Allevia Hospitals

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SUBMISSION ON NZGA AUTHORISAION APPLICATION

1 Allevia Health (**Allevia**) welcomes the opportunity to submit on the application for authorisation (and interim authorisation) filed by the New Zealand Gynaecology Association Inc (**NZGA**) on 19 May 2026 (the **Application**).

2 In this submission, Allevia sets out its initial comments on the Application and statement of preliminary issues, to assist the Commerce Commission's (**Commission**) consideration. Please contact Allevia if you require more information on any of the issues raised in this submission.

3 Allevia operates two hospitals in Epsom and Remuera and is directly affected by the negotiations that are the subject of this Application. That is, NZGA seeks authorisation to collectively bargain with Southern Cross Health Insurance (**SCHI**) and/or hospitals (presumably, including Allevia) for the provision of private gynaecological services, and to enter into a limited Standstill Agreement under which participating gynaecologists would collectively defer contracting with SCHI for a period of six months.

COMMENTS ON THE INCLUSION OF HOSPITALS IN THE APPLICATION

4 In substance, the matters raised by NZGA are matters that ought to be resolved between its members and SCHI, and not with Allevia.

5 That is, the proposed collective bargaining is focused on SCHI conduct, along with the level of, and approach to, funding gynaecological services by SCHI.

6 From a formal contracting perspective, Allevia would be relevant to the structure SCHI is attempting to put in place (and theoretical alternatives). That is, as described in the Application SCHI would contract with hospitals for the funding of gynaecological services, and hospitals would negotiate contracts with gynaecologists as subcontractors.[1] However, in substance, NZGA's concerns relate to how, what services and to what level, SCHI is willing to fund gynaecologists in relation to gynaecology services. These issues can be addressed without collective bargaining with Allevia. Allevia's role in the arrangements is incidental, for NZGA's purposes [REDACTED].

7 Further, to the extent gynaecologists do negotiate with hospitals, there is no justification for them to do so other than individually as they do today.

[1] Application at [2.14], and [5.44]-[5.51].

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8 In the Auckland market/s in which Allevia operates, Allevia and other hospitals compete vigorously with each other to attract gynaecologists and other specialists to use their facilities. This is demonstrated by the following:

8.1 the Application contains no evidence that Allevia has an advantageous bargaining position relative to individual gynaecologists,

8.2 specialists (including gynaecologists) can transfer work among hospitals without impediment. That is:

(a) specialists deal with hospitals on a procedure-by procedure basis and are not contracted to any particular hospital,

(b) it is commonplace for specialists not to work solely at one hospital. Doing so allows them to maintain competitive tension between hospitals for their work. Allevia understands it is standard for specialists to be credentialled at a number of private hospitals and listed as a provider under those hospitals' relevant API agreements,

(c) hospitals make the investment in all key equipment, facilities and staff (including nurses) meaning a specialist does not make any investment in a particular hospital (except to the extent of any equity interest in the hospital), and

(d) [REDACTED],

8.3 by contrast, for Allevia, gynaecologists are key customers. [REDACTED]. That is:

(a) Allevia Hospital Ascot has a particular focus and seeks to provide a comprehensive offering in relation to women's health including gynaecology. Allevia has made significant investments in specific equipment and instrumentation, which are not transferable to other uses than gynaecological. It also employs nurses with specialist gynaecology training on wards and in theatres,

(b) in the last financial year, Allevia earned [REDACTED] in revenue from gynaecology surgery,

(c) specialists, including gynaecologists, are a key customer for Allevia and other private hospitals (acknowledged in the Application[2]), as they often have a material role in determining the hospital at which a procedure will take place. Patients are often guided by their general practitioner in terms of the specialist they see, and by their specialist as to the hospital that is used for any procedure. Consistent with this position, Allevia:

(i) [REDACTED], and

(ii) [REDACTED], and

8.4 Allevia has high fixed costs [REDACTED].

9 Currently, gynaecologists and other specialists receive competitive offerings from hospitals. There is no basis on which that could be expected to change regardless of any contracting model that is put in place, as the model would make no difference to the relative bargaining power of

2 For example at [5.13] and [5.14]

gynaecologists and Allevia. Whatever funding terms NZGA or individual gynaecologists can obtain from SCHI cannot be "captured" by Allevia (or, presumably, other hospitals). The arguments regarding bargaining power do not apply as between Allevia and gynaecologists.

10 Allevia asks to be excluded from the scope of the Application, and otherwise for the Commission to decline to give authorisation.

COMMENTS ON THE DETRIMENTS AND BENEFITS ARISING FROM THE APPLICATION

11 Allevia encourages the Commission to look at specialties in which models comparable to that which SCHI is seeking to negotiate have already been put in place. These specialties could provide a useful proxy for the extent and likely benefits and detriments of the proposed collective bargaining. Allevia understands materially the same model as is being proposed for gynaecologists has been in place for more than 20 years and covers most surgical specialties.[3] [REDACTED]

PRICE

12 The conduct sought to be authorised involves arrangements that would fix, control or maintain the price of services that the participants technically supply in competition with each other.[4] As acknowledged in the Application, the cartel prohibition under section 30 is "per se broad" and any contract, arrangement or understanding between competitors or potential competitors may be captured.[5] The Application further acknowledges that the Standstill Agreement could be considered an "output restriction" and "therefore, a cartel agreement".[6]

13 Such arrangements are typically viewed as involving the most serious conduct under the Commerce Act and are prohibited without the need to consider whether they have the purpose or effect of substantially lessening competition.[7] This suggests material detriments are likely.

14 Consistent with this framing, in practice collective bargaining by NZGA with SCHI should be expected to place upward pressure on price, relative to a counterfactual in which SCHI bargained with gynaecologists individually.[8] The key reason Allevia takes that view is that, [REDACTED]. As discussed above, while hospitals have been included in the Application as a target of collective bargaining, NZGA's substantive concerns do not appear to be directed at, or relate to, Allevia and other private hospitals – they appear to focus on SCHI funding – and no evidence is provided as to any genuine bargaining imbalance between gynaecologists and private hospitals or any other matter that would justify collective bargaining with private hospitals.

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3 Application at [5.44]-[5.51].

4 Commerce Act, section 30 and 30A.

5 Application at [8.3(a)].

6 Application at [6.13].

7 Commerce Commission, Competitor Collaboration Guidelines (January 2018), paragraph 8.

8 Raising or holding up prices appear to be a key driver of the Application (e.g. [2.20], [11.4(e)], [11.4(f)], [11.5])

15 That said, it is not certain the prices SCHI agrees to allocate for funding gynaecological services would drop without collective bargaining in place (relative to collective bargaining occurring). Allevia understands SCHI has already been attempting for a lengthy period to negotiate its preferred arrangements with gynaecologists and has not done so. [REDACTED] If that is the case, Allevia is wrong that prices would drop materially absent collective bargaining (because gynaecologists are able to bargain successfully individually). But it also suggests gynaecologists have bargaining power that more closely matches SCHI's than the Application indicates (with hospitals less well placed than either).

16 If prices were higher with collective bargaining than without, Allevia expects the ultimate upshot to be upward pressure on SCHI members' premiums and/or SCHI being in a position to fund a reduced range of services for its members. Specialties where a model similar to SCHI's preferred model has been implemented appear to have continued to grow, and not to have been driven to exit the industry or New Zealand.

17 Allevia also considers the following factors ought to be taken into account:

17.1 the price impacts of collective bargaining are likely to have implications for health insurers other than SCHI. While collective bargaining will not formally apply in respect of those insurers, gynaecologists will have knowledge of one another's terms with SCHI and will be in a strong bargaining position with those insurers, and

17.2 the same reasoning as NZGA has put forward may well apply for other specialties. If all specialties are able to capture materially more value by bargaining collectively there could be very significant implications for the cost of private healthcare in New Zealand.

NON-PRICE

18 Many of the non-price benefits NZGA identifies could just as easily be achieved without authorisation. For example, advocacy regarding appropriate treatment[9] does not require authorisation and is not inherently linked to collective bargaining regarding the price and non-price commercial terms of SCHI funding.

19 As such, the claimed benefits associated with these features are not reliant on authorisation, and could be achieved without it.

20 In fact, these features are successfully addressed in other specialties, without collective bargaining. Allevia is concerned at the suggestion collective bargaining would be needed to safeguard the non-price features set out in the Application. Allevia considers the private hospital care industry as a whole provides world-class, high-quality services, an excellent standard of care and range of procedures. No other specialty group has needed to obtain an authorisation to contribute to the maintenance and ongoing improvement of patient care and other quality standards.

21 It is unclear to Allevia the extent to which innovation would be stifled from gynaecologists receiving lower fees. The bulk of the innovation in gynaecology arises from adopting new technologies and instruments. Hospitals invest in these features, rather than gynaecologists,

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[9] Application at [11.4(a)]-[11.4(d)].

and also buy the relevant consumables, conduct repairs and maintenance on the equipment and train their staff. By contrast, many specialists work in the public system, which provides training, and medical device companies also provide training in new techniques and technologies. While gynaecologists are very open to adopting improvements and innovations, Allevia does not consider they typically bear the associated financial investment and risk (which, instead, fall largely on hospitals).

22 Further, in Allevia's experience innovation progresses regardless of the types of arrangements that are in place with SCHI. For example, innovative robot technology has become common in prostate surgery and orthopaedic knee surgery, both of which are provided in the context of materially the same model as SCHI is proposing for gynaecology.

23 Finally, Allevia notes the significant cost and time advantages for patients, hospitals and gynaecologists of the proposed model. In a fee-for-service model, patients must collect invoices for all of the various contributors to their care (such as facility, anaesthetist and gynaecologist), and seek reimbursement from the insurer. This can be costly (particularly where reimbursement comes after payment) and administratively burdensome (at a time when patients are focused on what can be a significant medical situation). Under the model SCHI is proposing (the which is already in place for a number of specialties) patients will in many cases need only obtain pre-approval and do nothing further – they do not need to oversee any of the payment process. The hospital can submit the relevant claims electronically and payment will occur quickly, to both the hospital and the other providers of care. Payment occurs for the specialist much more quickly and reliably than in a fee-for-service model.

CARTEL CONCERNS

24 The Application suggests that private hospitals may be participating in a hub and spoke cartel (or cartel-like arrangements with comparable effects). This is a very serious allegation and Allevia rejects it.

25 The Application states:[10]

25.1 hospitals would cease competing to supply hospital services to gynaecologists (output restriction and / or market allocation),

25.2 under SCHI's Proposal hospitals would acquire gynaecological services and therefore, adopt at least some of the same terms as each other (including potential exclusionary provisions, i.e. agreeing not to acquire surgical services from certain non-affiliated gynaecologists), which may raise similar cartel provision concerns, and

25.3 hospitals would be entering these terms (at least) in the knowledge that their competitors were also entering these terms with a consensus or commitment via SCHI.

26 These points are wrong and no evidence is presented in support of them.

27 There are no "parallel arrangements" or "understanding" that Allevia's competitors would be entering into similar terms with SCHI. Allevia negotiates with SCHI and agrees terms, bilaterally

[10] Footnote 9, [5.57].

and without knowledge of its competitors' terms with SCHI. It then makes its own unilateral decisions how best to compete to attract specialists. Arrangements already operate in the way SCHI is proposing for many types of specialists. It is no different to any upstream market participant that supplies multiple downstream suppliers.

28 No evidence is presented and it is wrong that hospitals would cease competing to supply hospital services to gynaecologists. SCHI's proposal does not affect the incentive on hospitals to compete to supply hospital services to gynaecologists. As set out above, they currently compete vigorously to do so, and there is no reason to expect this to cease. The points raised in the Application would not affect the relative bargaining power of hospitals and gynaecologists. Hospitals will continue to supply facilities and other services to gynaecologists. Gynaecologists will continue to have the same ease of switching as they do now (and as is the case for other specialities). Allevia competes vigorously to attract and retain specialists in all specialities regardless of model. It has been common in the past for specialists to "play off" hospitals holding AP contracts to maximise their position relative to the hospital. This includes negotiating hard with the hospitals over issues such as fees, equipment, theatre access, service levels.