

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
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CANBERRA ACT 2601

BY E-MAIL adjudication@accc.gov.au

ACCC Ref: C2010/998

Hunter Nursing

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Dear Mr Hatfield

RE: Attendant Care Industry Associations of NSW Inc (ACIA) exclusive dealing notification
N95116 – Interested party consultation

Thank you for the opportunity to reply to the above notification matter. I believe that ACIA and in turn the Lifetime Care and Support authority {LTCSA} who have advised that ACIA is their governing body responsible for the programs' implementation, demonstrates "Exclusive dealing and third line forcing" activities.

Hunter Nursing has been accredited with Quality Management Systems {QMS}, a licensed provider of the nationally recognised Quality Improvement Council Standards and Accreditation program since 1999 and undertakes ongoing quality improvement which is externally reviewed every 3 years.

The LTCS tender containing the mandatory requirement, that of, providers using only the ACIA endorsed certifying body not only prevents Hunter Nursing from exercising freedom of choice in choosing its certifying body to accredit the ACIA standard but imposes on potential suppliers to the LTCS authority the condition that they are audited by an ACIA endorsed certifying body only. ACIA is only offering one endorsed certifying body, with the cost for the accreditation to be borne by the organization. Hunter Nursing is of the opinion that this constitutes 'exclusive dealing'.

Furthermore, Hunter Nursing believes that the exclusive dealing leads on to the practice of 'third line forcing' by ACIA as the governing body to the LTCS authority.

The condition imposed by the LTCS authority via their latest tender, insists that suppliers exclusively use the ACIA endorsed certifying body third party to accredit its standard. Failure to comply with this condition will result in the organization not being approved to provide services to the LTCS authority.

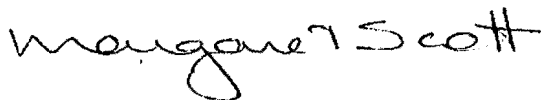
ACIA is also conducting 'third line forcing' by charging a \$500 fee of us, once an agreement has been signed with the only endorsed certifying body permitted by ACIA. Without payment of this \$500 to ACIA, we are not able to proceed to audits with the endorsed certifying body, and therefore cannot achieve ACIMSS Certification. We are then liable for a \$3000 cancellation fee with the endorsed certifying body.

Hunter Nursing is concerned that the number of organizations who withdrew from responding to the LTCS authority tender will significantly reduce the number of providers from whom clients can choose. This is detrimental to the community. Within the industry there is a resignation so to speak, that an exclusive list of providers will not serve to benefit the public.

People First. People Always.

Having worked in this industry for 28 years and I fully support and encourage providers to adopt quality frameworks and practice continuous improvement. This must be supported by ensuring freedom of choice in not only the system, the methodology but also the certifying body /person. I am available for further discussion as required

Yours Faithfully

A handwritten signature in black ink that reads "Margaret Scott". The signature is written in a cursive style with a large, looped initial 'M'.

Margaret Scott OAM
National Manager Community Care
Hunter Nursing Pty Ltd
A division of Healthe Care Australia