



Australian  
Society of Anaesthetists

Australian Society of Anaesthetists Ltd  
ACN 095 377 370 ABN 16 095 377 370

Suite 603 Eastpoint Tower  
180 Ocean Street, Edgecliff NSW 2027  
PO Box 600, Edgecliff NSW 2027

\* 191107 4505TPL ACCC

19 November 2007

Ms Isabelle Arnaud  
Adjudications Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602  
Isabelle.arnaud@acc.gov.au

**Notification of Collective Bargaining - Wangaratta Anaesthesia Group**

Dear Ms Arnaud,

I attach a form GA in relation to the Trade Practices Act 1974 – subsection 93AB (1) seeking approval for notification of collective bargaining between the Wangaratta Anaesthesia Group (WAG) and the health insurer BUPA Australia Health Propriety Limited, trading as HBA – Mutual Community .

The submission is being made by Dr Mark Radnor a member of the WAG. However, the Australian Society of Anaesthetists is using the opportunity to understand the collective bargaining notification process and has undertaken to fund the application and to assist the WAG with the administrative requirements of the notification process. Accordingly, correspondence and the invoice for the service fee for the application should all be directed through me and I will ensure that they are communicated with Dr Radnor and the WAG.

Yours sincerely,

**Peter Lawrence**  
**EXECUTIVE DIRECTOR**

\* Please quote our reference in all correspondence

## Form GA

Commonwealth of Australia

*Trade Practices Act 1974 – subsection 93AB(1)*

### NOTIFICATION OF COLLECTIVE BARGAINING

This form is to be completed by applicants proposing to engage in collective bargaining arrangements.

In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

Protection provided by the notification extends only to the collective bargaining arrangements described in the form.

To the Australian Competition and Consumer Commission:

Notification is hereby given under subsection 93AB(1) of the *Trade Practices Act 1974*:

- to make, or propose to make, a contract containing a provision of the kind referred to in paragraph 45(2)(a) of the *Trade Practices Act 1974*; or
- to give effect to a provision of a contract where the provision is of the kind referred to in paragraph 45(2)(b) of the *Trade Practices Act 1974*.  
(Strike out if not applicable)

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

#### Section A – general information

##### 1. Applicant

- (a) Name of the applicant:  
(refer to Direction 1)

Dr Roger Barker  
Minical Pty Ltd, a company controlled by Dr Fraser Barry  
Russell Bourne Pty Ltd, a company controlled by Dr Russell Bourne  
Dr Andrew Haughton  
Dr Peter Hebbard  
Dr Mark Radnor  
Robin Sharpe Pty Ltd, a company controlled by Dr Robin Sharp  
All of whom are the members of an associateship of anaesthetists known as *The Wangaratta Anaesthetic Group (WAG)*.

- (b) Description of business carried on by the applicant:  
(refer to Direction 2)

**The WAG**

The WAG is an associateship practice of anaesthesia specialists or the companies controlled by them who provide anaesthesia services to patients undergoing medical procedures mostly in Wangaratta.

**Allocation of Work**

Services are provided on a shared basis. There is a rotating roster for both private and public theatre lists which approximately spreads the work demand and consequently the periods of non-work (rest or leave) more or less equally.

The demand for anaesthesia services is relatively high. All the anaesthetists in the practice are fully employed. There is no scope to compete in the commercial sense as there is no spare capacity for individuals to take on additional work without severe detriment to their personal or non-work time.

However, patients can request a specific anaesthetist if they wish. The WAG will modify the roster to meet this request. Similarly, some anaesthetists prefer not to work with particular surgeons in private (although they have no discretion when providing services in publicly funded medical facilities), and again the roster can be adjusted to accommodate these and other preferences.

**Source of Work**

Surgeons' rooms and the Northwest Health Wangaratta (NHW) (the public hospital) initiates work requests by contacting the WAG. The WAG practice manager allocates the anaesthetist to the theatre list as required. Some members of WAG also provide anaesthesia services in other geographical areas such as Melbourne and Albury.

**On Call Roster**

All members of WAG are required to share equally the after hours on call roster for the public hospital. This aggregate roster is compiled by the practice manager of WAG.

**Administrative Management of the WAG**

Each associate pays a fixed monthly sum for management expenses that cover the running costs of the practice. There is no formal or written practice agreement. The WAG is not a partnership. It is an associateship of specialist working together on the understanding that they achieve economies of scale and superior services for patients and surgeons through collocation of their practice and centralisation of secretarial and support services. WAG has been operating for about 12 years. The WAG employs a practice manager and three staff, all part time to provide administrative support to the practice.

**Fees**

Each associate decides his or its own private fees individually. This may vary from patient to patient depending on the circumstances. Patients can contact WAG to obtain a quote for a service. There is no known instance of a patient changing their doctor as a result of a cheaper quote.

Public anaesthesia is provided to the NHW on a fee-for-service basis on individual contracts. Where clinically required (at the request of the surgeon), consultations with patients are conducted in WAG rooms. This equates to about 15 consultations per week. Anaesthetists attend these clinics on a roster which means the doctors may consult with another anaesthetist's patient. WAG has a process for closely sharing pre operative clinical details. These fees are again set individually by the consulting anaesthetist.

See Schedule 1 for further information.

- (c) Is the representative of the applicant lodging the notice a trade union, an officer of a trade union or a person acting on the direction of a trade union?  
(refer to *Direction 3*)

No

- (d) Address in Australia for service of documents on the applicant:

Wangaratta Anaesthetic Group  
PO Box 796  
WANGARATTA VIC 3676

**2. Lodged on behalf of**

- (a) Provide names and addresses of all persons on whose behalf the notification is lodged and who propose to participate in the collective bargaining arrangements:  
(refer to *Direction 4*)

Dr Roger Barker  
Minical Pty Ltd, a company controlled by Dr Fraser Barry  
Russell Bourne Pty Ltd, a company controlled by Dr Russell Bourne  
Dr Andrew Haughton  
Dr Peter Hebbard  
Dr Mark Radnor  
Robin Sharpe Pty Ltd, a company controlled by Dr Robin Sharp

- (b) Provide proof of the consent of each of the persons listed at 2(a) above agreeing to the lodgement of the notification on their behalf:  
(refer to *Direction 5*)

See Schedule 2

- (c) Provide the following information relating to a notification:  
(i) Does this notification relate to a notification previously lodged with the Australian Competition and Consumer Commission and for which a concessional fee is claimed?

No

- (ii) Details of the first-mentioned notification, including but not limited to:  
(A) the name of the applicant; and  
(B) the date the notification was said to be lodged; and  
(C) if known or applicable – the registration number allocated to that collective bargaining notification.

Not applicable

## Section B – collective bargaining arrangements

### 3. Proposed collective bargaining arrangements

- (a) Provide: the name and address of the target; the name, position and telephone contact details of an appropriate contact at the target; and a description of the business carried on by the target:  
*(refer to direction 6)*

BUPA Australia Health Pty Ltd ABN 50 003 098 655, Trading as HBA/Mutual  
Community  
Dr U Boffa  
HBA  
Health Insurance Administration  
Reply Paid 4463  
Melbourne VIC 8060

- (b) Provide a description of the goods or services which the participants of the collective bargaining arrangements (listed at 2(a) above) propose to supply to or acquire from the target:

Anaesthesia services are provided to patients. Private patients may be a member of a private health insurance fund, which in this case is HBA.  
Private patients may receive an account for their anaesthetic services if the account is greater than the scheduled fee. The patient may then claim a rebate on the services from HBA. HBA will rebate 75% of the Medicare 'schedule fee' (the Medicare rebate funded by the Federal Government) and (currently in Victoria) through the HBA's Ezyclaim scheme, a further amount to a total fee of \$28.65 per Relative Value Guide (RVG) unit. If the fee exceeds \$28.65, or other fund determined conditions are not met, the patient will be rebated only the Medicare 'schedule fee' amount of \$17.50 per RVG unit.  
See Schedule 1 for further information.

- (c) Do the participants of the proposed collective bargaining arrangements (see 2(a) above) reasonably expect to make one or more contracts with the target about the supply to or acquisition from the target of one or more of the goods or services (listed at 3(b) above)?  
*(refer to direction 7)*

HBA offers anaesthetists' patients rebates above the Medicare 'schedule fee' only when the anaesthetists comply with the HBA Ezyclaim process which includes accepting the HBA rebate as full payment. Anaesthetists are required to agree to the conditions of the HBA arrangements – in essence an agreement to comply. See Schedule 1 for a more expansive explanation.

- (d) In relation to (c) above, provide details of the basis upon which that expectation is held including details of past contracts with the target:

Where anaesthetists are complying with HBA's Ezyclaim procedures already, they are in an agreement with HBA. Refer to 3 (b) and 3 (c) above.

- (e) Do the participants of the collective bargaining arrangements (listed at 2(a) above) reasonably expect that contractual payments between the target and each participant will not exceed \$3 million (or any other amount prescribed by regulation) in any 12 month period, and on what basis?  
*(refer to direction 8)*

Yes

The current net value of services rebated by HBA through Ezyclaim to members of the WAG is approximately \$250,000. This amount may increase through negotiations with HBA but it would be highly unlikely to reach \$3 million in the first four years of any negotiated service arrangement.

- (f) In relation to (e) above provide an estimation of the contractual payments expected between the target and each participant in relation to the goods and services (listed at 2(a) above)

As above

- (g) Provide a description of the collective bargaining arrangements proposed including, but not limited to:
- (i) the process by which participants propose to undertake collective bargaining with the target; and
  - (ii) the type of terms and conditions expected to be negotiated in collective bargaining arrangements (for example: price; non-price conditions of supply such as contract periods etc); and
  - (iii) details of any dispute resolution procedure (if any) proposed between participants throughout the collective bargaining process; and
  - (iv) details of any dispute resolution procedure (if any) proposed between participants and the target throughout the collective bargaining process; and
  - (v) details of any dispute resolution procedure (if any) proposed to deal with disputes throughout the term of contracts entered into with the target; and
  - (vi) details of proposed commencement and duration of contracts to be negotiated with the target:  
*(refer to direction 9)*

See schedule 1 for details.

- (h) Identify any parts of the proposed collective arrangements described in 3(g) which relate to possible price agreements:

It is proposed to collectively negotiate anaesthesia fees, specifically a rate for a unit of Relative Value for anaesthesia services. This value would be known as the unit value and would be the agreed rate at which the members of the WAG would invoice HBA patients for anaesthesia services. The expectation of WAG is that this unit value would be appropriate to meet the full cost of the anaesthesia services. Patients would not be required to pay any further expenses for their in-hospital anaesthesia services.

- (i) Identify any parts of the proposed collective arrangements described in 3(g) which relate to a possible or proposed exclusionary provision(s), including but not limited to:
- (i) the nature of the proposed or possible exclusionary provision(s) (for example an agreement to withhold supply of the relevant goods or services to the target); and
  - (ii) the circumstances in which the collective bargaining participants would engage in the exclusionary provision(s), including but not limited to:
    - (A) details of the events that would trigger any such activity; and
    - (B) details of the process that would be followed in undertaking any such activity; and
    - (C) details of any proposed period of notice to be given to the target prior to the commencement of such activity; and
    - (D) details of any dispute resolution procedure to be applied or offered to the target prior to the commencement of such activity:
- (refer to direction 10)*

There are no exclusionary provisions in the collective arrangement.

## Section C – public detriments

### 4. Market definition

Provide a description of the market(s) in which the goods or services described at 3(b) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):  
*(refer to direction 11)*

The relevant market is the provision of anaesthesia services in public and private hospitals in the vicinity of Wangaratta. The public hospital, NHW, is a Group B health service and is situated in the Hume region which is one of nine Department of Human Services health regions in Victoria covering an approximate area of 42,923 square kilometres and stretches from the northern fringes of Melbourne to the Murray River, from the Victorian Alps in the east to the Goulburn Valley in the west. NHW provides services for public patients as well as private patients in Hume region<sup>1</sup>.

There is one other anaesthetist in Wangaratta. This anaesthetist is not a member of WAG. There are no GP Anaesthetists in the area. The commercial arrangements of the other anaesthetist are not known in detail. It is understood that he provides limited services to private patients and direct bills the patient's health fund. Consequently patients who were insured with HBA would be treated similarly by the independent anaesthetist and WAG once an agreement was established between WAG and HBA.

**5. Public detriments**

- (a) What will be the likely effect of the notified conduct on the prices of the goods or services described at 3(b) above and the prices of goods or services in other affected markets? In answering this question please provide facts and information to support the claims made:

Patients of HBA receiving an anaesthesia fee will have no gap payment. Assuming the information on the billing practices of the independent anaesthetist is correct then HBA patients will not be disadvantaged in choosing their anaesthetist. HBA's insurance premiums are assumed to be state based (this information is unknown and is commercially significant for HBA). Consequently, patients will receive the same anaesthesia services at the same insurance premium rates but without gap payments. WAG's agreement with HBA will preclude further patient fees.

Patients will not be disadvantaged nor will service fees rise.

See Schedule 1 for further information.

- (b) What other detriments may result from the notified conduct? In answering this question please provide facts and information to support the claims made:

None

<sup>1</sup> Extract from NHW public website, <http://nhw.hume.org.au/>, 9 October 2007.



## Section D – public benefits

### 6. Public benefit claims

- (a) Provide details of the public benefits resulting or likely to result from the proposed arrangement. In answering this question please provide facts and information to support the claims made:

The following Public Benefits will flow from an agreement reached through collective bargaining:

- a. **Transparency** in setting the RVG unit value between WAG and HBA. Currently the rebate value is unilaterally set by HBA. Collective bargaining will enable WAG to negotiate a value that is commercially sustainable for both parties and considerable savings will accrue to patients who hold health insurance with HBA. Subject to the negotiated arrangements, patients could expect to have zero ‘out-of-pocket’ expenses for all anaesthesia services for any procedure that required the services of the WAG. It is estimated that HBA has approximately 22% of the private health insurance market in Victoria<sup>2</sup> and there is no evidence that this estimate cannot be extrapolated to Wangaratta. Hence there are reasonable grounds to suggest that an agreement will significantly benefit private patients in Wangaratta.
- b. **Transaction Cost Savings.** Patients, HBA and WAG will all reduce the cost (time lost) through this proposal. WAG would reduce operating costs through direct billing to HBA. Similarly HBA would reduce expenses from receiving one consolidated account. Further reductions in operating costs for WAG would flow from reductions in account handling and distribution to individual patients and the elimination in costs associated with the need for pre-hospital detailed informed financial consent processes. There will be no administrative cost increase for any party.
- c. **Improvement in Public Information.** Currently the public do not understand the rebates provided by HBA due to the significant penalty a patient will suffer financially if the anaesthetist does not comply with the requirements of Ezyclaim. An agreement will remove all together the requirement for patients to understand the peculiarities of claiming a rebate from HBA.
- d. **Facilitation of Market Dynamics.** It is not unreasonable to expect other health insurance providers will be encouraged to follow suit by negotiating a no gap product to compete with HBA. This will benefit all potential patients (the public) in Wangaratta.
- e. **Increase in Equitable Treatment and Fairness.** Currently HBA does not have a ‘known gap’ product for anaesthesia (explained in Schedule 1 ). Consequently HBA patients receiving anaesthesia services from WAG are disadvantaged financially. Other insurers rebate the Medicare ‘schedule fee’ and a proportion of costs above the Medicare ‘schedule fee’. HBA will only provide benefits up to the MBS fee where their Ezyclaim arrangement is not utilised by doctors. If the fee for the medical service exceeds the HBA set unit value the patient will receive nothing more than the Medicare ‘schedule fee’. This is inequitable and patients are unaware of their reduced rebate until they receive a quote from their health care provider.
- f. **Industrial Harmony.** Currently there is no industrial disharmony with respect to the supply of anaesthesia services. The proposal for collective bargaining between WAG and HBA will not adversely affect the industrial harmony within Wangaratta.

## Section E – authority

### 7. Contact details

- (a) Name, contact telephone number and address of person authorised by the notifying parties to provide additional information in relation to this application:  
(refer to direction 12)

<sup>2</sup> Advice from Chairman of the Australian Society of Anaesthetists Economics Advisory Committee  
2007

Dr Mark Radnor  
PO Box 796  
WANGARATTA VIC 3676  
03 5125 7330

Dated 7/11/07  
Signed by/on behalf of the applicant



(Signature)

MARK KENNETH RADNOR  
(Full Name)

WANGARATTA ANAESTHETIC GROUP  
(Organisation)

MEMBER  
(Position in Organisation)

## Schedule 1

- 1 (b) Each of the applicants are members of *The Wangaratta Anaesthetic Group (WAG)*. They are specialist anaesthetists or incorporated practices of specialist anaesthetists (who will be referred to as applicants in this schedule). Each of the applicants is accredited to practice at *Wangaratta Private Hospital and Northeast Health Wangaratta*.

They provide anaesthesia for scheduled procedures and for emergency procedures.

Patients are usually referred to the applicants. The origin of a referral usually depends upon the whether the procedure is scheduled or provided in an emergency.

Patients undergoing scheduled procedures are usually referred by a proceduralist, such as a surgeon. Typically, an anaesthetist will work with a proceduralist on a regular list.

Patients undergoing emergency procedures may require the services of the anaesthetist who is rostered on-call for the hospital. On-call work is a particular feature of obstetric units. The on-call roster at *Wangaratta Private Hospital and Northeast Health Wangaratta* is agreed by the applicants and the administrators of those facilities. If a patient requires an emergency procedure, the hospital will contact one of the applicants to request anaesthesia services.

Patients do not usually choose their own anaesthetist independently of a referral.

Each of the applicants bills their patients for the provision of anaesthesia with the total fee calculated by applying a unit value to a total number of Relative Value units derived from the Australian Society of Anaesthetists' publication 'The Relative Value Guide (RVG)'. Attached is an extract from this publication of the Australian Society of Anaesthetists which explains this billing process. The critical element in determining a patient's account is anaesthetist's unit value. This same system (ie the RVG) is used by Medicare and all health funds in determining their own respective schedules as well. Apart from minor differences the only variable is the unit value

Across Australia 70% of all episodes of anaesthesia care in the private sector are provided without a gap payment required by the patient<sup>3</sup>. Usually, a patient can recover at least part of the cost of in-hospital anaesthesia services from Medicare and also from their health fund.

Medicare's RVG unit value is currently \$17.50 and is known as the Medicare 'schedule fee'. The Medicare 'schedule fee' is indexed according to the Wage Cost Index no. 5 (WC15) which is generally less than the Consumer Price Index each year. For in-hospital medical services Medicare will rebate 75% of the Medicare 'schedule fee' and the health fund is required to rebate the remaining 25%. Health funds also operate various schemes and agreements whereby a further additional rebate based on the health fund's own commercial determination is provided under certain circumstances, including the participation of the treating doctors (see below). Maximum Health fund rebates for anaesthesia services, when combined with the Medicare rebates range from 60% to 65% above the Medicare 'schedule fee' depending on the location of the services, the fund's product and the fund itself.

Since the introduction of a variety of legislation from the 1990s, *health* funds are able to provide above Medicare 'schedule fee' rebates through the operation of Schemes and Agreements. Up until new legislation coming into effect this year, these arrangements could generally be classified as one of the following:

- Medical Purchaser Provider Agreement (MPPA) – a contract exists between the doctor and the fund. Doctors may 'opt-in' or 'opt-out' on a case by case basis. HBA operate such a MPPA. These schemes provide above 'schedule fee' rebates for consumers with the doctor either agreeing to accept the health fund fee as full

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<sup>3</sup> IPSOS Informed Financial Consent Patient Survey for Department of Health, 2006

- payment or occasionally there is facility for a patient co-payment (but not for anaesthesia services with HBA MPPA though)
- Hospital Purchaser Provider Agreement (HPPA) - a contract exists between the fund and the doctor for a particular hospital. This arrangement is uncommon in Australia for medical services.
  - No-Gap Scheme – a scheme operated by the fund whereby the doctor’s fee is fully covered by the combined Medicare and health fund benefit. The doctor must ‘participate’ by registering, abiding by various rules and regulations and agreeing to limit fees to the schedule as published by the fund. Most funds (other than Bupa inc. HBA) offer this form of product. Generally, doctors may ‘opt-in’ or ‘opt-out’ on a case by case basis.
  - Known-Gap scheme – similar to a ‘No-Gap’ scheme except there is a provision for a patient co-payment to be made to the doctor over and above the total rebates from Medicare and the health fund. There must also be written informed financial consent wherever practical. Most funds (except Bupa, MBF, HCF and NIB) offer this product.
  - Nationally, 83% of all medical services are provided in hospital are provided without gaps, 11% are provided with a gap and 6% with a known gap (through a ‘Known-Gap’ Scheme)<sup>4</sup>. For anaesthesia 30% of services involve a patient out-of-pocket expense.

The operation of these Schemes and Agreements result in either no out-of-pocket expenses for consumers (in the case of ‘No-Gap’ and similar arrangements) or reduced out-of-pocket expenses (in the case of ‘Known-Gap’ and similar arrangements). However for the consumer to benefit from these arrangements, the treating doctor must ‘participate’ in the health fund’s Scheme or Agreement. ‘Participating’ means agreeing to the health fund’s rules and regulations regarding billing and account processing, and most importantly only charging fees as directed by the fund. In the case of a ‘No-Gap’ arrangement (or similar as with an HBA MPPA), the treating doctor must restrict their fees to the level as published in the health fund’s schedule for the higher, above ‘schedule fee’ payment to be available for the health fund member (the patient).

The operation of the above-described Schemes and Agreements will deliver benefits for consumers only where both doctors and the fund co-operate in the arrangements. By far the most common reason for there not being an Agreement in place for a particular medical service is that the doctor providing the treatment is not willing to limit their fees to the health fund schedule. In that instance, due to the design of the health fund product, the consumer will receive benefits totalling only the Medicare ‘schedule fee’ and not receive any of the extra health fund above ‘schedule fee’ payment.

For a particular region or community served by several anaesthetists, neither consumers nor health funds can be certain in advance whether there will be significant out-of-pocket expenses for their specific treatment. The ability to negotiate an Agreement between a health fund and a group of anaesthetists could deliver certainty in anaesthesia fees for not only the health fund, but particularly consumers. For consumers there would be the additional benefit of no out-of-pocket expenses.

The intention of negotiating an Agreement between the WAG and HBA is to provide public benefit to Wangaratta by:

- Removing out of pocket expenses for HBA patients requiring services from WAG.
- Ensuring HBA members receive the full benefit from their health cover.

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<sup>4</sup> Private Health Insurance Administration Council, 17 October 2007, using latest data, 2004/5  
[www.phiac.gov.au/index.htm](http://www.phiac.gov.au/index.htm)

- 3 (b) The service which the applicants wish to make the subject of collective bargaining is the provision of anaesthesia in public and private hospitals to persons who are members of the HBA Fund.  
Specifically, the applicants wish to collectively negotiate a value above the scheduled fee for the provision of no-gap billing to members of the HBA Fund.
- 3 (g) The applicants intend to collectively offer the operator of the HBA Fund a fee that is a percentage above the Medicare 'schedule fee' commencing on XX and indexed in line with Australian Medical Association indexation of Fees and Services annually. If accepted, this percentage above the Medicare 'schedule fee' value will become the basis for a no-gap billing arrangement.

This offer will be made in writing to *Dr U Boffa* on behalf of that operator. It will be followed by face to face negotiations with that person.

5. It is estimated that WAG provides anaesthetic services to 2000 private patients per year. Of this total about 500 are services to patients who are insured through HBA<sup>5</sup>. Further, it is estimated that 42% of these patients receive an invoice that has a gap payment. The remaining patients are billed through HBA's Ezyclaim product. The average RVG unit value of anaesthesia services provided by WAG for HBA patients is \$39. Currently HBA Ezyclaim product has a unit value between \$28 and 29. By establishing an agreed unit value, HBA patients will not receive a gap account. Once the agreed value is negotiated, prices for the supply of anaesthesia for HBA patients will not increase. Currently patients are required to meet, on average, an additional payment of approximately \$10 a unit.

The alternative for WAG associates to collective bargaining is to enter direct negotiations with HBA. Individual anaesthetists do not have sufficient 'market force' to obtain a commercially viable agreement with a private health insurance company. Both parties have diametrically opposed objectives. Even if an anaesthetist did directly agree with HBA for a unit value this outcome would be ineffectual given the size of the number of other suppliers of the service. Direct negotiations would only benefit HBA if it achieved agreement with all service providers – which is collective bargaining? There is little certainty such an approach would deliver the benefits from this proposal outlined above to the community of Wangaratta.

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<sup>5</sup> The applicants' records rely upon the information provided by patients and may be incomplete for that reason.

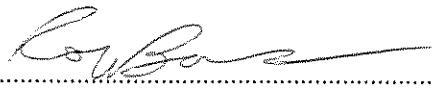
## DIRECTIONS

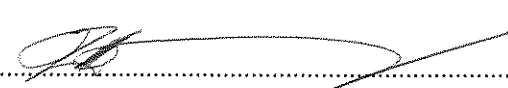
1. Where the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
2. Describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which notification is given.
3. A collective bargaining notification can not be lodged by a trade union or a trade union representative.
4. Where the applicant will be a participant in the collective bargaining arrangements (rather than a representative of participants) the name of the applicant must also be included. Where those persons are corporations, list the corporation's name and address.
5. The applicant, in lodging a notification on behalf of others, must obtain their consent to do so and provide proof of that consent.
6. Where the target is a corporation, provide the corporate name.
7. The collective bargaining notification process is only available to parties that reasonably expect to make one or more contracts with the target about the supply or acquisition of goods or services the subject of the notification.
8. The value of the contract to be collectively negotiated between the target and each participant is not to exceed \$3 million (or such other amount as is prescribed by the regulations) per participant in any twelve month period.
9. To the extent that the collective bargaining arrangements have been reduced to writing, provide a true copy of the arrangement. To the extent that the collective bargaining arrangements have not been reduced to writing, provide a full and correct description of the key terms that have not been reduced to writing.
10. In simple terms an exclusionary provision exists where the proposed contract, arrangement or understanding is made by businesses (at least two of whom are competitors) for the purpose of preventing, restricting or limiting the supply of services to particular persons or classes of persons by all or any of the parties to the contract, arrangement or understanding.  
  
In the context of collective bargaining, an exclusionary provision(s) may include contracts, arrangements or understandings (whether currently in existence or to be made or arrived at during the term of the notification) between collective bargaining participants to limit or restrict their dealings with the target including contracts arrangements or understandings to:
  - (a) withhold the supply of goods or services from the target; or
  - (b) refuse or decline to acquire the good or services of the target;whether such conduct was absolute, limited or subject to certain terms or conditions. This is sometimes referred to as a collective boycott.
11. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
12. The notification must be signed by a person authorised by the applicant to do so.

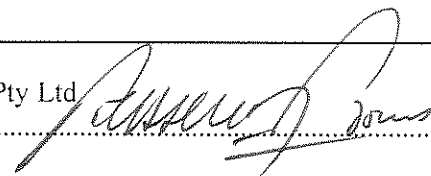
Schedule 2

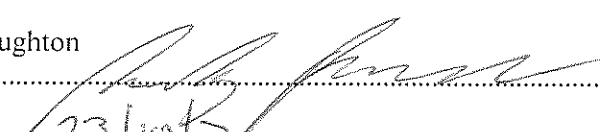
CONSENT TO PARTICIPATE IN THE WAG NOTIFICATION SUBMISSION

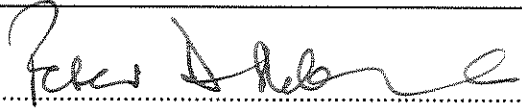
I consent to being a participant to this Submission to the ACCC.


Dr Roger Barker  .....Signed  
Date 19.10.07


Dr Fraser Barry for Minical Pty Ltd  .....Signed  
Date 29/10/07

Dr Russell Bourne for Russell Bourne Pty Ltd  .....Signed  
Date 25/10/07

Dr Andrew Haughton  .....Signed  
Date 23/10/07

Dr Peter Hebbard  .....Signed  
Date 24/10/07

Dr Mark Radnor  .....Signed  
Date 19/10/07

Dr Robin Sharp for Robin Sharp Pty Ltd  .....Signed  
Date 24/10/07