RESPONSE TO THE FEDERAL SENATE'S LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE'S INQUIRY INTO THE FRAMEWORK AND OPERATION OF SUBCLASS 457 VISAS, ENTERPRISE MIGRATION AGREEMENTS AND REGIONAL MIGRATION AGREEMENTS

26 April 2013

RESPONSE TO THE FEDERAL SENATE'S LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE'S INQUIRY INTO THE FRAMEWORK AND OPERATION OF SUBCLASS 457 VISAS, ENTERPRISE MIGRATION AGREEMENTS AND REGIONAL MIGRATION AGREEMENTS

Ramsay Health Care is a global hospital group operating hospitals and day surgery facilities across Australia, the United Kingdom, France and Indonesia. In addition, a recently signed joint venture agreement will see Ramsay Health Care expand across Southeast Asia in the coming years.

Ramsay Health Care is the largest operator of private hospitals in Australia, with an annual turnover of over $3.9 billion. With 66 hospitals and day surgery units, Ramsay Health Care Australia employs over 24,000 staff nationally and admits almost 1,000,000 patients annually. The company is well-respected as a leader in the private health care sector in Australia and is a well-recognised brand in the industry.

Ramsay Health Care has a strong history with the Department of Immigration and Citizenship as an Employer Sponsor. We are proud of our business history and excellent record of compliance with immigration and workplace relations law nationally.

Ramsay Health Care is committed to the ongoing employment and training of Australians, with a robust education and training program across the company and many strong links with the Tertiary Sector in relation to clinical education. Ramsay Health Care's annual budget for training and development is in excess of $40 million per annum and dedicated full-time and part-time education and training staff are available at all Ramsay workplaces (i.e. all 66 facilities located throughout Australia).

Ramsay Health Care operates a Registered Training Organisation, the Ramsay Training Institute (RTI), which offers a wide range of clinical and management education programs for new and existing staff. Many of the RTI education programs are delivered as either online e-learning programs or blended programs with a combination of online and face-to-face learning. Two programs in particular, Maternity Fundamentals and Perioperative Fundamentals, are specifically designed to address current skill and staff shortages in these areas.

Ramsay Health Care also provides a number of scholarships for fully subsidised external tertiary training, diploma and certificate training programs run in conjunction with TAFE and other tertiary institutions.

In addition to this training and development activity for existing staff, Ramsay Health Care has comprehensive graduate education programs in place in Queensland, New South Wales, Victoria and Western Australia, with 300 – 400 graduate nurses employed annually, and 3,000 clinical placements for nurses and 1,000 clinical placements for Allied Health and medical students provided annually.

Ramsay Health Care's use of the migration program and issues facing the health care industry

Access to the migration program, in particular to the Temporary Work (Skilled) visa subclass 457, is critical to the ongoing operations of our business as a direct result of national skills shortages in a number of occupations, particularly those occupations facing shortages which are expected to significantly increase in the medium-to-long term.

Currently, employees in the following occupations are those most regularly sponsored by Ramsay Health Care for both temporary and permanent employer sponsored visas:

- Registered Nurses (ANZSCO unit group 2544)
- Enrolled Nurse (ANZCSO code 411411)
- Midwife (ANZCSO code 254111)
- Medical Technicians – including Anaesthetic Technicians, Cardiac Technicians and Operating Theatre Technicians (ANZSCO unit group 3112)
- Resident Medical Officer (ANZCSO code 253112)
- Medical Practitioners (ANZSCO minor group 253)

The 457 program is a fast and fairly efficient means to quickly fill roles with overseas residents where positions have not / cannot be filled by suitably experienced Australian citizens and permanent residents. Whilst the program is not perfect, the current program does allow for skills shortages to be filled.

The root of the issue in health care is that there is insufficient domestic supply of suitably skilled and experienced clinicians to fill increasing numbers of clinical health care roles and current national workforce data indicates that this shortage will significantly worsen in the coming decade.

Without significant reforms being made to our training and recruitment strategies in Australia, Health Workforce Australia (HWA) indicates that there will be a "highly significant" shortage of nurses, approximately 109,000 (80,000 Registered Nurses and 29,000 Enrolled Nurses) by 2025, and a shortage of approximately 2,700 doctors by 2025. These shortages are projected to be much higher should the demand on health care services increase by even 2% (shortages of approximately 26,000 doctors, 147,000 Registered Nurses and almost 46,000 Enrolled Nurses).[1] Given Australia's aging population, the demand on health services is expected to substantially increase in the medium – long term.

Unfortunately, increasing student enrolment numbers alone will not resolve the problem as a result of the need to maintain balance between numbers of graduates and experienced clinical staff, both for patient safety and to ensure graduates receive appropriate training and mentoring from more senior staff.

In any event, between 2002 and 2011 numbers of domestic enrolments in general nursing courses increased by 68%; during the same period, the number of international students increased by more than 500%, resulting in a situation where approximately one in seven general nursing students is now an overseas student.[2] As a result, the health care industry will have no choice but to sponsor Australian trained international student nurses in the very near future, unless the Federal Government acts to allow easier processing of independent permanent visas for health care staff.

An additional pressing issue is the aging health care workforce. Currently, 37.1% of registered medical practitioners are over the age of 55 years and 22% of nurses are over the age of 55 years with an average age of 44 years.[3] These numbers have been steadily, and consistently, increasing since the 2005-2006 financial year. As these experienced clinical staff reach retirement, their numbers will need to be replaced, likely leading to an increased need for migration of senior nurses, general medical practitioners and specialist physicians.

The reliance on overseas trained clinical staff is not only anticipated for the future, but has been experienced over the past 10 years. In particular, the numbers of overseas trained doctors increased from 1,303 in 2002 to 7,461 in 2011 – more than five times the number of overseas trained doctors in 2002. In the period between 2007 and 2011 when the numbers of overseas trained doctors practicing in Australia increased by 66.6%, the total numbers of medical practitioners in Australia only increased by 13.7%. The greater percentages of overseas trained doctors have been attributed to migration measures put in place to ease the relocation of medicals practitioners to Australia.[4]

It is clear to the health care industry that migration of experienced clinical staff will be essential to the continued provision of quality health care services in Australia. As such, it is essential that the health care industry maintains easy access to employer sponsored visa options, particularly given the global competition faced when enticing internationally trained clinicians to Australia. Please find **enclosed** two previous submissions made by Ramsay Health Care which deal with the issues facing the health care sector in further detail.

As a result of the nature of our business, neither Enterprise Migration Agreements nor Regional Migration Agreements are utilised by our company; accordingly, this submission is limited to the framework and operation of the 457 visa program.

Problems with the current structure of the 457 program

There are a number of concerns our company has with the format of the existing 457 program, particularly:

- The Temporary Skilled Migration Income Threshold (TSMIT) is increasing faster than CPI, resulting in a situation where the TSMIT, currently $51,400, is increasing faster than average wages in the health care sector. For example, since the past financial year, TSMIT increased by 4.2%, whereas average nursing wages increased by 2.5-3.5%. As a result of the operation of TSMIT, we are rapidly reaching a situation where sponsoring critical support roles such as Enrolled Nurses and Medical Technicians will not be possible as TSMIT is moving higher and faster than average salaries and CPI.

- Case officers are often unaware of specific issues relating to health care staff, for example licencing requirements. In the past, lack of training of case officers who regularly deal with 457 visa applications from the health care sector has resulted in case officers making mistakes or lengthy delays being incurred whilst detailed submissions are made to explain issues such as why Medical Technicians do not have to provide evidence of licencing. This problem could be resolved by training specialist teams to deal with applications from the health care sector; this is particularly important given the anticipated increase in visa application numbers expected from the health care sector in the future.

- There appears to be no repercussion on case officers who regularly make mistakes or who have decisions overturned by the Migration Review Tribunal (MRT) upon appeal. In past situations where case officers have blatantly made an incorrect decision on an application and refused to grant a visa, applicants have had to go through a lengthy (generally more than 12 months) and costly (application fee of $1,540 plus associated representation costs which can run into the thousands) process of review at the MRT. Although a favourable decision by the MRT results in the application being remitted to the Immigration case officer for review, significant stress and financial strain has been incurred by the visa applicant and valuable employees are often lost when not prepared to face the expense and delay of an MRT appeal. Initiating some form of monitoring/performance management of case officers with high refusal rates and remitted decisions from the MRT may result in the cost of running the MRT decreasing, the overall process of obtaining visas quickening and a reduction in stress levels of visa applicants.

- Large employer sponsors, such as Ramsay Health Care, do not have one contact at the 457 processing offices where we can direct Ramsay specific issues to. As a result, we frequently have to re-explain our business situation and corporate structure to different case officers, which wastes valuable time and resources. Having case managers assigned to specific large and regular sponsors would cut down the time required in processing visa applications and make the process easier generally.

- Large employer sponsors have limited ability to influence which occupations are included on the Consolidated Sponsored Occupation List (CSOL), usually limited to situations where submissions such as this one can be provided. Despite Immigration's claims that the sponsored occupation lists are designed to meet genuine workforce shortages in Australia, little consultation is made with employers and industry groups. To our knowledge no formal representation has been made to the Australian Private Hospitals Association (APHA) or Catholic Health Australia (CHA). These organisations represent 90+% of the private acute health sector. We would like to see greater ability employers and industry associations to advise on which occupations are genuinely in demand and which are not.

Please find below specific responses to the questions posted by your enquiry.

(a) The effectiveness of the 457 visa program in filling areas of identified skill shortages and the extent to which the program may result in a decline in Australia's national training effort, with particular reference to apprenticeship commencements.

Not only is the 457 program effective in filling skills shortages in Australia, the program is necessary in critical sectors such as health care, as discussed above and in our previous submissions on the topic.

At this time, the health care sector is relying on the ability to sponsor experienced overseas trained staff in order to meet increasing demand, which at this stage is not filled by increases in domestic student places.

However, the primary focus remains on increasing productivity and retention of existing staff and significant effort is being made to increase graduate numbers in Australia. Medical training placement numbers have increased from 1,889 places in 2003 to 3,683 places in 2012. In the same period, the number of students *completing* medical training (leading to

provisional registration) increased from 1,425 to 2,964. However, the proportion of international students completing courses has increased from approximately one in nine students to one in six.[5]

Similarly with registered nursing students, placement numbers have increased from 11,046 in 2005 to 16,328 in 2011. In the same period, registered nursing students *completing* courses for initial registration increased from 6,093 to 9,950. It is important to note that the proportion of international students completing courses increased from approximately one in 13 students to almost one in five.[6]

Ramsay Health Care invests more than **$40 million** per annum on training existing staff and clinical students. This commitment to training is expected to increase, not decrease, as the skills shortages in the health care sector worsen. Not only is this investment seen as our responsibility as Australia's leading private health care provider, this investment is necessary to ensure the future workforce can meet increasing demand on health care services in Australia.

Unfortunately, despite increasing student enrolment numbers and significant investments into health care training being made by the Australian and State Governments, industry associations and companies such as ours, the health care sector is limited in the number of graduates and novice clinicians which can be taken in any given year. In a high risk area such as health care, employers must ensure that numbers of graduates and experienced staff are delicately balanced to ensure safe operation of our facilities. As a result, numbers of experienced staff must be maintained to ensure places for graduates remain open and can increase as the demand for health care services increases.

As our aging workforce retires or leaves the workforce for other reasons (such as maternity leave), it is becoming more important to have access to experienced overseas clinicians to ensure our graduate intake levels can be maintained and facilities can remain properly staffed. The **loss** of access to the 457 program would have a significant impact on our ability to maintain our graduate intake and would negatively affect training of Australian graduates.

(b) The accessibility of the 457 visa program and the criteria against which applications are assessed, including whether stringent labour market testing can or should be applied to the application process.

As discussed above, the rate at which TSMIT is increasing is creating a barrier to the 457 visa program for critical support roles in the health care sector.

Ideally, we would like to see TSMIT removed and a more genuine test of market salaries imposed, for example, consideration of Award and Enterprise Agreement rates for Australian citizens, even where this is below current TSMIT. If TSMIT increases any further, it is likely we will no longer be able to sponsor occupations such as Enrolled Nurses and Medical Technicians, despite the fact that Australians are employed in those positions at the same salary levels.

Reliance on these support positions is increasing greatly as the demand on Registered Nurses increases; by hiring Enrolled Nurses and Medical Technicians, Registered Nurses are freed up to take on the higher level duties of their scope of practice, which cannot be undertaken by less qualified staff. As domestic supply of staff holding qualifications relevant to these positions is inadequate, should we no longer have the ability to sponsor Enrolled

Nurses and Medical Technicians, the ability to provide access to health care services will be adversely affected.

Whilst we acknowledge the need for rigour within Migration legislation to ensure the system is not rorted, labour marketing testing as a blanket requirement would waste significant resources and funds in industries where it is clear that skills shortages are significant and will increase into the future, such as health care. A requirement on our industry to advertise for positions where we know there is not a pool of suitably qualified domestic applicants is simply a waste of time and money. These resources would be better spent increasing training opportunities and focussing on workforce planning initiatives to meet the demands that will be placed on the health care sector in the coming decades.

(c) The process of listing occupations on the Consolidated Sponsored Occupations List, and the monitoring of such processes and the adequacy or otherwise of departmental oversight and enforcement of agreements and undertakings entered into by sponsors.

As discussed above, there is insufficient consultation with stakeholders such as employer sponsors and industry associations regarding which occupations are on the CSOL. In situations where occupations such as Enrolled Nurses and Medical Technicians are in increasing demand, we have limited ability to ensure that these occupations remain on the CSOL and are made accessible to skilled independent permanent visa pathways. At present, Enrolled Nurses and Medical Technicians can only obtain permanent residence through employer or State/Territory sponsorship; they cannot apply for permanent residence through the skilled independent pathway.

The inability for applicants in these occupations to obtain permanent residence easily results in a situation where they are enticed to other countries over Australia. We would like to see the CSOL better reflect which occupations are actually in demand by Australian employers, which can only be obtained by greater consultation.

(d) The process of granting such visas and the monitoring of these processes, including the transparency and rigour of the processes.

Generally, the 457 visa application process is quite smooth and relatively quick. However, as discussed above, there appears to be no/little repercussion for case officers who regularly make mistakes or unjustly refuse visa applications. As an example, in previous situations where blatant mistakes have been made, supervisors are unable to overturn the decision of a case officer – resolution can only come from an appeal to the MRT which is both costly and time consuming.

Whilst it is extremely beneficial to have access to Immigration Policy documentation, we have frequently encountered situations where case officers blindly follow policy and appear to be unaware of/untrained in the wording of actual legislation. In many cases where policy contradicts or reaches further than legislation, case officers have repeatedly been seen to follow policy instead of the wording and intention of the legislative instruments.

A further issue is the way in which Immigration operates with each case officer having sole control over the decision in the case at hand – team leaders and managers of Immigration offices have repeatedly been heard to say that the decision in an application ultimately rests with an individual case officer, even when the manager's position contradicts that of the case officer. This results in a situation where bringing errors to manager's attention before a decision is made on a visa application results in little/no relief for the visa applicant.

(e) The adequacy of the tests that apply to the granting of these visas and their impact on local employment opportunities.

Unfortunately we do not have sufficient access to the internal mechanisms of the Department of Immigration and Citizenship to comment on the tests that apply to the granting of visas.

(f) The economic benefits of such agreements and the economic and social impact of such agreements.

As Ramsay Health Care does not utilise either Enterprise Migration Agreements or Regional Migration Agreements, we cannot comment on the benefits and impact of these programs.

(g) Whether better long-term forecasting of workforce needs, and the associated skills training required, would reduce the extent of the current reliance on such visas.

As discussed in detail above, recent long-term forecasting of the health care industry indicates that increases in student numbers alone will not meet the increasing demand for clinical staff. Current predictions suggest that Australia would have to almost double the number of nursing graduates to meet the expected nursing shortfall. This will not be possible for the following reasons:

- Australian Universities do not have the capacity; and
- The health care industry does not have capacity for the necessary clinical placements.

HWA's extensive long-term forecasting indicates that meeting the demand for health care staff by 2025 will require a combination of factors, particularly including the following:

- Reform of service delivery;
- Retention of the existing workforce;
- **National policy on immigration for both permanent and temporary migrants**; and
- Training capacity and training reform.[7]

It is common knowledge in the health care sector that development of our industry and the ability to meet increasing demand for services will rely on access to internationally trained clinicians in the medium-long term. If anything, long-term forecasting of the workforce needs in the health care sector has identified how critical access to sponsored visas will be in the future.

(h) The capacity of the system to ensure the enforcement of workplace rights, including occupational health and safety laws and workers' compensation rights.

All employees, whether Australian citizens, permanent residents or temporary residents, are subject to the same industrial laws in Australia and have the same access to services protecting employee rights, such as Fair Work Australia. However, problems may arise with temporary residents being unaware that such rights exist. This could be rectified by visa grant letters including reference to where information on employee rights can be found, or attaching a brochure setting out employee and employer rights and obligations. In this way, the operations of less reputable sponsors could be circumvented.

On this note, many applicants (particularly in trade occupations where English language testing is not a requirement for registration) may also benefit from being able to access visa grant information in their native language.

(i) The role of employment agencies involved in on-hiring subclass 457 visa holders and the contractual obligations placed on subclass 457 visa holders.

As Ramsay Health Care is not an employment agency, we are unable to comment on their involvement in the on-hiring of subclass 457 visa holders.

(j) The impact of the recent changes announced by the Government on the above points.

The health care sector, including Ramsay Health Care, is genuinely concerned that any reduction in our ability to sponsor overseas workers will significantly impact on our ability to provide quality health care services to meet the needs of Australians.

This is particularly concerning to private organisations as our ability to compete with the public sector for Australian staff is significantly affected by our inability to offer attractive salary sacrificing benefits that the public sector can, which results in staff effectively earning more in public hospitals, despite private wages being competitive. Private hospitals will be the worst affected should our ability to sponsor health care staff be affected; this, in turn, will place increasing pressure on the public health care system at a time when private health care operations need to be increasing to ease the burden on the public health care system.

(k) Any related matters.

Please refer to the two enclosed submissions which further outline the workforce shortages expected to arise in the health care sector.

Thank you for your time in considering the content of this submission.

For further information, please contact:

Chloe Sauermann
National HR Services Officer, Registered Migration Agent (MARN 1066897)

[1] Health Workforce Australia 2012, "Health Workforce 2025 – Doctors, Nurses and Midwives – Volume 1", Health Workforce Australia: Adelaide (p11-14) http://www.hwa.gov.au/health-workforce-2025

[2] Health Workforce Australia 2013, "Australia's Health Workforce Series – Nurses in focus", Health Workforce Australia: Adelaide (p35) https://www.hwa.gov.au/sites/uploads/Nurses-in-Focus-FINAL.pdf

[3] Health Workforce Australia 2013, "Australia's Health Workforce Series - Health Workforce by Numbers", Health Workforce Australia: Adelaide (February 2013, Issue 1, pp8 & 20) https://www.hwa.gov.au/sites/uploads/Health-Workforce-by-Numbers-FINAL.pdf

[4] Health Workforce Australia 2013, "Australia's Health Workforce Series - Health Workforce by Numbers", Health Workforce Australia: Adelaide (February 2013, Issue 1, pp4, 16 & 17)

[5] Health Workforce Australia 2013, "Australia's Health Workforce Series - Health Workforce by Numbers", Health Workforce Australia: Adelaide (February 2013, Issue 1, p14)

[6] Health Workforce Australia 2013, "Australia's Health Workforce Series - Health Workforce by Numbers", Health Workforce Australia: Adelaide (February 2013, Issue 1, p26)

[7] Health Workforce Australia 2012, "Health Workforce 2025 – Doctors, Nurses and Midwives – Volume 1", Health Workforce Australia: Adelaide (p20).