SPINE SOCIETY OF AUSTRALIA

Mr Darrell Channing
Director
Competition Exemptions Branch
Australian Competition and Consumer Commission

By email: exemptions@accc.gov.au

15 February 2021

Dear Mr Channing

Re AA1000542 Honeysuckle Health and NIB – Submission

Thank you for providing the opportunity for the Spine Society of Australia (SSA) to comment and advise on the application by Honeysuckle Health Pty Ltd (HH), on behalf of itself and nib Health Funds Limited (nib) (the Applicants), for approval from the Australian Competition and Consumer Commission (ACCC) to create a buyers group for healthcare payers.

Our society is well placed to provide input into this consultative process, as the bulk of our membership is made up of clinicians who provide care to privately insured patients during episodes of care in the private hospital setting. In the main, our members include orthopaedic and neurosurgical spine surgeons, as well as pain physicians who specialise in treating disorders of the spine.

The SSA does not support this application.

Australia has a world leading model of providing quality medical services to Australians at an efficient cost to both the consumer and taxpayer, when the results and reach of those services are considered. Integral to preserving the quality of healthcare is ensuring that the needs of the individual patient form the core of the patient/doctor relationship. Access to the doctor of their choice, and private hospital treatment mutually agreed upon within that relationship, is a fundamental part of the value proposition for Australians to retain their private health insurance (PHI) cover.

The systems the Applicants seek to put in place, have the clear intention to disrupt the patient/doctor relationship and introduce an US styled managed care system. This will be accomplished through their Clinical Partners Program (contracts with individual providers), doctor performance and quality targets arrangements, surveillance (data analytics), and a publicly available doctor scoring system.

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In essence, the application seeks to create a vertically integrated model of care whereby the health insurers will control the patient/doctor relationship directly and, eventually, administer and control medical decisions through convoluted and expensive models of managed care. These models of care often delay and obstruct service provision and can lead to sub-optimal patient outcomes. This is well demonstrated with the USA consistently being rated the poorest performing medical system, when compared with other developed nations.

Any public benefits relating to the Application are negligible when compared with the public detriment. The major public detriment is the impact on privately insured Australian's through limiting and controlling their choice of specialist and also the specialist's ability to provide the treatment best suited to the individual patient's requirements.

The Applicants' outline of the contractual arrangement they propose with specialists through Clinical Partner Program agreements are vague and do not reflect the real world experience with such agreements. Agreements that appear balanced initially will, inevitably, evolve and result in the erosion of the patient/doctor relationship. This will result in perverse outcomes. For example, the requirements for *performance and quality targets* working in conjunction with the Applicants' proposal for a publicly available performance rating of specialists. Specialists will be incentivised to avoid more complex, vulnerable, and disadvantaged patients to maintain their rating within the Program and to secure a steady stream of patients directed to them by the systems set up by the Applicants. This will result in certain patient populations being discriminated against and diverted to the public system and represents another public detriment to the Application.

There is no potential for the fair bargaining of conditions under the proposed Clinical Partner Program agreements between HH and individual specialists in sole private practice. In practice, contracts will be offered on a "take it or leave it" basis. This has already been the experience in Australia with provider contracts offered by other health funds.

It is the intention of HH to grow its business to include other payers: PHIs, the Department of Veterans' Affairs, workers compensation organisations, motor vehicle insurance payers, etc. The more the business of HH is diversified the more likely its business model will reduce competition and take on cartel style characteristics. Specialists who do not sign up would inevitably find themselves blocked from a referral stream from other third party payer organisations within the HH system.

The Australian universal healthcare system, based on a private/public mix, is one of the most highly rated healthcare systems among developed countries. The introduction of managed care incrementally by the arrangements proposed by the Applicants will erode the principles on which our health care systems is based. Silos of care will be created within the private system, with a complex and opaque web of patient and specialist prioritisation that will become apparent and publicly known. The result will be a perception that the public system is better placed to offer treatment individualised to the patient in partnership with their treating clinicians. This will have the perverse result of more Australians dropping PHI and seeking treatment in the public system.

The Application does not provide any benefit to Australian patients and merely seeks to provide the Applicants with greater revenue, control, and profits. It relies on foreign data, which is irrelevant in the Australian healthcare context. The Applicants are asking the ACCC to simply trust that their arrangements will be fair and provide the best clinical outcomes for the privately insured patients who pass their systems. And they expect that trust to last for 10 years.

Further, the proposed system will place contractual obligations on specialists that will impact on clinical decision making without any shift at law for the legal responsibility for those decisions. Liability for any suboptimal clinical result that occurs as a result of the constraints put on the specialist under their agreement with HH will be born solely by the clinician.

At this time, Australia has no federal legislation in place to ensure that the rights and interests of patients and their healthcare providers are protected within such a system.

Doctors, in partnership with their patients, are best placed to make decisions about what treatment is most appropriate for the needs of an individual patient. This is not the role for a 'for profit' company, whose first duty is to the company and not to privately insured Australians in need of healthcare.

Please do not hesitate to contact us should you require any further comment or information.

Yours sincerely

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