Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Minutes of Special HSE Board Meeting
Ref: COVID-19

A meeting of the Board of the Health Service Executive was held on Friday 22nd May 2020 at 6:30pm by teleconference.

Present: Ciarán Devane (Chairperson), Deirdre Madden (Deputy Chairperson), Aogan Ó Fearghaíl, Brendan Lenihan, Fergus O'Kelly, Fergus Finlay, Tim Hynes, Fiona Ross, Yvonne Traynor, Sarah McLoughlin.

In Attendance for Board Meeting:
Paul Reid (CEO), Colm Henry (CCO), Anne O'Connor (COO), Stephen Mulvany (CFO), Liam Woods (National Director Acute Operations), Angela Fitzgerald (Deputy National Director Acute Operations), Dara Purcell (Secretary), Hannah Barnes.

1. Governance and Administration

The Chairperson, Ciarán Devane welcomed members to the meeting. He confirmed the purpose of this special meeting of the Board was to further discuss the Private Hospital Agreement with Board members having had time to review the different options with regard to the current arrangements and options going forward.

2. Private Hospital Agreement

The CEO and the CFO gave a brief high-level overview of the different options available to the government outlining that essentially the HSE could walk away from the agreement, terminate the agreement and renegotiate a new agreement with providers, keep and extend the agreement in its current form, or extend the agreement with a smaller selection of providers. The CEO confirmed the management preferred option is to extend the current arrangement for an additional two months (Month 5) with the majority or all of the 18 providers.

- Board members discussed the proposals outlined within the document. The Key considerations set out by management for consideration included uncertainty in terms of the impact of the release of lock measures on the incidence of COVID-19 and the critical importance of the acute sector being in a position to respond to new surges. The role of health in supporting the economic recovery was identified here.
- The impact of new clinical guidance on future occupancy in the public and private sector- 80 % is now being identified as the maximum occupancy to address risks of transmission and the

associated impact on public hospitals- currently operating at over 90% despite the curtailment of electives.

- The infrastructure of our hospitals is such that the real impact on occupancy may be worse as we address the distancing issues in large nightingale wards.
- The requirement to ensure that there are no patients waiting in ED as it is a key risk in terms of transmission.
- The significant backlog in terms of elective work as a result of the NPHET decision on 27 March that curtailed all non -time dependent work.
- The expectation that throughput will be slower as a result of infection control and PPE measures.
- The known capacity deficits in the public hospital system – Ireland has the highest occupancy and the lowest number of critical care beds in OECD.
- The timing of the decision meant that we have limited information available on performance to determine the value issues fully particularly in relation to the high-tech hospitals. Similarly, on utilisation, the timing of the decision did not allow sufficient time to assess utilisation particularly in smaller hospitals against the revised guidance provided on resumption of activity from 5 May.

The Board sought clarity on the potential deselection of Private Hospitals from the agreement.

The CEO acknowledged that the legal advice which had been circulated shortly before the meeting consisted of advice that had been mostly expected. The legal advices pointed to risk of potential legal challenge of seeking to de-select at this early stage. The risks of de-stabilising other providers were also highlighted.

The Board noted the decision to utilise the private hospital sector for a period was an important component of our overall initial response to the COVID-19 pandemic but the anticipated surge was lower than expected. The Board also considered that there is not sufficient capacity to meet all of the demands it is now facing for the provision of health services and the arrangement with the private hospitals will help provide a safer occupancy of 80%, delivering on the twin requirements of matching non-COVID-19 demand and providing surge capacity for COVID-19.

The risks of the current approach were also considered. The approach to the use of Private Hospital capacity particularly the challenges presented by the consultant contact issues and the experience to date of the workability of the arrangement were discussed noting clear risk to the arrangement if consultants do not engage or decide to withdraw in larger numbers. The effect of the arrangement for

private patients and the need for appropriate continuity of care of any private patients affected and the need to maintain productivity or effectiveness of the private hospitals was discussed. Mitigation of risks included the provisions agreed for supporting continuity of care and securing necessary indemnity for doctors fulfilling their obligations in relation to continuity of care.

The Board suggested the final paper submitted to the Department should set out the weakness in option 4 (similar to option 3) and call out the risk around dependency on people and the consultants' contract and say how we mitigate this risk.

Questions were raised about the impact of the offer of a Type A contract to the Private Hospital Consultants on the overall feasibility of the arrangement as it is dependent upon the on-going support of consultants some of whom are strongly resistant, and some had resigned already from the contract. The ND Acute Operations advised that any changes to the contract on offer would be a Government decision. He informed the Board that currently there are 286 consultants who have signed up and it is expected that this number will rise to 300. If consultants were to withdraw from the type A contract, they would be required to notify the HSE by the end of May. The ND Acute Operations informed the Board that the stated reasons for consultants not signing up to type A contracts are due to issues surrounding continuity of care and the continued access to and funding of availability of offsite facilities. The Board recognised the clear risk to any further arrangement with private hospitals if consultants do not engage or decide to withdraw in larger numbers.

Following its consideration of the matter, the Board agreed with Executive's recommendation not to invoke the break clause in the existing private hospital contracts in order to maintain the surge capacity of the health system as mitigation against possible re-acceleration the rate of COVID-19 and to retain the current arrangements for the additional two months allowed for under the existing arrangement. The Board expressed reservations about deselecting any hospitals noting the legal advice. The Board emphasised the need for appropriate continuity of care of private patients and that the productivity or effectiveness of the private hospitals is maintained or enhanced, consistent with the newly introduced measures which are required.

The CEO thanked the Board for their endorsement and agreed to clarify the risks associated with Option 4 within the paper on its submission to Government. The CEO agreed to prepare a paper on the future work and further plans that will assist the HSE going forward and so that the HSE would seek to be ready to take a longer-term view following the 2-month extension

The CFO advised that conversations with Government officials were happening in parallel and work on

furthering this process would move quickly. The Board noted a draft version of the Private Hospital Partnership Appraisal document had been shared Department officials and asked that papers for Board approval not be made available externally until considered by the Board.

3. Any Other Business

The Chair thanked attendees for their time and the meeting concluded at 13:42

Signed:____________________

Ciarán Devane

Chairperson **Date: 27th May 2020**