

9 November 2009

Hospitals Performance Study  
Productivity Commission  
LB2 Collins Street East  
Melbourne Vic 8003  
Email: [hospitals@pc.gov.au](mailto:hospitals@pc.gov.au)

Dear Sir/Madam

Established in 1921, The Health Services Association of NSW is the peak industry body for government and non-government public health service providers in NSW. We welcome the opportunity to contribute to the Productivity Commission's Hospital Performance Study. We wishes to raise two important matters regarding the Draft Discussion Paper issued in October 2009.

First, we draw the Commission specifically to the following extract from page 14 regarding non-government public hospitals:

*"In some instances, governments facilitate the delivery of public hospital services by contracting a private company to build or operate a hospital establishment. In this type of arrangement, the hospital is privately owned but classified as a public hospital because it operates on behalf of the government. Examples of privately-owned government-contracted hospitals include St Vincent's Hospital (New South Wales)...."*

This statement is both wrong at Law and in Fact in New South Wales. In New South Wales non-government public hospitals are recognised under the Health Services Act 1997 (NSW) (cf section 62). The non-government's entities establishment or service is what is recognised. The recognised establishment or service is called an Affiliated Health Organisation. An Affiliated Health Organisation is a Public Health Organisation under section 7 of the Act. As a Public Health Organisation, an Affiliated Health Organisation receives a subsidy drawn directly from the Consolidated Fund determined by the Minister for Health. This system of funding applies to government managed Public Health Organisations. All Public Health Organisations, whether they are non-government or government managed, are under the direct control of the Minister for

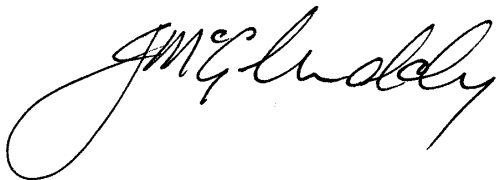
Health. Consequently, there are NO CONTRACTUAL relations between an Affiliated Health Organisation and the NSW Government. To characterise the relationship between Affiliated Health Organisations and the Government as contractual is wrong at Law.

Moreover, the entities operating Affiliated Health Organisations are public charities. They are not 'privately-owned'. Private ownership is incompatible with public charities. To characterise a public charity as a privately-owned entity is wrong at Law.

The second issue we would like to raise regards the collection of data. We note that throughout the Discussion Paper the constant refrain of the lack of poor data. To overcome this, and we believe it is essential to do so otherwise the Commission's work will be meaningless, a centralized agency is required to established which collects the same data from both public and private hospitals. This will give the Commission the required data to make an informed decision.

The Association looks forward to discussing these matters further with the Commission in due time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J McGillicuddy', with a large, sweeping flourish at the end.

**James McGillicuddy**  
**Executive Director**