

NOTICE OF LODGMENT
AUSTRALIAN COMPETITION TRIBUNAL

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL and has been accepted for lodgment pursuant to the Practice Direction dated 3 April 2019. Filing details follow and important additional information about these are set out below.

Lodgment and Details

Document Lodged:	Application to Intervene
File Number:	ACT 5 of 2021
File Title:	RMSANZ APPLICATION FOR REVIEW OF AUTHORISATION AA1000542 DETERMINATION MADE ON 21 SEPTEMBER 2021
Registry:	VICTORIA – AUSTRALIAN COMPETITION TRIBUNAL



REGISTRAR

Dated: 19/05/2022 9:23 AM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.



THE
AUSTRALIAN
PAIN SOCIETY



Australian Competition and Consumer Commission (ACCC)

Sent via email: registry@competitiontribunal.gov.au

19 May 2022

Dear Sir/Madam,

Re: Application for leave to intervene – Honeysuckle Health Pty Ltd and nib Health Funds Ltd buying group (AA1000542)

We refer to the email and letter received by us on 13 May 2022 from Norton Rose Fulbright Australia regarding ACT 4 and 5 of 2021 of Honeysuckle Health Pty Ltd and nib Health Funds Ltd buying group (AA1000542).

The Australian Pain Society (APS) is opposed to the Authorisation Applicants contending that the Tribunal should vary the Authorisation such that:

- i. The period of Authorisation is extended from 5 to 10 years; and
- ii. The condition preventing Major PHIs from joining the HH Buying Group is removed in respect of medical specialist contracting

The APS considers the final determination made by the ACCC on 21 September 2021, being granting of authorisation for 5 years until 13 October 2026, with a condition that the Applicants must not supply services to Medibank, Bupa, HCF and HBF in Western Australia, to be the more suitable outcome and should prevail.

The APS still has concerns about any arrangement of this sort, as detailed in our original submission of 08 June 2021 (attached) and considered the original authorisation of just 5 years to be a satisfactory compromise.

The APS is disappointed that the final ACCC determination of 21SEP21 is being challenged to gain the term of 10 years as originally requested from the Authorisation Applicants.

Thank you for considering our application for leave to intervene in this instance.

Yours sincerely

Ms Trudy Maunsell
President, Australian Pain Society

CC: Norton Rose Fulbright Australia: kelvin.ng@nortonrosefulbright.com

President

Ms Trudy Maunsell

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Web: apsoc.org.au





THE
AUSTRALIAN
PAIN SOCIETY

Australian Competition and Consumer Commission

Sent via email: exemptions@accc.gov.au

08 June 2021

Dear Sir/Madam,

Re: Honeysuckle Health and nib, Authorisation number AA1000542-1

The Australian Pain Society (APS) was established in 1979 by members of a multidisciplinary team of pain management professionals and currently has 800 members. It is the Australian Chapter of the International Association for the Study of Pain (IASP).

At its 2010 Montreal meeting, the IASP declared that 'access to pain management is a fundamental human right'. Specifically, that all people have the right to:

- Access pain management without discrimination
- Receive acknowledgement of their pain and be informed about how that pain can be assessed and management
- Access appropriate pain assessment and treatment by adequately trained health care professionals.

The APS is committed to supporting this declaration, now known as the Declaration of Montreal.

The APS are world leaders in pain management across the lifespan. Our knowledge is gained through the expertise of our membership, multidisciplinary scientific meetings, research, education programs and publications. Given our expertise in this area, the APS is well positioned to make comment on the proposal to authorise Honeysuckle Health and nib health funds (ASX:NHF) to form and operate a health service buying group for 5 years.

We share the concerns raised by groups such as The Australian Orthopaedic Association, Rehabilitation Medicine Society of Australia and New Zealand, the Australian Dental Association, Occupational Therapy Australia, the Australian Medical Association, Catholic Health, the Australian Society of Anaesthetists and other groups cited in the Draft Determination Document of May 21, 2021 that the use of a value-base contracting model will:

- Prevent parties from being able to choose their source of primary care (person centred care is vital to improving all health conditions, particularly chronic pain outcomes)

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- Lead to a concentration of allied health services and create “defacto” panels of approved providers. The ability to refer to specialised allied health practitioners, especially those with pain management expertise, may be compromised if such practitioners are not approved providers. This will further reduce health carer and patient choice and access to care.
- Create a vertically integrated managed care arrangement
- Result in the imposition of penalties on health care providers and hospitals who are deemed not to have met predetermined outcomes (often related to cost and expenditure rather than clinical improvement).

This is reinforced by Polacek, Christopher, Mann, Udall, Craig, Deminski and Sathe (2020) who reported on the barriers to chronic pain management in their article in the American Journal of Managed Care. They state that:

“these barriers include the complex, variable care context; the multidimensional, subjective nature of pain; variations in approaches to pain and limited resources to manage pain holistically. Most chronic pain management focuses on opioid reduction versus strategic management across the system in the managed care setting.”

They go on to state that:

“these findings align with other reports of fragmented care in the literature and underscore the need for a comprehensive disease management approach to chronic pain. This comprehensive management includes understanding the characteristics of pain and patients that may affect pain presentation, treatment selection and response – can optimize care for patients and providers.”

If the objects of the Declaration of Montreal are to be achieved, any initiative which reduces access to care and fails to recognise the complexity of chronic pain and the needs of individual patients must be considered with caution. The introduction of value-base contracting models (managed care) may well compromise the care of patients with chronic conditions, including chronic pain.

Yours sincerely



Ms Trudy Maunsell
President
Australian Pain Society

References:

Australian Competition and Consumer Commission Draft Determination Application for authorisation lodged by Honeysuckle Health Pty Ltd and nib health funds limited in respect of the Honeysuckle Health Buying Group Authorisation number: AA1000542 May 21, 2021. Commissioners Keogh, Brakey, Court and Ridgeway
<https://www.accc.gov.au/system/files/public-registers/documents/Draft%20Determination%20-%202021.05.21%20-%20PR%20-%20AA1000542%20-%20Honeysuckle%20Health%20and%20nib.pdf>

Polacek, C., Christopher, R., Mann, M., Udall, T., Deminski, M. and Sather, N. Healthcare Professionals' Perceptions of Challenges to Chronic Pain Management. *The American Journal of Managed Care* Vol. 26, No. 4