

ACiA Independent Review and Benchmarking Committee

Terms of Reference – June 2010

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1 Title

The name of the Committee shall be the Attendant Care Industry Association's (ACiA) Independent Review and Benchmarking Committee (IRBC).

2 Background

ACiA's Vision is that "The Attendant Care industry is known and respected as a provider of quality services". As a step in fulfilling this vision, ACiA developed the first National Management System Standard for the industry. As the owner of the Attendant Care Industry Management System Standard (ACIMSS), and due to its stated vision, ACiA sees it has various roles to fulfil. This role has been acknowledged and accepted by a number of funding bodies.

Any attendant care organisation could choose to just be certified to the ACIMSS Standard. They do not have to be a member of ACiA to go through this process. However, as an additional level of confidence and in order to provide better value to the industry, (to date) three funding bodies in NSW have stated that they wish organisations to achieve *ACiA Endorsed Certification to ACIMSS*.

ACiA's endorsement program has four major components:

- I. Endorsing Certifying Bodies
- II. Monitoring the quality of the audits
- III. Ensuring critical criteria in the Standard are met
- IV. Gathering and reporting on data and information relating to the achievement of the ACIMSS Criteria in order to direct and guide policy and development issues for the industry.

To direct the endorsement program, the ACiA Committee of Management (COM) decided to establish an independent committee, the IRBC, and has appointed appropriate members to the committee. This is to overcome any perceived conflict of interest with the members of the COM with regard to access to information and bias.

3 Purpose

3.1 Primary Purpose

To confer or withhold ACiA Endorsement to provider organisations who will have had a de-identified ACIMSS Certification Report submitted by the ACiA Endorsed Certification Body.

3.2 Secondary Purposes

To provide reports and advice to the ACiA COM and the ACiA Certification Committee on:

- The effectiveness of the ACiA Endorsement Program procedures, processes and outcomes
- Other components of the ACiA Endorsement Program (as outlined in 2 above)
- Any quality related issues in the wider community that may influence the impact and outcomes of the ACiA Endorsement Program.

4 Objectives

To assist in adding to the veracity of the ACIMSS Certification Program by:

- a. Providing an additional, independent level of review of the ACIMSS and related audit processes from the perspective of independent health quality experts and an independent person familiar with attendant care provision
- b. Supporting Certifying Body in achieving the following objectives:
 - i. Identifying any audit process gaps and seeking to have these addressed by the auditing body or the provider organisation
 - ii. Ensuring consistency in audit findings and corrective actions required
 - iii. Ensuring stated corrective actions will adequately address the stated deficiencies
- c. Raising awareness of quality developments in health-related sectors in general, or attendant care specifically, that may impact on the Program
- d. Providing feedback to ACiA COM and the ACiA Certification Committee on the program.

5 Committee Performance

5.1 Terms of Reference

The Terms of Reference will be reviewed annually. They will be reviewed both by the IRBC members and by the ACiA COM.

5.2 Performance Review

The Committee is to measure and report its performance against the following measures (as per procedures below):

- Timeliness of providing feedback to the auditing body on submitted reports
- Consistency of feedback to the auditing body on submitted reports
- Timeliness and thoroughness of the feedback provided to the ACiA COM and ACiA Certification Committee.

5.3 Committee Evaluation

The Committee performance will be evaluated as part of the evaluation that will be conducted at the end of the first cycle of Certification (2012).

6 Meetings

6.1 Membership

The Committee members shall be appointed for a period of three years, subject to satisfactorily fulfilling their role and responsibilities as outlined in these Terms of Reference and the related Confidentiality Agreement.

The Committee shall comprise:

- A health care quality expert, Dr Cathy Balding
- A person with extensive experience in the disability sector and in working with attendant care providers, Mr Dougie Herd
- ACiA Executive Director, Ms Jenny Barron.

Individuals with particular experience and expertise may be co-opted to help the Committee should the need arise. Any person so co-opted must:

ACiA Independent Review and Benchmarking Committee

- Be approved by the ACiA COM (refer also to 7.5)
- Sign the appropriate confidentiality agreement and be provided with core documents as required.

Should a vacancy occur, either through a resignation or an extended period of leave, the ACiA COM will appoint a replacement as soon as practicably possible.

6.2 Frequency, Length and Method

In the initial phase, where there are only a small number of providers applying for ACiA Endorsed Certification, meeting will be of an adhoc nature. In this early phase it is planned for meetings to be held within 2 weeks of the ACiA Executive Director receiving the de-identified Audit Report. As the program develops, meeting frequency and timing will be reviewed.

As one of the Committee members is based in Melbourne, meetings will generally occur via teleconference.

6.3 Quorum

All members of the Committee must be present for a decision to be made.

6.4 Roles and Responsibilities

- Chairperson: As the ACiA Executive Director is more familiar with the Certification and Endorsement Program, she will initially chair the meetings. This will be reconsidered at the first annual review of the Committee.
- Secretarial/administrative support: Provided by the ACiA Executive Director. This will include:
 - Provision of the all core materials that the Committee may require
 - Provision of materials relating to each meeting. Initially this will include a copy of the Audit Report, a summary of any issues that may need addressing; a form for each Committee member to sign that confirms their vote on the decision made and that they will destroy all copies of the report sent to them once the decision is made
 - Providing an Agenda for each meeting and Minutes of that meeting
 - Correspond with the Certifying Body including providing the outcomes of the IRBC's review of the audit report. This is to be provided within 10 days of the meeting.
- Each Committee member will agree to:
 - Abide by and sign the Confidentiality Agreement relating to this Committee (Appendix 2)
 - Read all materials provided to them for each meeting before the set meeting time
 - Follow the procedures as outlined in these Terms of Reference.

6.5 Decision making

- The Committee will at all times attempt to act through consensus decision making. If a decision cannot be achieved through this process, then the two majority will decide
- The outcome of each vote will be kept in the record of the outcome of decisions specifying the members who voted for and against the outcome.

6.6 Reporting

The Committee shall report to the ACiA COM on Committee performance measures (as per 5 above). The ACiA Executive Director will submit a list of all those organisations who have ACiA Endorsed Certification to the COM as part of their regular report (This list will be supplied by the Endorsed Certifying Body and will be added to the ACiA website).

(Note: Individual Reports will not be submitted to the ACiA COM at all and any reports or documentation would only be seen by the ACiA Executive Director and the IRBC members.)

7 Procedures

7.1 Distribution of Committee materials

Core Materials

Each member of the Committee will be provided with:

- IRBC Terms of Reference (including Confidentiality Agreement)
- Overview of ACiA Endorsement of ACIMSS
- ACIMSS 2008, ACIMSS Guidelines 2008 and a blank copy of the ACIMSS Self-Assessment, Key ACIMSS Criteria.

Meeting Materials

At each meeting, each member of the Committee will be provided with:

- A meeting Agenda. In the initial phase of the Committee, this will include as a minimum: i) Endorsement Decision of each submitted Certification Report; ii) Review of the IRBC processes.
- Minutes of last meeting
- A Vote Confirmation and Document Destruction Form
- For Initial Endorsement:
A copy of the De-identified Audit Report that includes:
 - The Provider Self Assessment
 - The Auditor Documentation Review
 - The Auditor On-site Report including the Auditor's Recommendation Regarding ACIMSS Certification; the Auditor's Findings and the agreed Corrective Actions from the Provider relating to the Findings
- For Continued Endorsement:
A copy of the Surveillance Audit Report including:
 - The Provider Self Assessment of how they progressed against the Corrective Actions and Observations
 - The Auditor On-site Report including the Auditor's Recommendation Regarding Continuation of ACIMSS Certification; and the Auditor's Report on how successfully the provider organisation has addressed the previous Findings, any new Auditor Findings and related Corrective Actions from the Provider relating to the new Findings.

Note: As the number of audits completed increases, and more data and information is gathered, the Agenda will also include review of this material and the materials supplied will include collated data reports.

How Materials to Be Distributed

- Committee members can have the option of the materials being sent to them via email or via registered post.

7.2 Making decisions regarding ACiA Endorsement of Certification

Note: ACiA will only receive a Report from the Auditor if they are recommending Certification to ACIMSS.

Initial Endorsement

To confer initial endorsement of the provider organisation's ACIMSS Certification, the IRBC members will review the de-identified ACIMSS Certification Report (as outlined in 7.1) and confirm that:

- For the 'Key ACIMSS Criteria' (refer to Appendix 1), the evidence presented by the auditor appears appropriate and hence they can confirm the rating granted for each criteria
- The Findings and Observations of the Auditor appear consistent (with previous audits)
- The Corrective Action Requests, submitted by the provider organisations in response to the Audit Findings, adequately address the Audit Findings in terms of proposed action and the proposed timeframes.
- After this review the IRBC members will:
 - Endorse the audit outcome and Certification recommendation without conditions

or

- Endorse the audit outcome and Certification recommendation with conditions (such as follow-up and close-out of some/all outstanding Corrective Action Requests (CARs) before Certification is granted)

or

- Does not endorse the Certification based on the submitted information.
- If the IRBC does not immediately endorse the Certification:
 - An initial request will be made to the Certifying Body for additional information and/or to clarify the Report information
 - If additional information is available, this information will be re-presented to the IRBC and a further vote will be taken
- If this information does not change the Endorsement vote, the Certifying Body will be informed and the provider organisation will be informed.

Ongoing Endorsement

To confer ongoing endorsement of the provider organisation's ACIMSS Certification, the IRBC members will review the de-identified ACIMSS Surveillance Report (as outlined in 7.1) and confirm that:

- all CAR's (past and current) are addressed
- reasonable sampling of core activities occurs at the Surveillance Audit.

7.3 Appeals Regarding Non-Endorsement

ACiA's IRBC is a member of the Certification Decision Panel This panel must make a unanimous, positive decision for Certification to be granted. Therefore, if ACiA does not endorse the Certification, ACiA Endorsed Certification cannot be granted. If a provider organisation wishes to dispute the decision, the 'Appeals' process of the Endorsed Certifying Body will be used.

The appeals process will outline the steps to be taken and will usually include the establishment of a committee comprised of persons who:

- were not engaged in carrying out the audit
- were not involved in making the initial certification decision
- have appropriate expertise.

7.4 Complaint Management

Any complaints, whether in writing or made verbally, regarding the **processes** of the IRBC will be forwarded immediately to the ACiA COM. The COM will investigate the complaint and determine if any action is required. Action could include:

- Changes to processes
- Performance review of the IRBC members and/or the ACiA Executive Director
- Replacement of members of the IRBC.

The ACiA President shall write to the complainant outlining the results of their investigation and the action taken (if any) within 2 months of submission of their complaint.

Note: Any complaints with regard to the audit processes will be dealt with through the Certifying Body's own Complaints Management program.

7.5 Seeking Advice

The Committee may seek to obtain advice from others from time to time with regards to procedural or policy advice, decisions on action, resource requirements or resolution of problems outside the scope of the Committee. In the first instance, advice will be sought from the ACiA COM and the ACiA Certification Committee.

However, with the approval of the ACiA COM, advice can be sought from other organisations or persons. (See also 6.1)

7.6 Providing Advice on Other Components of the ACiA Endorsement Program

The IRBC will also review the other components of the ACiA Endorsement Program and provide advice to ACiA COM and the ACiA Certification Committee on other components including:

- The quality of the audits and the related Reports
- The processes and outcomes of the ACiA Endorsement Program
- Adequacy of the Criteria in the Standard in addressing quality of Attendant Care services in Australia.

7.7 Review of Benchmarking data and information

Once at least 5 organisations have had information entered into the ACiA Database, reports will be generated by the ACiA Executive Director and presented to the IRBC. The IRBC will review the data and information relating to the achievement of the ACIMSS Criteria. Any trends will be identified and a report prepared for the ACiA COM and the ACiA Certification Committee. The report will outline trends and make recommendations in order to direct and guide policy and development issues for the industry.

When at least 10 organisations have had information entered into the ACiA Database, reports will continue to be generated and distributed as above but will also be distributed to a wider range of stakeholders to further direct and guide policy and development issues for the industry.

8 Declaration

I agree to abide by these Terms of Reference of the IRBC

Name:

Position:

Organisation:

Signed:

Date:

9 Appendixes

9.1 Key ACIMSS Criteria

The key criteria of the ACIMSS 2008 to be considered by the IRBC are, all of the criterion considered under the following criterion 'sets':

- 1.3, 1.4, 1.6
- 2.1, 2.2, 2.3, 2.4, 2.6, 2.7
- 3.2, 3.5

The Key Criteria will also be forwarded to organisations once they are officially enrolled in the ACiA Endorsed Certification program.

9.2 Confidentiality Agreement

CONFIDENTIALITY AGREEMENT ACiA Independent Review and Benchmarking Committee

This Agreement is made the _____ 2009

BETWEEN:

The Attendant Care Industry Association of NSW Incorporated (ACiA)

an incorporated Association under the NSW Associations Incorporation Act 1984, of Level 24, 580 George Street, SYDNEY, NSW

and

BACKGROUND

The parties are considering entering and/or have entered into certain commercial relationships together incidental to any commercial relationship the parties have or intend to disclose certain Confidential Information relating to their respective business activities to each other.

The parties wish to enter into this Agreement to witness the confidential nature of all information disclosed or made available to each other.

OPERATIVE PROVISIONS

A. DEFINITIONS AND INTERPRETATION

1. Definitions

In this agreement and unless expressly provided otherwise:

Confidential Information means all information:

- disclosed or communicated by one party to the other; or ascertained or accessed by one party about the other for or in connection with their mutual dealings and includes all inventions and information regarding the current or future business interests, methodology or affairs of the either party, or any person or entity with which that party may deal or be concerned with, including matters of a technical nature, research and development information, manuals, notes products, know how, trade secrets, planning or marketing procedures, techniques or information, accounting procedures or financial information together with:
- the possible or likely function, purpose or application of the same, whether in the current activities of the party or fields to which the activities of the party may reasonably extend from time to time, any part of, or improvements to the same; any recommendation, test or report of the party or any of its consultants or agents in connection with the same and whether:

- oral, written, recorded or stored by electronic, magnetic, electromagnetic or other form, process or otherwise in a machine readable form translated from the original form, recompiled, made into a compilation, partially copied, modified, updated or otherwise altered; or originated or obtained by, or coming into the possession, custody, control or knowledge of, the party performing its duties under this Agreement, either alone or jointly.

2. Interpretation

In this Agreement unless the context otherwise requires:

- reference to a person includes any other entity recognised by law and vice versa;
- the singular includes the plural and vice versa;
- words importing one gender include every gender;
- any reference to any of the parties by their defined terms includes the party's executors, administrators or permitted assigns or, being a company, its successors or permitted assigns;
- an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- clause headings are for reference purposes only;
- reference to an Item is a reference to an Item in the Schedule to this Agreement;
- reference to an Exhibit, Annexure or Schedule is a reference to the corresponding Exhibit, Annexure or Schedule to this Agreement; and
- reference to a statute, ordinance, code or other law includes regulations and other instructions under it and consolidations, amendments, re-enactments, or replacements of it.

CONFIDENTIALITY

3. Confidential Information

- each party acknowledges that, in connection with their dealings, employees or agents of the other party may be given access to Confidential Information solely for the advancement of their mutual dealings.
- each party acknowledges that the Confidential Information concerning the other party is valuable to the other party and undertakes to protect and preserve the confidential and proprietary nature and secrecy of that Confidential Information.

4. No Disclosure

Each party agrees that it will keep confidential the Confidential Information provided to it by the other party and will not disclose it to any third party or use it otherwise than:

- for the advancement of their mutual dealings as authorised in writing by the other party;
- as required by any law, stock exchange, judicial or parliamentary body or governmental agency; or
- by way of disclosure to that party's professional advisers.

4.1 No Unauthorised Copying

Neither party will copy any document containing Confidential Information except as necessary for the advancement of their mutual dealings.

4.2 Return of Materials

Unless otherwise agreed, each party will, if requested by the other party, return all documents or copies of documents containing information which is at that date Confidential Information of the other party.

4.3 Responsibility for employees, Agents etc

Each party will ensure that its employees, agents, contractors and other persons comply with this clause 4.

4.4 Release from Confidentiality Obligations

This Agreement will be inoperative as to any portion of any Confidential Information which:

- (a) is or becomes generally available to the public, through no fault or action by other party or its agents, representatives or employees, or
- (b) is in the other party's possession or becomes available to the other party on a non-confidential basis from a source other than the other party or any of its affiliates, or agents, provided that the source is not prohibited from disclosing such portions to the recipient by a contractual, legal or fiduciary obligation.

5. Survival of Obligations

The obligations of confidentiality contained in this Agreement survive the expiration or termination of this Agreement and the completion of the Approved Purpose.

BREACHES

6. Notification

Each party will immediately notify the other party of all information that comes to its attention regarding any actual or potential disclosure or use of any Confidential Information provided to it by the other party other than in accordance with the terms of this Agreement.

7. Indemnity

Each party (Indemnifying Party) indemnifies the other party (Indemnified Party) in relation to any cost, claim, expense, loss or damage suffered or which may be suffered from or in connection with:

- any breach of this Agreement by the Indemnifying Party; or
- any act or omission of the Indemnifying Party's representatives, which if done by the Indemnifying Party, would constitute a breach of this Agreement.

8. Injunctive Relief

Each party acknowledges that damages is not an adequate remedy for a breach of this Agreement by the other party and that the non defaulting party is entitled to seek specific performance or injunctive relief as a remedy for any such breach in addition to any other remedies available at law or in equity under this Agreement or independently of this Agreement.

ADMINISTRATIVE PROVISIONS

9. Notices

- Any notice, approval, request, demand or other communication (notice) to be given for the purposes of this Agreement shall be in writing and shall be served personally or sent by ordinary or registered mail (airmail if overseas) to the address of the party specified in Item 1, or such other address as that party may notify the other party, in writing, from time to time or by facsimile transmission to the facsimile number of that party

specified in Item 1 (if any) or such other facsimile number as that party may notify the other party, in writing from time to time.

A notice given:

- personally shall be served upon delivery;
- by post (other than overseas airmail) shall be served three (3) business days after posting;
- by overseas airmail shall be served seven (7) business days after posting;
- by facsimile transmission shall be served upon receipt of a transmission report by the machine from which the facsimile was sent indicating that the facsimile had in entirety to the facsimile number specified in Item 1 or such other number as may have been provided;
- any notice which, by virtue of the foregoing, has been served on a Saturday, Sunday or public holiday shall be deemed served on the first business day (determined by reference to the recipient's address) after such day.

- A notice may be given by an authorised officer, employee or agent of the party giving the notice.

10. Stamp Duty and Costs

- ACiA shall pay all stamp duty on or arising in connection with this Agreement;
- Each party shall bear its own legal and other costs and expenses arising directly or indirectly with respect to the preparation, execution, completion and performance of this Agreement or any other related document.

11. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of New South Wales for the time being in force, and the parties agree to submit to the non-exclusive jurisdiction of the courts of that jurisdiction.

12. Further Assurance

Each party shall sign, execute and complete all such further documents as may be necessary to effect, perfect or complete the provisions of this Agreement and the transactions to which it relates.

13. Waiver

No failure to exercise and no delay in exercising any rights, powers or privileges under this Agreement by a party operates as a waiver. No waive of any rights, powers or privileges under this Agreement is effective unless made in writing.

14. Continuing Indemnities and Survival of Indemnities

- Each indemnity contained in this Agreement is a continuing obligation, despite
 - any settlement of account; or
 - the occurrence of any other thingand remains in full force and effect until the money owing, contingently or otherwise, under any indemnity has been paid in full.
- Each indemnity contained in this Agreement:
 - is additional, separate and independent obligation and no one indemnity limits the generality of any other indemnity; and
 - survives the termination of this Agreement.

15. Severability

If any term, agreement, or condition of this Agreement or the application of any term, agreement, or condition of this Agreement to any person or circumstance

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is or becomes illegal, invalid, or unenforceable in any jurisdiction, it will be severed and neither the remaining terms, agreements and conditions nor the application, validity or enforceability of the severed term, agreement or condition in any other jurisdiction will be affected.

16. Remedies Cumulative

The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers and remedies provided by law independently of this Agreement.

ACiA

OTHER PARTY

.....
Signature

.....
Signature

.....
Printed Name

.....
Printed Name

.....
Title

.....
Title

.....
Date

.....
Date