessons learnt to inform inpatient agreement project.</p> <p><b>General COVID-19 update – current situation:</b> Update was provided on the number of cases including patients in Hospital in the Home (HITH), COVID cases active in the community, trends, movement towards business as usual management, management of COVID by prevention and infection control teams. Also received a COVID in Queensland update document, which included hospitalisation case numbers for inpatients, inpatient numbers broken down by HHS, and actual and predicated modelling.</p> <p><b>Issues/discussion:</b> Discussion about PHFFA program finishing, method for ending the PHFFAs, reducing beds and transition of patients, commencement of transition out plans, continuity of utilisation and estimated discharge date reports, methods for wrapping up patients, management of future surges by HHSs, extension of NPA to public hospitals, and cessation of financial viability payments for private facilities, scheduling of meetings to discuss transition out plans, weekly emails for the purpose of tracking patients to be transitioned out, and continuation of fortnightly PHFCG meetings and cancel if needed.</p>

## 2. Emails about bed reservations for facilities

Between 15 August 2022 and 5 September 2022, Queensland Health circulated information to a number of Participating Providers about reserved bed numbers for other Participating Providers. The information shared included current occupation, reserved beds, cohort, commencement date and cessation date (the **Information**). The sharing of the Information occurred only where the Participating Provider had consented to the information being shared (**consenting Participating Provider**), and only consenting Participating Providers received the Information about other consenting Participating Providers.