



Australian Competition & Consumer Commission

Our Ref: A90811 & A90812
Contact Officer: Gavin Jones
Contact Phone: 02 6243 1107

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia

Ph (02) 6243 1111
Fax (02) 6243 1199

24 January 2002

«Name»
«Company»

*request to
attached list.*

**Health Purchasing Victoria Application for Authorisation Nos A90811 & A90812 –
request for interim authorisation**

Dear «Sal»

The Australian Competition and Consumer Commission ('the Commission') has considered the applicant's request for interim authorisation in respect of the above applications for authorisation.

Interim authorisation, if granted by the Commission, would provide HPV with immunity from the TPA for engaging in a conditional tender process for the acquisition of agency nursing services by hospitals treating public patients in Melbourne and Geelong.

The Commission has decided not to grant interim authorisation at this time. As interim authorisation is generally sought before the Commission has had the opportunity to consider the merits of an application, it is only granted in exceptional circumstances, where the applicant is able to demonstrate an urgent need for protection from the *Trade Practices Act* 1974. In addition, the Commission must be satisfied that the market would be able to return to the state it was in before interim authorisation was granted if the Commission later denies full authorisation.

The Commission was not satisfied on the information before it, that either of these criteria were satisfied. In these circumstances the Commission was not prepared to grant interim authorisation.

Please be advised that the Commission's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the Commission.

I have attached for your information a letter provided to the Commission by the applicant on 16 January 2002, in which it advises of amendments to its applications for substantive authorisation in the form of changes to the proposed tender by Health Purchasing Victoria.

Specifically, the proposed tender document has been amended to:



- implement the HPV Board decision to proceed with Option 1 as detailed in the applicants original submission (HPV making a written direction under the *Health Services Act 1988* requiring that each health service (other than the Sisters of Charity Health Service) acquire all their agency nursing staff requirements exclusively from the successful tenderers and that HPV is appointed as their agent to contract on their behalf with the successful tenderers); and
- require that tenderers agree to remunerate nursing agency staff at the Award or enterprise bargaining agreement rate and provide that any tender that does not agree to remunerate nurse agency staff on this basis will be a non-conforming tender which HPV, at its discretion, may disregard in evaluating tender bids.

Full copies of the original and amended drafts of the request for tender and the proposed tender contract are available from the Commission's web site at <http://www.accc.gov.au>.

Given the amendments to the application the Commission has extended the deadline for submissions in relation to the substantive applications until **15 February 2002**, in order to provide interested parties the opportunity to consider these changes and address them in further submissions.

The applicant's letter to the Commission of 16 January 2002, also notes that it understands that the Department of Human Services will issue a direction in March under the *Health Services Act 1988* requiring that public hospitals only engage nurses (including agency nurses) where those nurses are remunerated at the Award or enterprise bargaining agreement rate. Your submission may also wish to address the likely consequences of such a direction on the public benefits and anti-competitive detriments of the arrangements for which authorisation is sought.

When the Commission has considered all the submissions it receives in respect of the authorisation application and made its evaluation of the proposed arrangements under the *Trade Practices Act*, it will issue a draft decision, a copy of which will be forwarded to you for your information and comment.

Should you have any queries or wish to discuss this matter further, please contact Gavin Jones, Assistant Director, Adjudication Branch, on (02) 6243 1107.

Yours «end»

Tim Grimwade
General Manager
Adjudication Branch

| | | |
|-------------------------|--|------------------|
| Name Secretary | Company Nurses Board of Victoria Level 2, 595 Little Collins Street MELBOURNE VIC 3000 | Sal Sir/Madam |
| Managing Director | GHC Nurses Agency 1 st Floor, 81-83 Burgundy Street HEIDELBERG 3084 | Sir/Madam |
| Managing Director | PCC Nurses Agency 81 – 83 Burgundy St HEIDELBERG 3084 | Sir/Madam |
| Managing Director | PRN Nurses Pty Ltd 5 Walkers Rd Nunawading 3131 | Sir/Madam |
| Managing Director | Clover Nurses Agency Level 1/580 Church Street RICHMOND VIC 3000 | Sir/Madam |
| Managing Director | Colbrow Nurses Agency 8 Old Warrandyte Rd DOVALE 3111 | Sir/Madam |
| Elizabeth Schofield | Director Malvern Nurses Agency 51 Station Street MALVERN 3144 | Ms Schofield |
| Managing Director | ProStaff Nurses Agency Pty Ltd 225 Greensborough Rd Macleod 3058 | Sir/Madam |
| Managing Director | NurseLink Nurses Agency 38 Sainsbury Ave Greensborough 3088 | Sir/Madam |
| Ms Rosalind Newis | Managing Director Twin Hills Nurses Agency Level 2 50 Upper Heidelberg Rd IVANHOE 3079 | Ms Newis |
| Managing Director | Forest Hill Nurses Agency 10 Echunga Cl FOREST HILL 3131 | Sir/Madam |
| Mr Rod J Hancock | Managing Director Code Blue Specialist Nurses Agency Pty Ltd 62 Robinson St DANDENONG 3175 | Mr Hancock |
| Salli Placentino | AMR Nurses Agency Suite 415,370 Street St Kilda Rd MELBOURNE VIC 3004 | Mr Placentino |
| Ms Maria Bottaro | Belmore Nurses Agency 2/47 Railway Rd BLACKBURN VIC 3130 | Ms Bottaro |
| Managing Director | Clover Nurses Agency 369 North Rd Caulfield SOUTH VIC 3162 | Sir/Madam |
| Managing Director | Colbrow Nurses Agency 369 North Rd Caulfield SOUTH VIC 3162 | Sir/Madam |

| | | |
|----------------------|--|----------------|
| Managing Director | Northeast Nurses Agency 8 Old Warrandyte Rd DONVALE VIC 3111 | Sir/Madam |
| Ms Jill Lliffe | Secretary Australian Nurses Federation Unit 3, 28 Eyre Street KINGSTON ACT 2604 | Ms Lliffe |
| Ms Lisa Fitzpatrick | Secretary ANF Victoria Box 12600 A'Beckett Street PO MELBOURNE VIC 8006 | Ms Fitzpatrick |
| Ms Marilyn Gendek | Chief Executive Officer Australian Nursing Council PO Box 873 DICKSON ACT 2602 | Ms Gendek |
| Ms Maryanne Craker | Secretary National Enrolled Nurses Association Victoria Branch PO Box 1236 ST ALBANS VIC 3021 | Ms Craker |
| Ms Patricia Faulkner | Secretary Department of Human Services Level 22, 555 Collins Street | Ms Faulkner |
| Mr David Borthwick | Acting Secretary Department of Health & Aged Care GPO Box 9848 CANBERRA ACT 2601 | Mr Borthwick |
| Ms Helen Kemp | Executive Director Melbourne Health Level 10, Connibere Building Royal Melbourne Hospital Flemington Road PARKVILLE, VIC 3052 | Sir/Madam |
| Managing Director | Western Health C/- Western Hospital Gordon Street FOOTSCRAY VIC 3011 | Sir/Madam |
| Dr Andrew Perrington | Chief Executive Officer Northern Health 201 Bell Street PRESTON VIC 3072 | Dr Perrington |
| Ms Jennifer Williams | Chief Executive Officer Austin & Repatriation Medical Centre Studley Rd HEIDELBERG VIC 3084 | Ms Williams |
| Managing Director | Royal Victorian Eye & Ear Hospital 32 Gisborne Street EAST MELBOURNE VIC 3002 | Sir/Madam |

| | | |
|--|---|-----------------|
| Managing Director | Peter MacCallum Cancer Institute St Andrews Place EAST MELBOURNE VIC 3002 | Sir/Madam |
| A/Prof Janet A Secatore | Director of Nursing The Alfred Commercial Road PRAHRAN VIC 3181 | A/Prof Secatore |
| Mr Tim Naylor | Acting Chief Executive Eastern Health PO Box 94 BOX HILL VIC 3128 | Mr Naylor |
| Dr Stan Capp | Chief Executive Southern Health Monash Medical Centre 246 Clayton Road CLAYTON VIC 3168 | Dr Capp |
| Chief Executive Officer Managing Director | Peninsula Health PO Box 52 FRANKSTON VIC 3199 | Sir/Madam |
| Dr Kathy Alexander | Dental Health 407 Royal Parade PARKVILLE VIC 3502 | Sir/Madam |
| | Chief Executive Officer Women's & Children's Health Level 1, 132 Grattan Street CARLTON VIC 3053 | Dr Alexander |
| Managing Director | Sisters of Charity Health Service 104 Studley Road KEW VIC 3101 | Sir/Madam |
| Ms Jill Davis Linklater | Chief Nursing Officer Barwon Health 272-322 Ryrie Street GEELONG VIC 3220 | Sir/Madam |
| Mr John Sesto | J.P. Sesto & Co Level 10, 416 Collins Street MELBOURNE VIC 3000 | Mr Sesto |
| Mr Murray Erwin | Australia Health PO Box 7280 MELBOURNE VIC 3004 | Mr Erwin |
| Mr Brian Morris | CEO Recruitment & Consulting Services Association Nursing Agent PO Box 243 CARLTON SOUTH VIC 3053 | Mr Morris |
| Ms Ann Gidley | CPA PO Box 41 IVANHOE VIC 3079 | Ms Gidley |
| Mr Michael Croft | Critical Solutions Nursing Agencing Suite 25 37 – 39 Albert Rd MELBOURNE VIC 3004 | Mr Croft |

| | | |
|----------------------|--|--------------|
| Mr John Montalto | Alpha Nursing PO Box 115 KEILOR EAST VIC 3033 | Mr Montalto |
| Ms Heather Stevenson | Melbourne Nursing Agency 241 Nicholson Street CARLTON VIC 3053 | Ms Stevenson |
| Mr Paul Jenkins | Drakes Level 2, 405 Little Bourke Street MELBOURNE VIC 3000 | Mr Jenkins |
| Ms Monique Bensemann | Australian Nursing Solutions 364 Albert Street EAST MELBOURNE VIC 3002 | Ms Bensemann |
| Mr Jeremy Smith | Gadens Lawyers Level 10, 333 Collins Street MELBOURNE VIC 3000 | Mr Smith |
| Ms Claire Hudson | Director Staffing Synergy PO Box 2506 KEW VIC 3101 | Ms Hudson |
| Mr Russell Bateman | Chief Executive Officer Staffing Australia Level 1, 580 Church Street RICHMOND VIC 3121 | Mr Bateman |
| Mr Eric Smith | Manager/Director Australian Nursing Agency PO Box 1377 FITZROY NORTH VIC 3068 | Mr Smith |
| Ms Lusie Murray | Medical Staff International PO Box 6317 St Kilda Rd CENTRAL MELBOURNE VIC 3004 | Ms Murray |
| Ms Sue Warren | 45 Napier Street EAGLEHAWK VIC 3556 | Ms Warren |
| Mr Simon Brisbane | PO Box 110 WERRIBEE VIC 3030 | Mr Brisbane |
| Mr Robert Lorsch | Nursing Agencies Association of Australia PO Box 84 COGARAH NSW 2617 | Mr Lorchy |
| Mr John Montalto | Alpha Nursing Australia PO Box 115 EAST KEILOR VIC 3033 | Mr Montalto |
| Ms Gail Cracknell | Action Health Recruitment 717 Glenhuntly Road CAULFIELD SOUTH VIC 3162 | Ms Cracknell |
| Mr John Vital | 12 Pitt St PARRAMATTA NSW 2150 | Mr Vital |
| Ms Machele Crichton | 5-158 Toorak Rd West STH YARRA, 3141 | Ms Crichton |

| | | |
|---|--|---|
| Ms Lisa Fitzpatrick | Secretary ANF 540 Elizabeth Street MELBOURNE 3000 | Ms Fitzpatrick |
| Ms Kate Snowden | Access Nurses Agency 96 Morrison Rd UPPER PAKENHAM 3810 | Ms Snowden |
| Ms Lina Cornell | Victoria Nurses Specialist PO Box 399 BLACKBURN VIC 3130 | Ms Cornell |
| Ms Angela Coward | 6/43 Grandview Grove PRAHRAN EAST VIC 3181 | Ms Coward |
| Ms Carol McKenzie Mr Geoffrey Wilson | 51 Florence Street WILLIAMSTOWN VIC 3016 Solicitor Wilson Potter Nicholson 4/552 Lonsdale Street MELBOURNE VIC 3000 | Ms McKenzie Mr Wilson |
| Ms Simone Millman Ms Christina Widuckel Mr Murray Erwin | 3a Epping Street MALVERN EAST VIC 3145 Colbrow Nurses Agency PO Box 486 BLACKBURN 3130 Manager AustraHealth PO Box 7280 MELBOURNE VIC 3004 | Ms Millman Ms Widuckel Mr Erwin |
| Mr David Lee Mr Graham Moss | Unit 111 Kooyong Road ARMADALE VIC 3143 Director Oxley Nursing Service Brisbane Office Level 6, 370 Queens Street BRISBANE QLD 4001 | Mr Lee Mr Moss |
| Ms Deborah Pashley Ms Jaydie Knight | 24 Heatherdale Rd MITCHAM VIC 3132 C/o Twin Hills Nursing Agency Level 2, 50 Upper Heidelberg Rd IVANHOE VIC 3079 | Ms Pashley Ms Knight |
| Ms Tiffany Dobson Mr Jim Perkoulidis | 59 Hamilton Rd BAYSWATER VIC 3153 172 Liberty Pde HEIDELBERG WEST VIC 30881 | Ms Dobson Mr Perkouldid |
| Dr David Hillis | Chief Executive Officer Peter MacCallum Cancer Institute St Andrews Place EAST MELBOURNE VIC 3002 | Dr Hillis |
| Ms Rebecca Widuckel | 8 Old Warrandyte Rd DONVALE VIC 3111 | Ms Widuckel |

Ms Rose
Hoey
Ms
Margaret
Reogh
Ms
Chrisitine
Osborne
Ms
Christina
Widuckel
Mr Robert
Doyle MLA

8 Old Warrandyte Rd
DONVALE 3111
1A Shepreth Street
SUMEY HILLS VIC 3127

1 Crown Terrace
ASCOT VALE VIC 3032

876 Swanston St
CARLTON VIC 3053

Shadow Minister for Health
Parliament House
Spring Street
MELBOURNE VIC 3002

Ms Hoey
Ms Reogh

Ms
Osborne

Ms
Widuckel

Mr Doyle