

# Policy Directive



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## Pathology Services provided to Private In-patients in Public Hospitals

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**Functional Sub group** Clinical/ Patient Services - Pathology  
 Corporate Administration - Fees

**Summary** This policy requires that pathology services for private in-patients must, except in the circumstances set out in the policy, be supplied by NSW Health public pathologists. Pathology services for private in-patients may be referred to private pathology providers only where:

- the referring doctor considers the referral is in the best interests of the patient;
- the patient or their guardian has signed a Financial Consent acknowledging that she or he will pay any out of pocket expense incurred in connection with the test, and a waiver relating to the public health organisation's responsibility for the private pathology services;
- the referring doctor is satisfied of the capacity of the private pathology provider to provide safe, timely, high quality pathology services; and
- the private pathology provider has entered into a Deed of Indemnity with the public health organisation that includes the model clauses set out in the policy directive.

**Replaces Doc. No.** Pathology Services to Private Inpatients in Public Hospitals [PD2005\_381]

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**Applies to** Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations, Affiliated Health Organisations - Declared, Dental Schools and Clinics, Public Hospitals

**Audience** All staff

**Distributed to** Public Health System, NSW Ambulance Service, Ministry of Health

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This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

## PROVISION OF PATHOLOGY SERVICES TO PRIVATE IN-PATIENTS IN PUBLIC HOSPITALS

### PURPOSE

In 2009, the public health organisations covered by this policy lodged notifications with the Australian Competition and Consumer Commission (**ACCC**), seeking immunity under the *Trade Practices Act 1974* for conduct that may be third line forcing (and in the absence of immunity, illegal under the Act). On 27 May 2010, the ACCC advised that it did not (at that time) intend to take any further action with respect to the notifications, and the notifications were allowed to stand. Accordingly, the notified conduct is immune against action for third line forcing under the *Trade Practices Act*, and will remain immune unless (and until) the ACCC decides to revoke the notifications.

This policy implements the notifications lodged with the ACCC, and replaces PD2005\_381.

### MANDATORY REQUIREMENTS

Pathology services for private in-patients in public hospitals must be supplied by public health organisations (**PHOs**) in accordance with this policy.

Pathology services for private in-patients must, in all circumstances other than those set out below, be supplied by pathology practitioners appointed by PHOs as salaried senior medical practitioners or visiting medical officers.

Salaried senior medical practitioners and visiting practitioners may, in the treatment of private in-patients, refer pathology tests to private pathology providers or seek a second opinion only where:

- the referral of the test to the private pathology provider is in the best interests of the patient;
- unless impractical for medical reasons, the patient or their guardian has signed a Financial Consent acknowledging that she or he will pay any out of pocket expense incurred in connection with the pathology test or second opinion, and a Waiver relating to the PHO's responsibility for the services performed by the private pathology provider and associated risks;
- the referring doctor has satisfied himself or herself as to certain matters set out in this policy and the attachments to it regarding the capacity of the private pathology provider to provide safe, timely, high quality pathology services; and
- the private pathology provider has entered into a Deed of Indemnity with the PHO in accordance with sections 10 to 11 of the attached ***Procedures: Provision of pathology services to private in-patients in public hospitals*** and ***Model clauses for deeds of indemnity***.

In order to ensure that PHOs and patients are not adversely affected by the use of private pathology providers by private in-patients, this Policy Directive requires PHOs to have signed Deeds of Indemnity in place with any private pathology provider engaged by a private in-patient. The Deed of Indemnity is to contain clauses to ensure:

- Timely, prompt and efficient delivery of services;
- Compatible reporting systems; and
- Indemnity is granted to the PHO.

## IMPLEMENTATION

PHOs are to ensure that this policy directive is brought to the attention of all relevant staff of the organisation and that all relevant staff comply with its requirements.

If a private in-patient consents to use a private pathology provider for a test in accordance with this policy, the attending medical officer must complete the form recommending the use of the pathology provider for the test, the patient signs a Financial Consent and Waiver, and that the nominated pathology provider has signed a Deed of Indemnity with the PHO. The PHO must also have systems in place for monitoring the compliance of private pathology providers with the requirements of the Deed of Indemnity.

The criteria for referring private in-patients' tests and procedures for obtaining patient consent for the referral of those tests, and establishing a Deed of Indemnity, as set out within the attached ***Procedures: Provision of pathology services to private in-patients in public hospitals***, are to be followed by PHOs in implementing the requirements of this policy directive.

The ***Model clauses for deeds of indemnity*** should be used by PHOs in establishing Deeds of Indemnity with private pathology providers. The model clauses are not intended to be exhaustive, and Deeds of Indemnity may contain clauses addressing other matters, as agreed by the parties.

## REVISION HISTORY

Version	Approved by	Amendment notes
July 2010 (PD2010_048)	Deputy Director- General Health System Support	This Policy Directive replaces PD2005_381 and no longer imposes the requirement of temporary appointment and credentialing of private pathology providers, on the basis that they are not providing an on site service. Instead, private pathology providers will be required to enter into a Deed of Indemnity with the relevant PHO.
October 2004 (PD2005_381)	Director-General	Policy specifying conditions where pathology tests can be referred to private pathologists.

## ATTACHMENTS

1. Procedures: Provision of pathology services to private in-patients in public hospitals.
2. Model clauses for deeds of indemnity.

## **PROVISION OF PATHOLOGY SERVICES TO PRIVATE IN-PATIENTS IN PUBLIC HOSPITALS**

### **Introduction**

On 7 April 2004, the Australian Competition Tribunal gave an authorisation permitting NSW Health to require private in-patients in NSW public hospitals to obtain pathology services from NSW Health public pathologists. The authorisation was subject to a condition that treating medical practitioners could refer pathology services to private pathologists if the medical practitioner considered it to be in the patient's best interests to do so and had obtained a written acknowledgement from the patient to pay any out of pocket expenses associated with the service. The authorisation was implemented by way of the NSW Health policy directive, Provision of Pathology Services to Private in-patients in Public Hospitals PD2005\_381.

The authorisation by the Tribunal expired on 7 April 2009.

In March and April 2009, the public health organisations covered by this policy lodged notifications with the Australian Competition and Consumer Commission (**ACCC**), seeking immunity under the *Trade Practices Act 1974* for conduct that may be third line forcing (and in the absence of immunity, illegal under the Act). On 27 May 2010, the ACCC advised that it did not intend to take any further action with respect to the notifications, and the notifications were allowed to stand. Accordingly, the notified conduct is immune against action for third line forcing under the *Trade Practices Act*, and will remain immune unless the ACCC decides to revoke the notifications. The ACCC has the power to revoke a notification if it forms the view that the notified conduct is likely to generate a detriment to the public which outweighs the benefits to the public.

This policy implements the notifications lodged with the ACCC, and replaces PD2005\_381. This policy no longer imposes the requirement of temporary appointment and credentialing of private pathology providers, on the basis that they are not providing an on site service. Instead, private pathology providers will be required to enter into a Deed of Indemnity with the relevant PHO.

In order to ensure that PHOs and patients are not adversely affected by the use of private pathology providers by private in-patients, the Policy now requires PHOs to have signed Deeds of Indemnity in place with any private pathology provider engaged by a private in-patient. The Deed of Indemnity is to contain clauses relating to:

- Timely, prompt and efficient delivery of services;
- Compatible reporting systems; and
- Indemnity for the PHO.

The indemnity provided by the Deed of Indemnity is not directed at, and does not cover, treating medical practitioners exercising rights of private practice.

### **Procedure for referral to private pathology providers**

1. Pathology services for private in-patients in public hospitals must be supplied by PHOs in accordance with this policy.
2. Pathology services for private in-patients must, in all circumstances other than those set out below, be supplied by pathology practitioners appointed by PHOs as salaried senior medical practitioners or visiting medical officers.

3. Salaried senior medical practitioners and visiting practitioners may, in the treatment of a private in-patient, refer a pathology test to a private pathology provider or seek a second opinion only where, in relation to the particular test:
  - (a) the referral of the test to the private pathology provider is in the best interests of the patient;
  - (b) unless impractical for medical reasons, the patient or their guardian has signed a Financial Consent acknowledging that she or he will pay any out of pocket expense incurred in connection with the pathology test or second opinion, and a Waiver relating to the PHO's responsibility for the services performed by the private pathology provider and associated risks;
  - (c) he or she has satisfied himself or herself as to the matters set out in section 5 below and acted in accordance with the requirements of that section; and
  - (d) the private pathology provider has entered into a Deed of Indemnity with the PHO in accordance with sections 10 to 11 below and the attached *Model clauses for deeds of indemnity*, and that the Deed of Indemnity remains current.

The treating medical practitioner must be satisfied of each of the above matters, and must follow the process set out in section 5 below, in respect of each pathology test proposed to be referred to a private pathology provider.

4. Relevant factors a treating practitioner should consider in making a determination that referral of a test to a particular private pathology provider is in a patient's best interests include:
  - (a) whether the pathology service is unavailable from the public pathology provider;
  - (b) whether a lower price is charged by the private pathologist;
  - (c) whether there is a need to maintain the continuity of the patient's hospital pathology testing history because of the patient's particular condition;
  - (d) whether the private pathology provider provides a faster turnaround time for the test than the public hospital's pathology provider; and
  - (e) whether a more comprehensive clinical consultation is offered by the private pathology provider.
5. Before referring a pathology test to a private pathology provider, the referring practitioner must:
  - (a) complete the "Patient's best interests declaration" on the Private In-patient Pathology Referral form (sample attached) recording the objective basis upon which he or she has determined that the referral is in the patient's best interests;
  - (b) advise the patient that there may be an increased risk for adverse incidents or outcomes if a private pathology provider is used, as a result of the specimen not being collected, transported or stored, or the results not being reported back to the treating medical officer or recorded within the hospital's records, in accordance with the usual procedures in place for the use of public pathology services, and confirm that the patient accepts these risks;

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- (c) satisfy himself/herself that these risks are outweighed by the benefit that using the private pathology provider for the particular test will provide to the patient;
  - (d) ensure the patient or their guardian signs the Financial Consent and Waiver sections of the Private In-patient Pathology Referral form, unless it is impractical to obtain the consent and waiver at this time, in which case the referring practitioner must obtain written consent and waiver when it becomes practicable to do so;
  - (e) provide the facility and the relevant public pathology provider with a copy of the Private In-patient Pathology Referral form; and
  - (f) satisfy himself/herself that the private pathology provider:
    - (i) holds current accreditation from the National Association of Testing Authorities, Australia or equivalent to provide the particular pathology services proposed;
    - (ii) is able to perform the test, and report test results, in a timely, prompt, safe and efficient manner;
    - (iii) is capable of interfacing with the hospital's current clinical information systems and will provide the test results in a way that is compatible with the hospital's systems and existing pathology test reporting practices; and
    - (iv) has entered into a Deed of Indemnity with the PHO in accordance with sections 10 to 11 below and the attached *Model clauses for deeds of indemnity*, and that the Deed of Indemnity remains current.
6. In the interests of proper patient care, if the private in-patient's pathology test is referred out to a private pathology provider in accordance with this policy, the referring medical practitioner must make an entry in the patient's medical record:
- (a) identifying the pathology test requested;
  - (b) noting the pathologist and pathology practice to which the request has been referred, and their contact details;
  - (c) noting the anticipated time and date of collection;
  - (d) recording confirmation of the collection of specimens; and
  - (e) recording confirmation of receipt of the results/report. The referring medical practitioner must also arrange for the filing of the results/report in the patient's medical record in a timely manner.
- This will ensure that the hospital staff will have a record that the patient's specimen has been sent outside the Hospital to a private pathology provider.
7. The referring medical practitioner must make his or her own arrangements for collection, storage and transportation of the specimen by the private pathology provider or the private pathology provider's staff.
8. The PHO must not accept any liability for the collection, storage or transportation of the private in-patient's specimen where it is to be provided to a private pathology provider in the circumstances outlined in this policy. Hospital staff are not to be involved in the collection, storage or transportation of such specimens.

9. Hospital staff have no responsibility for the availability or handling of associated paperwork such as request forms or reports, although arrangements will be implemented to ensure that reports are filed as part of the medical record. No public hospital consumables or equipment are to be used in the process for referring patient specimens to a private pathology provider. This includes all specimen tubes and containers, as well as all items used during venipuncture.

### Deed of Indemnity

10. In order to ensure that PHOs and patients are not adversely affected by the use of private pathology providers by private in-patients, PHOs are required to enter into a Deed of Indemnity with any private pathology provider engaged by a private in-patient in accordance with this policy.
11. Deeds of Indemnity must contain clauses in accordance with *Model clauses for deeds of indemnity* attached to this policy directive. The indemnity provided by a private pathology provider seeks to ensure:

**(a) Safety, treatment and care of patients is not compromised**

The safety, treatment and care of patients in public hospitals should not be compromised due to private pathology providers providing pathology services to private in-patients.

To address the increased risks arising from the provision of pathology services to patients in public hospitals, including the access by private pathology provider staff to public hospital facilities to take, collect or deliver pathology specimens, and the performance of off-site pathology testing by private pathology providers, Deeds of Indemnity must:

- (i) Require that the private pathology provider complies with 'best practices' in providing pathology services to patients at public hospitals, which must include the following requirements (but may include other matters agreed between the parties):
- performance of services with due care and skill and administered in a timely and efficient manner and without unnecessary or unreasonable delays;
  - compliance with any standards, guidelines or requirements in respect of pathology services which are issued or endorsed by the National Pathology Accreditation Advisory Council or the Therapeutic Goods Administration from time to time;
  - compliance with the hospital's security and identification requirements; and
  - compliance with the New South Wales Department of Health's Employment Screening Policy (PD2008\_029) and any other policy or guideline of the New South Wales Department of Health or of the PHO, which relates to the safety and care of patients, and which is notified to the private pathology provider by the PHO from time to time.

- (ii) Ensure that the hospital is indemnified for any loss or damage (including any claim, action, proceeding or demand made by a patient or a third party) resulting (directly or indirectly) from:
  - any failure by the private pathology provider to perform services in accordance with best practices; or
  - the private pathology provider's negligence, wrongful act or omission in providing services to private in-patients at the hospital.
- (iii) Confer on the hospital the right to terminate the Deed of Indemnity in circumstances of unremedied, ongoing, recurrent or persistent failure by the private pathology provider to perform services in accordance with best practices or with due care and skill, and to immediately suspend the Deed of Indemnity in circumstances where the private pathology provider's breach gives rise to a risk to the health or life of a patient.

**(b) Hospitals are not out of pocket**

Failure by private pathology providers to provide pathology services to patients in public hospitals in accordance with best practices and with due care and skill may increase risks and have adverse flow on effects on hospitals and patients, and increase costs for hospitals.

For example, an increase in reporting timeframes resulting from off-site testing by private pathology providers may impact significantly on the delivery of medical care and on the efficiency of the hospital. The costs of any such inefficiency will be borne by the public through reduced access to public hospital services and increased waiting times.

Hospitals' funds should continue to be utilized to provide health care services to the public. Hospitals should not be out of pocket for any costs, liabilities or expenses which they incur as a result of the provision of pathology services to private in-patients by private pathology providers, such as:

- (i) administrative costs associated with creating and providing a system of dealing with the multiple ordering and reporting of pathology tests in the hospital clinical environment;
- (ii) costs incurred as a result of the interaction of the private pathology providers' information reporting systems with the systems employed by the hospital; and
- (iii) costs incurred as a result of delays in the reporting of results by private pathologists.

Deeds of Indemnity must ensure that hospitals are indemnified by the pathology provider for any cost, expense or liability incurred by the hospital in enabling the private pathologist provider to provide pathology services to private in-patients in the public hospital(s) operated by the PHO, or resulting (directly or indirectly) from, or in connection with, the provision of such services.

**Related Policy Directives**

- Pathology Services –Principles of Funding of NSW Public Health Sector, PD2005\_533
- Employment Screening Policy PD2008\_029



**PRIVATE IN-PATIENT PATHOLOGY REFERRAL FORM**

**PART A - Doctor Declaration – Referral in Patient’s Best Interests**

I ..... wish  
     *[insert doctor’s name] [provider no]*

to refer .....  
     *[insert patient’s name] [other patient details]*

to Dr..... for.....  
     *[insert name of private pathology provider] [name/number of pathology test(s)]*

It is in the patient’s best interests to refer this test to .....because:

- considering the patient’s existing condition it is more important to maintain the continuity of the patient’s non-hospital pathology testing history than the patient’s public hospital pathology testing history \*
- A lower price is charged by the private pathologist \*
- Provision of the above pathology service is not available from the public hospital’s pathology provider \*
- The private pathology provider can provide the results of the test more quickly than the public hospital’s pathology provider \*
- The private pathology provider will provide a more comprehensive clinical consultation for my patient than the public hospital’s pathology provider \*

**\* Delete inapplicable reason/s above and tick applicable reason/s**

- Other reason/s (please specify):
- .....
- .....

I have:

- advised the patient of the potential increased risk for adverse incidents or outcomes if a private pathology provider is used, arising from the specimen not being collected, transported or stored, or the results not being reported back to the treating medical officer or recorded within the hospital’s systems, in accordance with the usual procedures in place for the use of public pathology services.
- considered the above-mentioned risks, and I am of the view that they are outweighed by the benefit that using the private pathology provider will provide to the patient.
- satisfied myself that the private pathology provider:
  - is able to perform the test, and report test results, in a timely, prompt, safe and efficient manner;
  - is capable of interfacing with the hospital’s current clinical information systems and will provide the test results in a way that is compatible with the hospital’s systems and existing pathology test reporting practices; and
  - has entered into a Deed of Indemnity with the public health organisation.

Signed: .....  
**Referring medical practitioner**

Date.....

**PART B – Patient’s Financial Consent** [to be completed and signed by patient]

I, ..... understand that Dr .....

*(insert name of patient/guardian)* *(insert name of patient’s doctor)*

considers it is in my best interests to obtain the services of

.....

*(insert name of private pathology provider)*

for my pathology test(s) for the reason/s stated above.

I understand that I will be billed directly by the private pathology provider and that I will be responsible for payment of this bill. I understand that I will incur any costs which are not met by Medicare or my private health insurance fund.

**PART C – WAIVER** [to be completed and signed by patient]

I understand that the public hospital is not responsible for the collection, storage, transportation of my specimen/s which is/are being referred to the private pathology provider.

I understand that the public hospital is not responsible for the accuracy or quality of any test done by the private pathology provider.

I understand that the public hospital considers that there may be increased risk for error or adverse outcome if a private pathology provider is used, arising from the specimen not being collected, transported or stored, or the results not being reported back to the treating medical officer or recorded within the hospital’s systems, in accordance with the usual procedures in place for the use of public pathology services. I accept these risks.

I understand that by consenting to the use of a private pathology provider, I will have no right to bring any claim, demand etc against the public health organisation arising from the professional services of the private pathology provider, including the collection, transport, or storage of the specimen, or the reporting of results back to the public health organisation, by the private pathology provider.

Signed ..... Date.....

**Patient/guardian**

## MODEL CLAUSES FOR DEEDS OF INDEMNITY

In order to ensure that PHOs and patients are not adversely affected by the use of private pathology providers by private in-patients, the Policy requires PHOs to have signed Deeds of Indemnity in place with any private pathology provider engaged by a private in-patient. The Deed of Indemnity must include the model clauses set out in this document.

The model clauses are not intended to be exhaustive, and Deeds of Indemnity may contain further clauses (not inconsistent with the model clauses) addressing other matters, as agreed by the parties.

MODEL CLAUSE	
<b>1.</b>	<b>INDEMNITY AND LIABILITY INSURANCE</b>
<b>1.1</b>	<p><b>Indemnity relating to Services</b></p> <p>[Private Pathology Provider] must indemnify and keep indemnified [PHO] from and against all actions, suits, claims, demands and proceedings for which [PHO] or any of its employees, contractors or agents shall or may become liable and from and against all losses, damages, compensation, costs (including legal costs on a full indemnity basis), charges and expenses whatsoever which [PHO] or any of its employees, contractors or agents may suffer:</p> <ul style="list-style-type: none"> <li>(a) in respect of the failure by [Private Pathology Provider] to carry out the Services in accordance with Best Practices; or</li> <li>(b) as a result of [Private Pathology Provider]'s negligence, wrongful act or omission in providing the Services.</li> </ul> <p>[Private Pathology Provider] agrees that this indemnity will be a continuing indemnity and will survive the termination of this Deed.</p>
<b>1.2</b>	<p><b>Indemnity relating to other costs incurred by [PHO]</b></p> <p>[Private Pathology Provider] must indemnify and keep indemnified [PHO] from and against any cost, expense or liability incurred by [the PHO] in connection with the provision of Services, including, but not limited to:</p> <ul style="list-style-type: none"> <li>(a) administrative costs associated with creating and providing a system of dealing with the multiple ordering and reporting of pathology tests in the hospital clinical environment;</li> <li>(b) costs incurred as a result of the interaction of the pathologists' information reporting systems with the systems employed by the hospital; and</li> <li>(c) costs incurred as a result of delays in the reporting of results by private pathologists.</li> </ul>

## MODEL CLAUSE

### 1.3 Liability Insurance

- (a) [Private Pathology Provider] must effect and maintain, and must ensure that each [Pathologist] employed or engaged by [Private Pathology Provider] maintains, liability insurance which must:
- (i) be written for professional indemnity on a claims made basis;
  - (ii) contain a minimum limit of indemnity in respect of professional indemnity for any one occurrence or a series of occurrences arising out of any one event of [\$20 million] and an aggregate limit of indemnity in respect of professional indemnity in respect of any one year of [\$20 million] or as reasonably required by [PHO]; and
  - (iii) in the case of liability insurance maintained by each [Pathologist] employed or engaged by [Private Pathology Provider], be approved professional indemnity insurance under the *Health Care Liability Act 2001* (NSW).
- (b) [Private Pathology Provider] agrees not to do or permit to be done any act, matter or thing which renders void or voidable any of the insurances required to be effected by it under this Deed, or any insurances of [PHO].
- (c) [Private Pathology Provider] must ensure that the insurances referred to in clause 1.3(a) are in force before the [Private Pathology Provider] commences providing the Services contemplated by this Deed and are maintained in force until the [Private Pathology Provider] ceases to provide the Services and for a period of 7 years thereafter.
- (d) A [Private Pathology Provider] will satisfy the obligation to ensure that each [Pathologist] employed or engaged by [Private Pathology Provider] maintains the insurances referred to in clause 1.3(a) in force for a period of 7 years after ceasing to provide the Services contemplated by this Deed if the [Pathologist]:
- (i) is covered for the entirety of that period under the run-off cover scheme established under the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* (Cth); or
  - (ii) maintains in force for the entirety of that period run-off cover or tail cover (howsoever described) of an equivalent limit of indemnity in respect professional indemnity as the insurances referred to in clause 1.3(a).
- (e) The [Private Pathology Provider] must, in respect of the insurances referred to in clause 1.3(a), provide [PHO] acceptable proof of currency and coverage before the [Private Pathology Provider] commences providing the Services contemplated by this Deed and thereafter annually and on request from [PHO].
- (f) Clauses 1.1-1.3 [indemnity and insurance clauses] survive the termination or expiry of this Deed.

## MODEL CLAUSE

### 1.4 Termination and Suspension

[PHO] may terminate this deed with immediate effect by written notice to [Private Pathology Provider] if:

- (a) [Private Pathology Provider] either:
  - (i) fails to comply with any obligation under this Deed (including carrying out the Services in accordance with Best Practices); or
  - (ii) [Private Pathology Provider] is negligent, or commits a wrongful act or omission, in providing the Services, and
- (b) such failure to perform the Services, or negligence, wrongful act or omission in providing the Services, is not remedied within [30 Days] after the giving of notice by [PHO] to [Private Pathology Provider].

If the [PHO] reasonably considers the [Private Pathology Provider]'s failure under sub-clause [1.4(a)(i)] above, or negligence, wrongful act or omission under sub-clause [1.4(a)(ii)] above, gives rise to a risk to the health or life of a patient, the PHO may suspend this deed with immediate effect by written notice to [Private Pathology Provider].

### 1.5 Effect of termination

If this deed is terminated, then all rights and obligations under it terminate other than:

- (a) The rights or obligations of the parties under clauses 1.1-1.3 [indemnity and insurance clauses] or any other clauses expressed to survive termination or expiry; and
- (b) The rights of the parties that accrued on or before that termination.

**Best Practices** means the practices and methods reflecting best practices in the provision of pathology services by Pathologists and management of Patients requiring such services and to the standard of a tertiary health facility including:

- (a) with due care and skill and administered in a timely and efficient manner and without unnecessary or unreasonable delays;
- (b) in accordance with all relevant or applicable codes of practice (including Occupational Health and Safety Codes), accreditations, authorisations, statutory, regulatory or professional requirements or practices for the delivery of pathology services, including the Services, and such other standards, requirements and guidelines as [the PHO] may nominate and notify to the [Private Pathology Provider] from time to time;
- (c) in accordance with any standards, guidelines or requirements in respect of pathology services which are issued or endorsed by the NPAAC or the Therapeutic Goods Administration from time to time;

## Provision of Pathology Services to Private In-Patients in Public Hospitals

**NSW HEALTH**  
MODEL CLAUSES FOR  
DEEDS OF INDEMNITY

MODEL CLAUSE	
<ul style="list-style-type: none"> <li>(d) in accordance with any standards and guidelines in respect of pathology services, as may be published from time to time by the Clinical Excellence Commission, the Australian Council on Health Care Standards (ACHS), or the Royal College of Pathologists of Australasia (RCPA);</li> <li>(e) in accordance with the New South Wales Department of Health's Employment Screening Policy (PD2008_029) and any other policy or guideline of the New South Wales Department of Health or of the [PHO], which relates to the safety and care of patients, and which is notified to [Private Pathology Provider] by [PHO] from time to time;</li> <li>(f) complying with all NSW Health data collection and other requirements with regard to the Services, and those required to enable [the PHO] to comply with its reporting requirements to NSW Health, as notified by [the PHO] to [Private Pathology Provider], including those in relation to the performance standards required under the NSW Health quality and safety framework and complying with NSW Health's Booked Patient Management Operating Guidelines;</li> <li>(g) in accordance with the Hospital's security and identification requirements, as notified to [Private Pathology Provider] from time to time;</li> <li>(h) causing as little disturbance as possible to the operation of the Hospitals or [the PHO];</li> <li>(i) in accordance with any Performance Criteria agreed in writing between [PHO] and [Private Pathology Provider];</li> <li>(j) [complying with [the PHO]'s Code of Conduct as in force from time to time and notified to [Private Pathology Provider];] and</li> <li>(k) [complying with the reasonable directions of [PHO]'s Chief Executive or delegate (but not so as to derogate from [Private Pathology Provider]'s obligations under this Agreement).]</li> </ul>	
<p><b>Hospitals</b> means [list hospitals for which PHO is responsible and which are to be covered by the agreement].</p>	
<p><b>NPAAC</b> means National Pathology Accreditation Advisory Council, which is managed by the Australian Government Department of Health and Ageing.</p>	
<p><b>Pathologist</b> means a registered Medical Practitioner holding specialist qualifications in pathology (Fellowship or other specialist recognition) for the purposes of the Health Insurance Act 1973 (Commonwealth) [approved in writing by [PHO] (such approval not to be unreasonably withheld).]</p>	

## Provision of Pathology Services to Private In-Patients in Public Hospitals

**NSWHEALTH**  
MODEL CLAUSES FOR  
DEEDS OF INDEMNITY

### MODEL CLAUSE

**Patient** means private inpatient, being a patient who is an eligible person under the provisions of the Health Insurance Act 1973 (Commonwealth) and who elects to receive treatment or services as a private patient (as defined in the National Healthcare Agreement between the Commonwealth of Australia and the States and Territories, including the State of New South Wales ) at the Hospitals.

**Performance Criteria** may be agreed between the Hospital and [Private Pathology Provider], and include criteria such as turn around times. If the parties have agreed to Performance Criteria, the criteria must be set out in Schedule [1] to this deed.

**Policy** means the policy issued by the New South Wales Department of Health in relation to the provision of pathology services to private in-patients in public hospitals.

**Services** means pathology services to be provided by [Private Pathology Provider] to a Patient upon referral by the Patient's treating doctor in accordance with the Policy.