

**MINUTES OF THE BOARD MEETING OF
THE HEALTH INFORMATION AND QUALITY AUTHORITY (The Authority)**

**Video Conference
18th December 2013**

Present:

Name	Details	Initials
Brian McEnery	Chairperson	BMcE
Sam McConkey	Board Member	SMcC
Darragh O'Loughlin	Board Member	DOL
Una Geary	Board Member	UG
Sheila O'Malley	Board Member (joined by teleconference)	SOM
David Molony	Board Member	DM
Anne Carrigy	Board Member	AC
Linda O'Shea Farren	Board Member	LOSF
Philip Caffrey	Board Member (joined by teleconference)	PC

In Attendance:

Tracey Cooper	Chief Executive Officer	TC
Kathleen Lombard	Board Secretary & Chief Risk Officer	KL
Phelim Quinn	Director of Regulation	PQ
Sean Angland	Head of Corporate Services	SA
Richard O'Sullivan	Legal Adviser (joined by teleconference)	ROS
Jane Grimson	Director of Health information	JG
Marty Whelan	Head of Communications	MW

Apologies:

Grainne Tuke	Board Member	GT
Cillian Twomey ¹	Board Member	CT
Mo Flynn ²	Board Member	MF

1. Quorum

¹ Cillian Twomey absented himself because he holds a position that could be perceived as presenting a conflict of interest situation.

² Mo Flynn absented herself because she holds a position that could be perceived as presenting a conflict of interest situation.

The Chairperson opened the meeting noting that a quorum was present and therefore the Board meeting was duly convened. The Chairperson explained that it was a single item agenda meeting to progress discussions relating to the fee structure for designated centres.

2. Conflict of interest

No additional conflicts of interest were declared.

3. Fee structure for registered centres

The Chairperson reminded the Board that the purpose of the meeting was to arrive at a decision to address the implications arising from the technical interpretation by the Authority of the Registration regulations which has resulted in some instances of incorrect charges being levied in the context of the Authority adopting a logical and fair approach to its charging basis.

The Chairperson went on to summarise that the Authority's interpretation, while reasonable, fair and pragmatic to reflect the changing basis of centres, was technically incorrect. In practice, the Authority has been charging fees to reflect the *actual* number of registered places that had been determined by the Chief Inspector that could safely be accommodated in a centre rather than charging the annual fee on the "*will be*" number stated by the registered provider at the original point of application for registration as provided for by the regulations. This led to some nursing home providers being technically overcharged and some technically undercharged. When this was identified by the Authority discussions took place with the Department of Health (DOH) and it was agreed that the regulations should be urgently amended to align with a fairer approach to reflect the *actual* number of registered places that had been determined could be safely accommodated at a designated centre and ongoing review of actual occupancy in those centres.

TC updated the Board on developments since the Board meeting of the 13 December. Following considerable work by the Authority and DoH officials, the DoH has amended the registration regulations and these had just been signed by the Minister and laid before the Oireachtas on 16 December 2013 in the form of a new Statutory Instrument that will come into effect on 1 January 2014. This was welcomed by the Board as an appropriate and positive measure that accords with the approach taken by HIQA to date and that bears a fairer and closer relationship to the actual number of places that can be safely accommodated in a centre rather than the original regulations. The DoH's prompt action on this matter was noted. The amended regulations will allow the Authority to charge fees from 1 January 2014, on the basis of occupancy, determined every 3 months.

It was unanimously resolved by the Board that in any instance where a centre has been overcharged, this should be repaid without delay. The Board debated at length the best course of action to be taken for instances where underpayments may have occurred.

The Chairperson updated the Board on a number of views he had sought in respect of this issue. He had also explored the possibility of obtaining an opinion from the

Department of Public Expenditure and Reform. It was suggested that such advice would take some time to procure and would likely not be within the operational timeline required by the Authority.

Following deliberation and discussion, it was agreed that while the public sector fiscal context was of enormous concern to the Board, the fact that this was a technical error by the Authority in interpreting what has transpired as being anomalous legal provisions that have now been amended on an urgent basis, it would not be fair to seek payment from those providers that were undercharged. SMcC proposed that the Authority would not seek payment from those providers who were undercharged and DO'L seconded the proposal; **accordingly it was unanimously resolved by the Board that the Authority does not seek payment from those providers who were undercharged.**

The Board was unanimous in its view that the Authority will need to communicate openly with all stakeholders in relation to the matter. The nature of the changes should be clearly communicated to Nursing Home providers, together with an explanation of the new regulations and an apology for any inconvenience caused.

The meeting was brought to a close.

Signed:


Brian McEnery
Chairperson


Kathleen Lombard
Board Secretary

