



Australian
Competition &
Consumer
Commission

Draft Determination

Application for authorisation

lodged by

Australian Medical Association (NSW) Limited

in respect of

collective negotiations with NSW Health and public health organisations on the terms and conditions (including but not limited to remuneration) of visiting medical officer contracts in the New South Wales public hospital system

Date: 16 July 2008

Authorisation no.: A91088

Public Register no.: C2008/629

Commissioners: Samuel
Sylvan
Schaper
Court
King
Martin
Walker
Willett

Summary

The ACCC proposes to grant authorisation to the Australian Medical Association (NSW) Limited to collectively negotiate with:

- NSW Health the terms and conditions (including but not limited to remuneration) of visiting medical officer (VMO) contracts in the New South Wales public hospital system
- public health organisations (PHOs) in New South Wales (as set out in [attachment A](#) to this draft determination) on issues relevant to the engagement of VMOs by PHOs but excluding standard VMO contract terms and conditions and rates of remuneration

until 31 December 2013.

The authorisation process

The Australian Competition and Consumer Commission (ACCC) can grant immunity from the application of the competition provisions of the *Trade Practices Act 1974* (the Act) if it is satisfied that the benefit to the public from the conduct outweighs any public detriment. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

The application for authorisation

On 22 April 2008 the Australian Medical Association (NSW) Limited (AMA NSW) lodged application for authorisation A91088 with the Australian Competition and Consumer Commission (the ACCC). AMA NSW seeks authorisation to collectively negotiate on behalf of visiting medical offers in New South Wales (NSW) with:

- the NSW Department of Health (NSW Health) regarding the terms and conditions (including but not limited to remuneration) of visiting medical officer (VMO) contracts in the NSW public hospital system
- public health organisations (PHOs) regarding the terms and conditions (other than remuneration) of visiting medical officer (VMO) contracts in the NSW public hospital system, at the local level. A list of PHOs is provided at [attachment A](#) to this draft determination.

AMA NSW does not seek authorisation to negotiate changes to the Rural Doctors' Settlement Package arrangements. Further, AMA NSW does not seek authorisation to engage in collective boycott activity.

Assessment of public benefit and detriment

The ACCC considers that certain features of the NSW health system limit the potential detriment of the proposed collective bargaining arrangement. In particular, arrangements for VMOs are already generally made at the state level and legislation significantly constrains the ability of PHOs to establish provisions for VMO engagements which vary from the standard terms and conditions established by NSW Health.

The ACCC also considers that the voluntary nature of the arrangements and the absence of collective boycott conduct limit the potential detriment. In particular, the ACCC notes that NSW

Health may continue to establish standard terms and conditions for VMO contracts with or without input from AMA NSW.

The ACCC considers that the proposed collective bargaining arrangement may, to some extent, enhance the effective representation of VMOs in dealings with NSW Health in the future, and particularly once the *Independent Contractors Act 2006* comes into full effect. The proposed authorisation will remove the legal risk associated with AMA NSW negotiating with NSW Health on behalf of VMOs in circumstances where NSW Health agrees to participate in the collective bargaining process.

On balance, the ACCC considers the public benefit from the proposed arrangement is likely to outweigh the limited public detriment.

Draft determination

The ACCC proposes to grant authorisation to application A91088 until 31 December 2013.

The next steps

The ACCC will now seek further submissions from the applicant and interested parties in relation to this draft determination prior to making a final decision. The applicant and interested parties may also request that a conference be held to make oral submissions on the draft determination.

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1. Introduction

Authorisation

- 1.1. The Australian Competition and Consumer Commission (the ACCC) is the independent Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.
- 1.2. The Act, however, allows the ACCC to grant immunity from legal action in certain circumstances for conduct that might otherwise raise concerns under the competition provisions of the Act. One way in which parties may obtain immunity is to apply to the ACCC for what is known as an 'authorisation'. The ACCC may 'authorise' businesses to engage in such conduct where it is satisfied that the public benefit from the conduct outweighs any public detriment.
- 1.3. The ACCC conducts a public consultation process when it receives an application for authorisation. The ACCC invites interested parties to lodge submissions outlining whether they support the application or not, and their reasons for this.
- 1.4. After considering submissions, the ACCC issues a draft determination proposing to either grant the application or deny the application.
- 1.5. Once a draft determination is released, the applicant or any interested party may request that the ACCC hold a conference. A conference provides all parties with the opportunity to put oral submissions to the ACCC in response to the draft determination. The ACCC will also invite the applicant and interested parties to lodge written submissions commenting on the draft.
- 1.6. The ACCC then reconsiders the application taking into account the comments made at the conference (if one is requested) and any further submissions received and issues a final determination. Should the public benefit outweigh the public detriment, the ACCC may grant authorisation. If not, authorisation may be denied. However, in some cases it may still be possible to grant authorisation where conditions can be imposed which sufficiently increase the benefit to the public or reduce the public detriment.

2. The application for authorisation

- 2.1. On 22 April 2008 the Australian Medical Association (NSW) Limited (AMA NSW) lodged application for authorisation A91088 with the ACCC. AMA NSW seeks authorisation to collectively negotiate on behalf of visiting medical officers (VMOs) in New South Wales (NSW) with the NSW Department of Health (NSW Health) and public health organisations (PHOs) regarding the terms and conditions (including but not limited to remuneration) of VMO contracts in the NSW public hospital system. AMA NSW proposes to negotiate on behalf of both general practitioner (GP) and specialist VMOs.
- 2.2. AMA NSW submitted that the proposed collective negotiations are intended to reflect existing arrangements in NSW.
- 2.3. On 25 June 2008 AMA NSW provided a submission clarifying that with respect to PHOs, it seeks authorisation to engage in negotiations at the local level regarding the terms and conditions (other than remuneration) of VMO contracts. It notes that such negotiations may concern the services to be provided at a particular hospital or the services and resources required by VMOs to ensure the ongoing provision of services by those VMOs (for example, nursing staff and equipment to perform specified procedures).
- 2.4. Public health organisations are defined by the *Health Services Act 1997 (NSW)* (Health Services Act) to be area health services, statutory health corporations and affiliated health organisations. AMA NSW submitted copies of the relevant schedule of the Health Services Act which list PHOs in NSW. This information can be found at [attachment A](#) to this draft determination.
- 2.5. AMA NSW also clarified that it does not seek authorisation to negotiate changes to arrangements covered by the Rural Doctors' Settlement Package. Further, AMA NSW does not seek authorisation to engage in collective boycott activity.
- 2.6. AMA NSW seeks authorisation for a period of five years.

The applicant

- 2.7. AMA NSW is an independent association representing more than 8 500 doctors in NSW of which around 3 500 are specialists. AMA NSW assists its members with workplace relations, media and government relations and policy development for the betterment of the medical profession.
- 2.8. AMA NSW currently has a statutory role, under the Health Services Act, in providing industrial representation for VMOs in NSW. AMA NSW's statutory role will end in March 2010, at the conclusion of the transition period associated with the introduction of the *Independent Contractors Act 2006* (Independent Contractors Act). This issue is discussed further at paragraphs 2.17 to 2.21.

The industry

- 2.9. AMA NSW's application for authorisation concerns VMOs in the NSW public hospital system. In NSW, VMOs are medical practitioners appointed under a service contract (whether the practitioner or his or her practice company is a party to the contract) to provide medical services for or on behalf of a relevant PHO. These services may be provided as in-patient or after-hours

services. Depending on the nature of the appointment, the requirement to provide on-call services in accordance with a roster established by the relevant area health service is part of the medical services required to be provided by a VMO under his/her service contract.

- 2.10. A service contract includes fee-for-service contracts, sessional contracts and honorary contracts. VMOs appointed under fee-for-service contracts are remunerated for services provided by reference to the Commonwealth Medicare Benefits Schedule. VMOs appointed under sessional contracts are remunerated on the basis of an hourly rate. VMOs appointed under honorary contracts do not receive monetary remuneration for the services they provide.
- 2.11. Under the Health Services Regulation 2003, VMO appointments are normally for a term of up to 5 years. For a VMO to be validly appointed the terms and conditions of their service contracts are required to be in writing.
- 2.12. There are approximately 6000 VMO appointments in the NSW public hospital system, with some VMOs holding multiple appointments.¹ Approximately 4800 VMOs are appointed under sessional contracts and approximately 1400 are appointed under fee-for-service contracts.
- 2.13. Approximately 1000 VMOs are appointed under fee-for-service contracts at facilities covered by the Rural Doctors Settlement Package (typically hospitals in rural areas). The ACCC notes that the arrangements under the Rural Doctors Settlement Package are not subject to AMA NSW's application.

Existing arrangements in NSW

- 2.14. In NSW, the establishment of standard rates and conditions for VMOs is regulated by the Health Services Act. The legislation prescribes that standard rates and conditions (for both fee-for-service and sessional arrangements) can be established and varied from time to time in one of three ways:
- by the NSW Health Minister, by order in writing, approving sets of conditions recommended by AMA NSW for inclusion in service contracts
 - by determination of an arbitrator, following an application to the Minister for Industrial Relations by the NSW Health Minister and/or AMA NSW for the appointment of an arbitrator or
 - by NSW Health issuing Policy Directives to PHOs concerning the standard terms and conditions applicable to VMOs following consultation with AMA NSW (or, with respect to facilities covered by the Rural Doctors Settlement Package, with the Rural Doctors Association NSW).
- 2.15. The Health Services Act also:
- mandates the use of standard service contracts for sessional or fee-for-service arrangements when established
 - specifies that standard service provisions do not have retrospective effect
 - stipulates that any provision of a service contract that is inconsistent with a policy directive is, to the extent of the inconsistency, of no effect.

¹ AMA NSW submission to the ACCC, 18 April 2008, p.3.

2.16. PHOs are not authorised to approve or provide non-standard VMO conditions.

Independent Contractors Act 2006

2.17. The Independent Contractors Act commenced on 11 June 2007. The object of the Act is to recognise and protect the 'independence' of independent contractors in the Australian workplace by preventing interference with the terms of genuine contracting arrangements.

2.18. The Independent Contractors Act has stopped state laws from requiring independent contractors be treated as if they were employees, subject to a three year transition period during which these state laws generally will still apply. The transition period will expire in March 2010.

2.19. The Independent Contractors Act has affected the status of VMOs in NSW. During the transition period:

- VMOs already working in the NSW public hospital system will continue to be subject to the relevant provisions of the Health Services Act
- any VMO who commences work in the NSW public hospital system will be subject to the Independent Contractors Act
- any VMO already working in the NSW public hospital system may choose to be subject to the Independent Contractors Act.

2.20. At the conclusion of the transition period, all VMOs in NSW will be subject to the Independent Contractors Act.

2.21. AMA NSW is of the view that the Independent Contractors Act has impacted on its role in providing industrial representation to VMOs under the Health Services Act. During the transition period to the Independent Contractors Act, AMA NSW has no legislative role to consult with NSW Health on behalf of VMOs who commence work in the NSW public hospital system. Further, at the conclusion of the transition period, AMA NSW will no longer have a statutory role with respect to making recommendations to the Minister for Health or applying to the Minister for Industrial Relations for arbitration.

Chronology

2.22. A chronology of significant dates in the consideration of this application is below.

DATE	ACTION
22 April 2008	Lodgement of application and supporting submission.
29 April 2008	Public consultation process begins.
23 May 2008	Closing date for submissions from interested parties.
2 July 2008	Applicant provides final response to issues raised in public consultation process.
16 July 2008	Draft determination.

3. Submissions received by the ACCC

3.1. The ACCC sought submissions from 34 interested parties potentially affected by the application, including consumer groups, industry associations and government departments. The ACCC received public submissions from:

- **Australian Medical Association (AMA)** which provided its support for AMA NSW's application. AMA considers that the existing arrangements in NSW have allowed the orderly negotiation of contracts, permitted specific workforce issues to be identified and have ensured that NSW Health has access to a highly skilled and flexible VMO workforce.
- **AMA Queensland** which noted that the ability to collectively negotiate contracts for VMOs will enable AMA NSW to be in a position to further encourage and motivate private doctors back into the public sector. It considers this is in the public interest given the shortage of skilled doctors in the public hospital system, in both rural and metropolitan areas.
- **Consumers Health Forum of Australia** which submitted that consumers expect that the medical workforce will be able to meet community needs, be nationally consistent and coordinated, and negotiations to achieve this will look to systemic solutions rather than individual benefits.
- **NSW Health** which submitted its general support for the proposed collective bargaining arrangement. NSW Health provided a brief summary of the current arrangements in place for the determination of the terms and conditions of VMOs in NSW. It noted AMA NSW's submissions regarding the limited role of PHOs and VMOs in the negotiation of terms and conditions. In the context of the Independent Contractors Act, NSW Health advised that it currently has no intention to depart from its current position of regulating the types, terms and conditions of service contracts that PHOs may offer to VMOs. NSW Health submitted that in the event authorisation is granted, it should only allow AMA NSW to negotiate on behalf of VMOs with NSW Health.
- **Queensland Health** which noted that arrangements in NSW relating to VMOs are quite different to those in Queensland and that AMA NSW's proposed collective bargaining arrangement will have no effect on Queensland Health.

3.2. In addition to the information provided in its application for authorisation, AMA NSW supplied several additional supporting submissions clarifying the arrangements for which it seeks authorisation.

3.3. The views of AMA NSW and interested parties are outlined further in the ACCC's evaluation of the proposed collective negotiation arrangement in Chapter 5 of this draft determination. Copies of public submissions are available from the ACCC website (www.accc.gov.au) by following the 'Public Registers' and 'Authorisations Public Registers' links.

4. The net public benefit test

- 4.1. The ACCC may only grant authorisation where the relevant test in section 90 of the Act is satisfied.

Application A91088

- 4.2. AMA NSW lodged application for authorisation A91088 under section 88(1) of the Act to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of the Act. The relevant tests for this application are found in sections 90(6) and 90(7) of the Act.
- 4.3. In respect of the making of the arrangements, sections 90(6) and 90(7) of the Act state that the ACCC shall not authorise a provision of a proposed contract, arrangement or understanding, other than an exclusionary provision, unless it is satisfied in all the circumstances that:
- the provision of the proposed contract, arrangement or understanding would result, or be likely to result, in a benefit to the public and
 - this benefit would outweigh the detriment to the public constituted by any lessening of competition that would result, or be likely to result, if the proposed contract or arrangement was made and the provision concerned was given effect to.

Application of the tests

- 4.4. The Tribunal has stated that the test under section 90(6) is limited to a consideration of those detriments arising from a lessening of competition.²
- 4.5. However, the Tribunal has previously stated that regarding the test under section 90(6):
- [the] fact that the only public detriment to be taken into account is lessening of competition does not mean that other detriments are not to be weighed in the balance when a judgment is being made. Something relied upon as a benefit may have a beneficial, and also a detrimental, effect on society. Such detrimental effect as it has must be considered in order to determine the extent of its beneficial effect.³
- 4.6. Consequently, given the similarity of wording between section 90(6) and (90(7), when applying these tests the ACCC can take most, if not all, detriments likely to result from the relevant conduct into account either by looking at the detriment side of the equation or when assessing the extent of the benefits.

Definition of public benefit and public detriment

- 4.7. Public benefit is not defined in the Act. However, the Tribunal has stated that the term should be given its widest possible meaning. In particular, it includes:

² *Australian Association of Pathology Practices Incorporated* [2004] ACompT 4; 7 April 2004. This view was supported in *VFF Chicken Meat Growers' Boycott Authorisation* [2006] ACompT9 at paragraph 67.

³ *Re Association of Consulting Engineers, Australia* (1981) ATPR 40-2-2 at 42788. See also: *Media Council case* (1978) ATPR 40-058 at 17606; and *Application of Southern Cross Beverages Pty. Ltd., Cadbury Schweppes Pty Ltd and Amatil Ltd for review* (1981) ATPR 40-200 at 42,763, 42766.

...anything of value to the community generally, any contribution to the aims pursued by society including as one of its principle elements ... the achievement of the economic goals of efficiency and progress.⁴

4.8. Public detriment is also not defined in the Act but the Tribunal has given the concept a wide ambit, including:

...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.⁵

Future with-and-without test

4.9. The ACCC applies the 'future with-and-without test' established by the Tribunal to identify and weigh the public benefit and public detriment generated by arrangements for which authorisation has been sought.⁶

4.10. Under this test, the ACCC compares the public benefit and anti-competitive detriment generated by arrangements in the future if the authorisation is granted with those generated if the authorisation is not granted. This requires the ACCC to predict how the relevant markets will react if authorisation is not granted. This prediction is referred to as the 'counterfactual'.

Length of authorisation and conditions

4.11. The ACCC can grant authorisation for a limited period of time.⁷ The Act also allows the ACCC to grant authorisation subject to conditions.⁸

Future and other parties

4.12. Applications to make or give effect to contracts, arrangements or understandings that might substantially lessen competition or constitute exclusionary provisions may be expressed to extend to:

- persons who become party to the contract, arrangement or understanding at some time in the future⁹
- persons named in the authorisation as being a party or a proposed party to the contract, arrangement or understanding.¹⁰

⁴ Re 7-Eleven Stores (1994) ATPR 41-357 at 42,677. See also Queensland Co-operative Milling Association Ltd (1976) ATPR 40-012 at 17,242.

⁵ Re 7-Eleven Stores (1994) ATPR 41-357 at 42,683.

⁶ Australian Performing Rights Association (1999) ATPR 41-701 at 42,936. See also for example: Australian Association of Pathology Practices Incorporated (2004) ATPR 41-985 at 48,556; Re Media Council of Australia (No.2) (1987) ATPR 40-774 at 48,419.

⁷ Section 91(1).

⁸ Section 91(3).

⁹ Section 88(10).

¹⁰ Section 88(6).

5. ACCC evaluation

- 5.1. The ACCC's evaluation of the proposed collective bargaining arrangement is in accordance with the net public benefit test outlined in Chapter 5 of this draft determination. As required by the test, it is necessary for the ACCC to assess the likely public benefits and detriments flowing from the proposed collective bargaining arrangement.

Affected markets

- 5.2. The first step in assessing the effect of the conduct for which authorisation is sought is to consider the relevant market(s) affected by that conduct.
- 5.3. AMA NSW has not made a submission regarding the relevant market(s) which may be affected by the application.
- 5.4. The application concerns the provision by VMOs, both GP and specialist, of medical services in the New South Wales public hospital system.
- 5.5. In broad terms, the relevant area of competition relates to the provision of medical services to hospitals. There are two aspects to consider – the geographic boundary of the market and whether GPs and specialists, or different specialties, constitute different markets.
- 5.6. Overall, the ACCC does not consider it necessary to precisely define the market in this instance, as the outcome of the assessment will not be affected.

Medical services markets

- 5.7. Public hospitals generally offer a range of specialist medical services. There is very limited substitutability between services offered by different craft groups. The ACCC considers that there are generally different markets for each specialty. Within these there is some substitution between GP proceduralists, who have specialist skills, and specialists. Both these groups may provide VMO services to public hospitals in NSW.
- 5.8. However, the ACCC considers that GPs who provide primary care and do not have specialist skills constitute a distinct market from specialist services. They do not supply services to hospitals and cannot be a substitute for the doctors at a hospital. They are not covered by the AMA NSW's application for authorisation.
- 5.9. While a number of alternatives to VMO services from public hospitals exist, such as day procedure centres, they may only be used in limited circumstances.

Geographic

- 5.10. The proposed collective bargaining arrangement is confined to the negotiation of VMO contracts for the New South Wales public hospital system. The Health Services Act governs the appointment of VMOs and the services contracts under which VMOs provide services in NSW public hospitals. The provision of VMO services outside of NSW is subject to different regulation. The ACCC is satisfied that the geographic market does not extend beyond NSW.
- 5.11. Within NSW, there appear to be geographic differences in the provision of medical services to hospitals by GPs and specialists. The ACCC understands that GP VMOs operate predominantly

in rural areas. The ACCC understands that rural public hospitals may recruit GPs from outside their local area but to settle in the local area. The ACCC has previously noted that public hospitals are likely to seek GP VMO services from doctors practicing in a localised geographic radius from the hospital.¹¹ The breadth of this region is likely to differ depending on the remoteness of the area. The ACCC notes that AMA NSW's application does not extend to arrangements under the Rural Doctors Settlement Package which will generally limit geographic coverage of the proposed collective bargaining arrangements.

- 5.12. With respect to specialists, the ACCC considers that the ability of hospitals to attract specialist VMOs will vary according to where the hospital is located and the level of services and facilities it provides. For example, a smaller community hospital is likely to face greater difficulty in attracting specialist VMOs than a large teaching hospital in a metropolitan area. While the pool of specialists generally available for VMO appointments to public hospitals is large, the pool of doctors willing to service particular public hospitals may be very limited.

The counterfactual

- 5.13. As noted in Chapter 5 of this draft determination, in order to identify and measure the public benefit and public detriment generated by conduct, the ACCC applies the 'future with-and-without test'.
- 5.14. AMA NSW submits that without authorisation, individuals and/or groups of medical practitioners will negotiate with NSW Health on independent contracting arrangements for VMOs.¹² It notes that the basis of its application for authorisation is that in the future, NSW Health may retain the ability to centrally determine the terms and conditions of VMO contracts while AMA NSW will have no statutory role.
- 5.15. In identifying the appropriate counterfactual, the ACCC is mindful of recent legislative changes concerning independent contractors and their impact on the status of VMOs in NSW. As a consequence of the Independent Contractors Act, VMOs are to be regarded as independent contractors, rather than employees (subject to a transitional period of three years from 1 March 2007). AMA NSW's statutory role in providing industrial representation to VMOs in NSW will cease at the end of the transition period.
- 5.16. The ACCC notes that concerns of AMA NSW that without authorisation, there is a risk that collective negotiations with NSW on behalf of VMOs may breach the TPA.
- 5.17. Therefore, the ACCC considers that in the absence of the legal protection afforded by authorisation, the most likely counterfactual is the continuation of the present system where NSW Health centrally determines the terms and conditions of VMOs in the NSW public health system, with VMOs entering into individual contracts incorporating these terms and conditions with PHOs.

¹¹ ACCC Determination, Application for revocation and substitution of authorisation A90795 lodged by the Royal Australian College of General Practitioners, 23 May 2007.

¹² It may be appropriate for any alternative collective bargaining arrangement to be the subject of an application for authorisation.

Public detriment

- 5.18. Collective bargaining refers to an arrangement under which two or more competitors in an industry come together to negotiate terms and conditions, which can include price, with a supplier or customer.
- 5.19. Generally speaking, competition between individual businesses generates price signals which direct resources to their most efficient use. Collective agreements to negotiate terms and conditions can interfere with these price signals and accordingly lead to inefficiencies. However, the extent of the detriment and the impact on competition of the collective agreement will depend upon the specific circumstances involved.

Submissions

- 5.20. AMA NSW submitted that there will be no readily identifiable public detriment should authorisation be granted. It notes that there will not be a push to increase fees.
- 5.21. NSW Health submitted its general support for the proposed collective bargaining arrangement. It noted AMA NSW's submissions regarding the limited role of PHOs and VMOs in the negotiation of terms and conditions.

ACCC view

- 5.22. Collective bargaining arrangements within the medical sector can raise significant competition concerns. The extent to which the anti-competitive effect of the arrangement is constrained is an important consideration in the assessment of any application for authorisation or notification of a collective bargaining arrangement.¹³
- 5.23. The ACCC has previously identified that the anti-competitive effect of collective bargaining arrangements is likely to be more limited where the following four features are present:
- the current level of negotiations between individual members of the group and the proposed counterparties on the matters that they seek to negotiate is low
 - there are restrictions on the coverage and composition of the bargaining group
 - participation in the collective bargaining arrangements is voluntary
 - there is no boycott activity.
- 5.24. The key constraining factor is the extent to which the arrangement is genuinely voluntary for all involved and particularly for the party that the collective bargaining group wishes to negotiate with.
- 5.25. The ACCC has, in the past, objected to collective bargaining arrangements in the medical sector which it considered were not genuinely voluntary for the target of the collective bargaining

¹³Small businesses can obtain protection from legal action under the Act for collective bargaining arrangements by lodging a notification with the ACCC. Provided the ACCC does not object to the notified arrangement, protection commences 28 days after lodgement. The ACCC may object to a collective bargaining notification if it is satisfied that the proposed collective bargaining arrangement is not in the public interest (and in some cases, that the notified arrangement will substantially lessen competition).

group. These arrangements involved groups of specialists negotiating with individual hospitals. The ACCC was concerned that the group, which accounted for the majority of specialists at the particular hospital, would be in a position to exert significant pressure on the hospital to negotiate which could lead to potentially anti-competitive outcomes.

5.26. The ACCC will be less concerned with a collective bargaining proposal where the target has a real choice whether to deal with such groups or not. The bargaining position of the group relative to the party they wish to bargain with is a key factor. For example, the ACCC has authorised state-wide arrangements involving groups of rural doctors negotiating with health departments. In this circumstance, the ACCC did not consider that the collective bargaining group was in a position to compel the health department to negotiate, unlike the situation where a group was dealing with an individual hospital.

5.27. The assessment of the anti-competitive effect of AMA NSW's proposed collective bargaining arrangement is below.

Current level of negotiations between individual doctors and NSW Health / PHOs

5.28. Where the current level of individual bargaining between members of a proposed bargaining group and the target is low, the difference between the level of competition with or without the collective arrangements may also be low.

5.29. The ACCC understands that in New South Wales, individual doctors do not currently negotiate standard rates and conditions. Rather, both standard fee-for-service and sessional arrangements are established by NSW Health after consultation with AMA NSW and other representative bodies, such as the Rural Doctors Association, as appropriate.

5.30. Both NSW Health and AMA NSW submitted that rate negotiations do not take place between VMOs (with or without the assistance of AMA NSW) and PHOs. NSW Health advised that PHOs are not authorised to approve or provide non-standard VMO conditions.

5.31. The ACCC notes NSW Health's advice that AMA NSW currently provides assistance to individual VMOs in relation to the negotiation of, for example, routine hours and on call hours with PHOs. NSW Health submitted, and the ACCC accepts, that the provision of such assistance on an individual basis, currently or in the future, is not likely to raise concerns under the Trade Practices Act.

5.32. On the basis of this information, the extent to which contracts between individual doctors and NSW Health / PHOs are currently negotiated appears to be low. The ACCC notes the level of individual negotiation is also likely to be low in a future without authorisation where NSW Health continue to set standard terms and conditions.

5.33. The ACCC considers that the difference in the level of competition amongst doctors with or without collective bargaining is likely to be small.

Coverage or composition of the bargaining groups

5.34. The ACCC considers that where the size of bargaining groups is restricted, any anti-competitive effect is likely to be smaller having regard to the smaller area of trade directly affected and to the competition provided by those suppliers outside the group.

- 5.35. Under AMA NSW's proposal, the bargaining group includes all VMOs in NSW. In particular, the bargaining group includes both GP and specialist VMOs.
- 5.36. AMA NSW submits that its proposed collective bargaining arrangement will operate in a similar manner to the existing arrangement for establishing terms and conditions for VMO contracts in NSW. It notes that currently, discussion of the terms and conditions of VMO contracts generally occurs on behalf of all VMOs and not particular specialities or sub-specialities or locations. AMA NSW also notes that there may be occasions where it is asked to assist particular groups to address issues with PHOs at the local level.
- 5.37. Under the existing arrangements, while rates and conditions for all VMOs may be the subject of a single consultation process, different rates are established for different types of VMOs. For example, different sessional (hourly) rates apply to general practitioners (with a further differentiation based on years of experience), specialists and senior specialists. Surgeons are paid a different background practice cost to anaesthetists, physicians and general practitioners. A separate arrangement, known as the Rural Doctors Settlement Package, establishes the fees paid to GP and specialist VMOs in nominated rural hospitals. The ACCC notes AMA NSW's submission that the proposed collective bargaining arrangement will not include terms and conditions under the Rural Doctors Settlement Package.
- 5.38. The coverage and composition of the bargaining group under AMA NSW's proposal is extensive. The pool of medical practitioners available to NSW Health as VMOs outside the bargaining group is likely to be limited. In most circumstances, a bargaining group that covers a substantial portion of an industry will be of concern to the ACCC because it has the potential to result in significant distortion of outcomes that may otherwise be achieved through a competitive process.
- 5.39. However, the ACCC notes that arrangements for VMOs particularly in relation to rates are already generally made at the state level. In this context, that aspect of the collective bargaining arrangement concerning negotiations with NSW Health is less likely to raise concerns.
- 5.40. AMA NSW's proposed arrangement includes the potential for collective negotiations to take place with PHOs which have the main responsibility for health care delivery in designated areas. In the past, the ACCC has expressed significant concern about collective bargaining arrangements which involve groups of medical practitioners, and particularly specialists, negotiating with individual hospitals. In general, the ACCC considers that such arrangements are likely to result in sufficient increases in the bargaining power of the doctors to result in anti-competitive outcomes.
- 5.41. In this case, AMA NSW seeks authorisation to engage in negotiations with PHOs at the local level regarding the terms and conditions (other than remuneration) of VMO contracts. It submits that these negotiations may concern, for example, the resources required by VMOs, such as nursing staff and procedural equipment, to ensure the ongoing provision of services by those VMOs. AMA NSW provided examples of local negotiations it has undertaken, or is currently undertaking, on behalf of VMOs with the Greater Southern Area Health Service (Albury Base Hospital), South Western Sydney Area Health Service (Bankstown Hospital) and Sydney South West Area Health Service (Campbelltown Hospital). NSW Health submitted that in the event authorisation is granted, it should not cover negotiations with PHOs, particularly as PHOs do not play anything other than a limited role in the establishment of terms and conditions for VMOs.

- 5.42. The ACCC notes NSW Health's submission that PHOs are not authorised to approve or provide non-standard VMO conditions and that under the Health Services Act, any provision of a service contract that is inconsistent with a standard arrangement is, to the extent of the inconsistency, of no effect. Thus the role of PHOs in the establishment of terms and conditions for VMOs is limited by legislation.
- 5.43. In general, the ACCC considers that VMOs, as a group, are likely to be in a more advantageous bargaining position when dealing with an individual PHO than when dealing with NSW Health. The group's position is likely to be even stronger when it includes specialists, because hospitals cannot operate without the bundle of services supplied by a range of craft groups. This bargaining position is likely to be even stronger when dealing with PHOs which function in an environment where workforce shortage is an issue.
- 5.44. In general, PHOs are not individual hospitals but rather area health services which manage the operation of a number of hospitals within a region. If the role and function of PHOs was to change, or the AMA NSW sought to negotiate with individual hospitals, this may amount to a material change of circumstances.
- 5.45. Further, the ACCC considers that features of the NSW health system limit the potential anti-competitive effects resulting from negotiations with PHOs. In particular, the statutory limitations placed upon PHOs in providing VMOs with non-standard terms and conditions, including rates of remuneration, significantly constrains the breadth of issues that may be the subject of negotiation between AMA NSW and PHOs. The legislative requirement that any terms or conditions that are inconsistent with standard provisions has no effect is a further constraint on the negotiations between AMA NSW and PHOs.
- 5.46. In these circumstances, the aspect of the collective bargaining arrangement concerning negotiations with PHOs is less likely to raise concerns. However, should the current limitations on the ability of PHOs to establish terms and conditions change, the ACCC would be concerned that the size of the bargaining group, and its significance, would not reduce the potential for anti-competitive effects.

Voluntary participation in the collective bargaining arrangements

- 5.47. The proposed arrangements are voluntary for the VMOs, for NSW Health and for the PHOs.
- 5.48. AMA NSW submits that if agreement cannot be reached with NSW Health then it will be a matter for individual VMOs to make their own decisions about their contract and contractual arrangements.
- 5.49. The ACCC notes that doctors remain free to decide individually to terminate their engagement with a PHO if they are dissatisfied with the terms and conditions offered, as a result of either collective or individual negotiations.
- 5.50. Further, the ACCC considers that both NSW Health and PHOs are under no obligation to participate in negotiations with AMA NSW. Should negotiations commence, NSW Health and PHOs are able to opt out of the negotiations at any time. In particular, NSW Health and PHOs are not compelled to agree to terms they do not consider are acceptable. They are free to continue with their existing arrangements.

Boycott activity

- 5.51. AMA NSW has not applied for authorisation to engage in collective boycott activity. Accordingly, any such conduct, should it occur, would not be protected from legal action under the Act. Additionally, if such conduct did occur, the ACCC would investigate.

ACCC conclusion on public detriments

- 5.52. The ACCC considers that the difference in the level of competition amongst VMOs with or without collective bargaining is likely to be small. While the ACCC considers that the coverage and composition of the proposed bargaining groups is extensive it notes that certain features of the NSW health system limit any associated detriment. In particular, arrangements for VMOs are already generally made at the state level and legislation significantly constrains the ability of PHOs to establish provisions for VMO engagement which vary from the standard terms and conditions established by NSW Health.
- 5.53. The ACCC considers that the voluntary nature of the arrangements and the absence of collective boycott conduct limit the potential detriment. In particular, the ACCC notes that NSW Health may continue to establish standard terms and conditions for VMO contracts with or without input from AMA NSW.

Public benefit

- 5.54. On the basis of the information provided, the ACCC understands that AMA NSW considers that the proposed collective bargaining arrangement will deliver the following public benefits:
- effective representation of VMOs in dealings with NSW Health and PHOs
 - reduced transaction times and costs associated with the contracting of VMOs
 - positive influence on the retention of VMOs in the NSW public hospital system.
- 5.55. An assessment of these claimed public benefits follows.

Effective representation of VMOs in dealings with NSW Health and PHOs

Submissions

- 5.56. AMA NSW submitted that the Independent Contractors Act has affected its ability to represent VMOs in dealings with NSW Health. It considers that during the current transition period to the new regulatory regime, it has no ability to represent VMOs that are new to the NSW public hospital system in dealings with NSW Health on contractual arrangements without raising trade practices concerns.
- 5.57. AMA NSW also considers that at the conclusion of the transition period to the federal regime, it will have no ability to represent any group of VMOs in dealings with NSW Health on contractual arrangements without being at risk under the Trade Practices Act. AMA NSW considers that authorisation of its proposed collective bargaining arrangement will enable it to effectively represent the views of VMOs to NSW Health and negotiate a set of arrangements for VMOs in the NSW public hospital system.

ACCC view

- 5.58. The ACCC has previously identified that individual businesses, in this case contractors, may have a limited degree of input into their contracts and these circumstances do not always lead to the most efficient contracts. The ACCC has often accepted that collective bargaining arrangements can provide participants with an opportunity for greater input into contracts and accordingly deliver the opportunity for more efficient outcomes.
- 5.59. The ACCC accepts that legislative change has created some uncertainty regarding the future role of AMA NSW in representing VMOs in dealings with NSW Health on contractual terms and conditions. The ACCC notes that the transition period for the Independent Contractors Act expires in March 2010. The ACCC also notes that AMA NSW and NSW Health have agreed that the standard terms and conditions of VMO contracts will not be re-visited before 1 January 2011. Consequently, the terms and conditions of VMO contracts will fall for re-consideration when AMA NSW's current statutory role has expired and all VMOs in NSW are subject to the federal system of regulation.
- 5.60. In these circumstances, the ACCC notes that the proposed collective bargaining arrangement will include negotiation with NSW Health on matters such as price, which may not otherwise be discussed in the future for fear of raising trade practices concerns. It is likely that a negotiation process will enable VMOs, through AMA NSW, to provide greater input into contract terms and conditions than may occur through individual negotiation.
- 5.61. The ACCC notes that under the proposed collective bargaining arrangement, negotiations with PHOs will occur on issues that are particular to the circumstances of the VMOs or the PHO involved, such as the resources required by VMOs to ensure the ongoing provision of services by those VMOs at a particular PHO. In general, the ACCC accepts that it is appropriate for local issues be addressed at a local level. The ACCC also acknowledges that in circumstances where a group of VMOs share the same issues, a collective negotiation process will enable them, through AMA NSW, to provide greater input into discussions on such issues than may occur through individual negotiation.
- 5.62. To the extent that the proposed collective bargaining arrangement results in effective representation of VMOs in dealings with NSW Health and PHOs, it gives rise to some public benefit. The ACCC notes that authorisation will remove the legal risk associated with AMA NSW negotiating with NSW Health and PHOs on behalf of VMOs in circumstances where NSW Health and PHOs agree to the collective bargaining process.

Reduced transaction costs associated with the contracting of VMOs

Submissions

- 5.63. AMA NSW submitted that the proposed collective bargaining arrangement will reduce the costs for NSW Health associated with negotiations undertaken with individual medical practitioners.

ACCC view

- 5.64. Generally, there are transaction costs associated with contracting. These transaction costs can be lower where a single negotiating process is employed, such as in a collective bargaining arrangement, relative to a situation where multiple negotiation processes are necessary. The ACCC considers that to the extent that these transaction cost savings do arise they are likely to constitute a public benefit.

- 5.65. While the ACCC accepts that the proposed arrangement is likely to generate transaction costs savings relative to a situation in which negotiations are undertaken with individual doctors (or multiple groups of doctors), the ACCC considers that the saving will be limited due to the current nature of contracting VMOs in NSW.
- 5.66. In particular, the ACCC understands that NSW Health establishes the standard terms and conditions under which VMOs will be engaged in NSW public hospitals. It currently does so following consultation with AMA NSW, or the Rural Doctors Association, as appropriate. NSW Health has submitted that it has no current intention of departing from this approach. Consequently, the ability of individual VMOs to vary the standard terms and conditions of their contracts is currently limited. The ACCC accepts that there may still be costs associated with entering into standard contracts in the form of professional advice or obtaining the information necessary to make an informed choice. While a collective may be able to consolidate and share such costs, the associated public benefit is likely to be limited.
- 5.67. The ACCC notes that the proposed collective bargaining group is made up of both GPs and specialists. The ACCC has previously concluded that bargaining groups made up of doctors from different craft groups, who have limited commonality of interests, reduces the potential efficiencies and associated public benefit generated by a proposed collective bargaining arrangement. In this instance, the ACCC is mindful that the rates of remuneration currently established by NSW Health provide different rates for GPs (with a further differentiation on the basis of experience), specialists and senior specialists. AMA NSW has submitted that the proposed collective negotiations are intended to reflect existing arrangements.
- 5.68. The ACCC accepts that there will be transaction cost savings from collective negotiations relative to a situation where there is individual negotiation. These savings are likely to be small in comparison to a future without authorisation where NSW Health continues to set standard terms and conditions.

Positive influence on the retention of VMOs in the NSW public hospital system

Submissions

- 5.69. AMA NSW submitted that without authorisation, it is likely that VMOs will leave the public hospital system and certain specialties may withdraw services from some hospitals.
- 5.70. AMA Queensland considers that AMA NSW, through its ability to negotiate contracts for VMOs, will be in a position to further encourage and motivate private doctors back into the public sector. It submits that this is in the public interest given the shortage of skilled doctors in the public hospital system, in both rural and metropolitan areas.
- 5.71. The AMA submits that the current system in NSW, which the proposed collective bargaining arrangement is intended to replicate, has led to sustainable VMO arrangements that support the high quality delivery of medical care in NSW and has ensured NSW Health has access to a highly skilled and flexible VMO medical workforce.

ACCC view

- 5.72. The ACCC acknowledges that VMOs withdrawing, or threatening to withdraw, their services from the public hospitals system is a significant issue for NSW Health as it must ensure that

medical services are available in hospitals. However, this possibility exists with or without authorisation.

- 5.73. There are many reasons why an individual VMO may choose to withdraw services. In general, such decisions when made individually are unlikely to raise trade practices issues. However, when a decision to withdraw services is made by a group of competitors together, it will raise competition concerns. In the context of collective bargaining, a collective boycott occurs when a group of competitors agree not to acquire goods or services from, or not to supply goods or services to, a business with whom the group is negotiating, unless the business accepts the terms and conditions offered by the collective bargaining group. The issue of collective boycott is addressed at paragraph 5.51.
- 5.74. The ACCC appreciates that medical workforce shortages are important issues. The ACCC considers that arrangements which assist in the retention of medical practitioners, and particularly those areas designated as an 'area of workforce shortage', can generate public benefit.
- 5.75. As noted above, the ACCC does accept that the proposed collective bargaining arrangement may, to some extent, enhance the effective representation of VMOs in dealings with NSW Health in the future. This outcome in itself may provide VMOs with greater confidence with respect to the stability and development of medical services in NSW which may have a positive influence on the retention of VMOs.

ACCC conclusion on public benefits

- 5.76. The ACCC considers that the proposed collective bargaining arrangement may, to some extent, enhance the effective representation of VMOs in dealings with NSW Health and PHOs in the future, and particularly once the Independent Contractors Act comes into full effect. The proposed authorisation will remove the legal risk associated with AMA NSW negotiating with NSW Health and PHOs on behalf of VMOs in circumstances where NSW Health and PHOs agree to participate in the collective bargaining process.

Balance of public benefit and detriment

- 5.77. The ACCC may only grant authorisation if it is satisfied that, in all the circumstances, the proposed collective bargaining arrangement is likely to result in a public benefit that will outweigh any public detriment.
- 5.78. In the context of applying the net public benefit test at section 90(8)¹⁴ of the Act, the Tribunal commented that:
- ... something more than a negligible benefit is required before the power to grant authorisation can be exercised.¹⁵
- 5.79. The ACCC considers that certain features of the NSW health system limit the potential detriment of the proposed collective bargaining arrangement and distinguish AMA NSW's proposal from other arrangements that the ACCC has objected to. In particular, arrangements for

¹⁴ The test at 90(8) of the Act is in essence that conduct is likely to result in such a benefit to the public that it should be allowed to take place.

¹⁵ Re Application by Michael Jools, President of the NSW Taxi Drivers Association [2006] ACompT 5 at paragraph 22.

VMOs are already generally made at the state level and legislation significantly constrains the ability of PHOs to establish provisions for VMO engagement which vary from the standard terms and conditions established by NSW Health.

- 5.80. The ACCC also considers that the voluntary nature of the arrangements and the absence of collective boycott conduct limit the potential detriment. In particular, the ACCC notes that NSW Health may continue to establish standard terms and conditions for VMO contracts with or without input from AMA NSW.
- 5.81. The ACCC considers that the proposed collective bargaining arrangement may, to some extent, enhance the effective representation of VMOs in dealings with NSW Health and PHOs in the future, and particularly once the Independent Contractors Act comes into full effect. The proposed authorisation will remove the legal risk associated with AMA NSW negotiating with NSW Health and PHOs on behalf of VMOs in circumstances where NSW Health and PHOs agree to participate in the collective bargaining process.
- 5.82. On balance, the ACCC considers the public benefit is likely to outweigh the limited public detriment.

Length of authorisation

- 5.83. The ACCC generally considers it appropriate to grant authorisation for a limited period of time, so as to allow an authorisation to be reviewed in the light of any changed circumstances.
- 5.84. In this instance, AMA NSW seeks authorisation for five years.
- 5.85. When granting authorisation to a collective bargaining arrangement, the ACCC endeavours to allow sufficient time for an arrangement to be negotiated and implemented. In these circumstances, the ACCC proposes to grant authorisation to the proposed collective bargaining arrangement until 31 December 2013.

6. Draft determination

The application

- 6.1. On 22 April 2008 the Australian Medical Association (NSW) Limited (AMA NSW) lodged application for authorisation A91088 with the Australian Competition and Consumer Commission (the ACCC).
- 6.2. Application A91088 was made using Form B, Schedule 1, of the Trade Practices Regulations 1974. The application was made under subsection 88 (1) of the Act to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of the Act.
- 6.3. In particular, AMA NSW seeks authorisation to collectively negotiate on behalf of visiting medical officers in New South Wales (NSW) with:
 - the NSW Department of Health (NSW Health) regarding the terms and conditions (including but not limited to remuneration) of visiting medical officer (VMO) contracts in the NSW public hospital system
 - public health organisations (PHOs) regarding the terms and conditions (other than remuneration) of visiting medical officer (VMO) contracts in the NSW public hospital system, at the local level. A list of PHOs is provided at [attachment A](#) to this draft determination.
- 6.4. AMA NSW does not seek authorisation to negotiate changes to the Rural Doctors' Settlement Package arrangements. AMA NSW does not seek authorisation to engage in collective boycott activity.

The net public benefit test

- 6.5. For the reasons outlined in Chapter 5 of this draft determination, the ACCC considers that in all the circumstances the arrangement for which authorisation is sought is likely to result in a public benefit that would outweigh the detriment to the public constituted by any lessening of competition arising from the arrangements.
- 6.6. The ACCC therefore **proposes to grant** authorisation to application A91088 until 31 December 2013.

Conduct for which the ACCC proposes to grant authorisation

- 6.7. The ACCC proposes to grant authorisation for a period of five years to AMA NSW to collectively negotiate with NSW Health the standard terms and conditions, including rates of remuneration, of contracts for VMOs engaged in the NSW public hospital system.
- 6.8. The ACCC proposes to grant authorisation for a period of five years to AMA NSW to collectively negotiate with PHOs in NSW (as set out in [attachment A](#) to this draft determination) on issues relevant to the engagement of VMOs by PHOs but excluding standard VMO contract terms and conditions and rates of remuneration.

6.9. In general, PHOs are not individual hospitals but rather area health services which manage the operation of a number of hospitals within a region. If the role and function of PHOs was to change, or the AMA NSW sought to negotiate with individual hospitals, this may amount to a material change of circumstances.

6.10. This draft determination is made on 16 July 2008.

Conduct not proposed to be authorised

6.11. The proposed authorisation does not extend to any collective decision by current or future VMOs working within the NSW public hospital system to engage in collective boycott activities.

Further submissions

6.12. The ACCC will now seek further submissions from interested parties. In addition, the applicant or any interested party may request that the ACCC hold a conference to discuss the draft determination, pursuant to section 90A of the Act.

ATTACHMENT A

Public health organisations in New South Wales

New South Wales Acts / Acts beginning with 'H' / **Health Services Act 1997 - No 154 of 1997 - Updated 25 February 2008** / Schedule 1 Names and areas of area health services

Schedule 1 Names and areas of area health services

(Sections 17 and 18)

Column 1	Column 2	Column 3
Name of service	Description of local government area or city	Description of area other than local government area
Greater Southern Area Health Service	Albury Bega Valley Berrigan Bland Bombala Boorowa Carrathool Conargo Coolamon Cooma-Monaro Cootamundra Corowa Deniliquin Eastern Capital City Regional Eurobodalla Greater Argyle Greater Hume Greater Queanbeyan Griffith Gundagai Harden Hay Jerilderie Junee Leeton Lockhart Murray Murrumbidgee Narrandera Snowy River Temora Tumbarumba Tumut Upper Lachlan Urana Wagga Wagga Wakool Yass Valley Young	

Greater Western Area Health Service	Balranald Bathurst Regional Blayney Bogan Bourke Brewarrina Broken Hill Cabonne Central Darling Cobar Coolah Coonabarabran Coonamble Cowra Dubbo Forbes Gilgandra Lachlan Mid-Western Regional Narromine Oberon Orange Parkes Walgett Warren Weddin Wellington Wentworth	Unincorporated area
Hunter and New England Area Health Service	Armidale Dumaresq Cessnock Dungog Glen Innes Severn Gloucester Great Lakes Greater Taree Gunnedah Guyra Gwydir Inverell Lake Macquarie Liverpool Plains Maitland Moree Plains Muswellbrook Narrabri Newcastle Port Stephens Singleton Tamworth Regional Tenterfield Upper Hunter Uralla Walcha	

North Coast Area Health Service	Ballina Bellingen Byron Clarence Valley Coffs Harbour Hastings Kempsey Kyogle Lismore Nambucca Richmond Valley Tweed	
Northern Sydney and Central Coast Area Health Service	Gosford Hornsby Hunters Hill Ku-ring-gai Lane Cove Manly Mosman North Sydney Pittwater Ryde Warringah Willoughby Wyong	
South Eastern Sydney and Illawarra Area Health Service	Botany Bay Hurstville Kiama Kogarah Randwick Rockdale Shellharbour Shoalhaven Sutherland Sydney (part) Waverley Woollahra Wollongong	Lord Howe Island
Sydney South West Area Health Service	Ashfield Bankstown Burwood Camden Campbelltown Canada Bay Canterbury Fairfield Leichhardt Liverpool Marrickville Strathfield Sydney (part) Wingecarribee Wollondilly	

Sydney West Area Health
service

Auburn
Baulkham Hills
Blacktown
Blue Mountains
Hawkesbury
Holroyd
Lithgow
Parramatta
Penrith

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New South Wales Acts / Acts beginning with 'H' / **Health Services Act 1997 - No 154 of 1997 - Updated 25 February 2008** / Schedule 2 Statutory health corporations

Schedule 2 Statutory health corporations

(Section 41)

Column 1	Column 2
Name of statutory health corporation	Nature of governance
Clinical Excellence Commission	Board
HealthQuest	Board
Justice Health	Board
The Royal Alexandra Hospital for Children	Chief executive
The Stewart House Preventorium, Curl Curl	Board

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New South Wales Acts / Acts beginning with 'H' / **Health Services Act 1997 - No 154 of 1997 - Updated 25 February 2008** / Schedule 3 Affiliated health organisations

Schedule 3 Affiliated health organisations

(Section 62)

Column 1	Column 2
Name of organisation	Recognised establishment or recognised service
Australian Red Cross Society	Glen Mervyn Junior Red Cross Children's Home, Randwick. Eleanor Mackinnon Junior Red Cross Home, Cronulla.
Benevolent Society of New South Wales	Central Sydney Scarba Services. Early Intervention Program. Eastern Sydney Scarba Services. South West Sydney Scarba Services.
Buckland Convalescent Hospital Ltd	Buckland Convalescent Hospital, Springwood.
Calvary Health Care (Newcastle) Limited	Calvary Mater Newcastle
Calvary Health Care Sydney Limited	Calvary Hospital, Kogarah.
Catholic Health Care Services Limited	St Vincent's Health Service, Bathurst. Lourdes Hospital and Community Health Service (other than Holy Spirit Dubbo).
Hope HealthCare Ltd	Eversleigh Hospital, Petersham. Graythwaite Nursing Home, North Sydney. Greenwich Hospital, Greenwich. Braeside Hospital, Prairiewood. Neringah Hospital, Wahroonga.
Karitane	Child and Family health services at Carramar, Fairfield, Liverpool and Randwick.
Mercy Care Centre, Young	Mercy Care Centre, Young excluding Mt St Joseph's Residential Care Facility.
Mercy Health Service Albury Limited	Mercy Health Service Albury.
Royal Flying Doctor Service of Australia (South Eastern Section)	All services.
Royal Rehabilitation Centre Sydney	Royal Rehabilitation Centre Sydney.
Royal Society for the Welfare of Mothers and Babies	Tresillian Family Care Centres at Belmore, Penrith, Willoughby and Wollstonecraft.

Sacred Heart Hospice Limited	Sacred Heart Hospice.
St Anthony's and St Joseph's Centre of Care Ltd	St Anthony's Home, Croydon.
St Joseph's Hospital Ltd	St Joseph's Hospital (Auburn).
St Vincent's Hospital Sydney Ltd	St Vincent's Hospital, Darlinghurst. Babworth House (After Care Unit), Darling Point.
The College of Nursing	Nursing Education Programs conducted under agreement with the NSW Department of Health.
The Trustees of the Carrington Centennial Trust	Carrington Centennial Nursing Home.
The Trustees of the Roman Catholic Church for the diocese of Lismore	St Vincent's Community Hospital (Lismore) in respect of the day hospital, the rehabilitation unit and the community health facilities.
Uniting Church in Australia	Lottie Stewart Hospital. War Memorial Hospital (Waverley).

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