

Transfer of places from Civilian Maimed and Limbless Association of Western Australia (Inc) to Spine & Limb Foundation (Inc)

The Delegate has approved applications under Division 16 of the Aged Care Act 1997, for a transfer of places, as per the following:

From	To	Services and Places	Date of Effect
Approved Provider: Civilian Maimed and Limbless Association of Western Australia (Inc.) NAPS ID: 281 Contact details: Executive Director P.N. (Nigel) Glass 10 Selby Street Shenton Park WA 6008 PO Box 257 Subiaco WA 6904 Ph: 9381 0111	Approved Provider: Spine & Limb Foundation (Inc.) NAPS ID: 2228 Contact details: Executive Director P.N. (Nigel) Glass 10 Selby Street Shenton Park WA 6008 PO Box 257 Subiaco WA 6904 Ph: 9381 0111	See the Table below for details of the services and places transferred.	1 October 2012

Operational Places

Aged Care Service Name & Address	Pre-1997	High Care	Low Care	Total
Koh-I-Noor Nursing Home 34-36 Pangbourne Street WEMBLEY WA 6014 RACS ID 7870	41 High Care			41
s22				

s22

File References: 2012/038774; 2012/038775; 2012/038776

NAPS Places Tracker and SPARC will be updated following the date of effect.

The RACS list to be updated.

s22

Senior Project Officer
Residential Care

25 September 2012

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THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH



Australian Government
Department of Health and Ageing

Mr PN Glass
 Executive Director
 Civilian Maimed and Limbless Association of Western Australia (Inc.) and Spine & Limb
 Foundation (Inc.)
 PO Box 257
 SUBIACO WA 6904

Dear Mr Glass

Applications made under sections 16-2 and 16-14 of the *Aged Care Act 1997* (the Act) for the transfer of operational and provisionally allocated aged care places

I refer to the above applications dated 3 July 2012, seeking to transfer operational and provisionally allocated places from Civilian Maimed and Limbless Association of Western Australia (Inc) as proposed transferor to Spine & Limb Foundation (Inc) as proposed transferee. As the Executive Director for both the transferor and transferee, I am setting out the terms and conditions for the transfer in a single letter to you.

As delegate under section 16-5 for the transfer of operational places and section 16-17 for the transfer of provisionally allocated places, I wish to advise that the applications have been approved.

The following information is provided in accordance with sections 16-6 & 16-18 of the Act:

Places	From	To	Proposed Transfer Date
A list of transferred places is at Attachment A (*)	Approved Provider: Civilian Maimed and Limbless Association of Western Australia (Inc.) NAPS ID: 281 Services: See Attachment A	Approved Provider: Spine & Limb Foundation (Inc.) NAPS: 2228 Services: See Attachment A	1 October 2012

*existing conditions of allocation continue to apply to these places

If the transfer is not completed by the approved transfer day, the transferor and transferee must notify the Secretary and may apply in writing for approval of another day as the transfer day.

In accordance with conditions of transfer of places under Part 2.2 Division 16 of the Act, the transferor must comply with sections 16-10 and 16-11 of the Act. Details of these responsibilities are set out within attachments B and C.

Attachment B Transferor to provide transferee with certain records
 Attachment C Effect of transfer on certain matters

In considering the matters relevant to the transfer of operational and provisionally allocated set out in the Act, I gave significant weight to the fact that the applications were made as a result of the formal amalgamation of two associations, which have a long history of close alignment, into a new entity.

One of the requirements for the transfer of provisionally allocated places in particular is that, because of the needs of the aged care community for which the places are provisionally allocated, there are exceptional circumstances justifying the transfer. This is not defined in the legislation, however, I have considered that what is 'exceptional' must be considered against what is 'ordinary'. I have also considered information provided in the Explanatory Memorandum associated with the relevant legislation.

I consider the following to be ordinary:

- Aged care places are obtained through an Aged Care Approvals Round that considers each application by applying the relevant criteria under Division 14 of the Act on, significantly, a competitive basis against other applicants;
- That places be made operational quickly, demonstrated by the Act requiring that places be made operational within two years (with the possibility of this period being extended in limited circumstances); the imposition of milestones for the development of services established under section 14-5 of the Act; and a determination under section 14-6 of the Act that places be made operational as quickly as possible.
- Should a provider wish to extend the two year provisional allocation period, it must meet the established criteria under section 15-7 of the Act, which includes an examination of whether there is still a need for the allocation to that provider.

The legislation that enabled the transfer of provisionally allocated places is the *Aged Care Amendment (2008 Measures No.2) Act 2008*. The associated Explanatory Memorandum states that the Australian Government's goal is that provisionally allocated places be made operational within the shortest possible time, and that a change of ownership does not necessarily compromise this objective and, in some cases, may be the most effective way of bringing a particular parcel of provisional allocations into operation. Of importance, it also states that as allocations are made following a highly competitive process, the transfer of a provisional allocation should be scrutinised to ensure the integrity of the allocation process.

I have considered that the intent of the legislation therefore is to prevent circumvention of the competitive nature of the allocation process.

The applications included the proposed transfer of provisionally allocated places between two approved provider organisations that have shared key personnel and a long history of close association. The proposed transfer follows a recent organisational restructure that has seen the arrangements formalised in the amalgamation of the two associations and renaming as Spine & Limb Foundation (Inc.). The parties assert this will result in a stronger and more economically viable organisation while the organisational vision, philosophy, values, objectives, management and day-to-day operation of the aged care services will not change.

I have considered that the organisational changes as presented in this application, although not specifically addressed by the legislators, would in this instance meet the intention of the legislation in that:

- both the transferor and transferee are part of the same corporate group. The places were allocated following a highly competitive process and, should the original application for

- both the transferor and transferee are part of the same corporate group. The places were allocated following a highly competitive process and, should the original application for places in the relevant ACAR have been made by the transferee instead of the transferor, the allocation would still have been made. That is, there are no material differences between the transferor and transferee that would have meant that an allocation to the transferee would not have been made at the time. Similarly, there would have been no advantage had the proposed transferee originally applied for the places rather than the transferor.
- all details of the provisionally allocated places will remain the same, that is, the conditions of allocation will not change and the target client groups will not change.
- this transfer would still allow for the provisional allocations of places to become operational in the shortest possible time.

This situation would clearly not hold if the proposed parties to the transfer were not related entities.

Please contact ^{s22} if you have any further enquiries regarding the transfer of the places.

Yours sincerely

s22

Ben Vincent
Assistant Secretary
Aged Care Programs Branch
Ageing and Aged Care Division
Department of Health and Ageing
13 September 2012

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Attachment A

SPINE & LIMB FOUNDATION (Inc.)
Aged care services and places as at 1 October 2012

(Following transfer from Civilian Maimed and Limbless Association of WA (Inc.))

Operational Places

Aged Care Service Name & Address	Pre-1997	High Care	Low Care	Total
Koh-I-Noor Nursing Home 34-36 Pangbourne Street WEMBLEY WA 6014 RACS ID 7870	41 High Care			41
s22 [REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]

s22

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Attachment B**Transferor to provide transferee with certain records**

Section 16-10 of the Act states that the transferor must give to the transferee such records, or copies of such records, as necessary to ensure that the transferee can provide care in respect of the places being transferred.

These records must include the following:

- (a) assessment and classification records of care recipients receiving care from the aged care services to which the places being transferred relate;
- (b) the individual care plans of those care recipients;
- (c) the medical records, progress notes and other clinical records of those care recipients;
- (d) the schedules of fees and charges (including where applicable, retention amounts relating to accommodation bonds) for those care recipients;
- (e) any agreements between those care recipients and the transferor;
- (f) the accounts of those care recipients;
- (g) where applicable, the prudential requirements for accommodation bonds for that aged care service;
- (h) the records specified in the Allocation Principles, being:
 - (i) the records of the name and contact details of each representative of a care recipient who is receiving care in respect of a places being transferred
 - (j) The records may be given in written or electronic form.

Note: Approved providers have a responsibility under Part 4.3 of the Act to comply with this obligation. Failure to comply with a responsibility can result in a sanction being imposed under Part 4.4.

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Attachment C

Effect of transfer on certain matters

Section 16-11 of the Act states that, on the transfer day:

- (a) any entitlement of the transferor to an amount of subsidy under Chapter 3, in respect of the place being transferred, that is payable but has not been paid passes to the transferee; and
- (b) any responsibilities under Part 4.2 that the transferor had, immediately before that transfer day, in relation to an accommodation bond balance connected with the place become responsibilities of the transferee under Part 4.2; and
- (c) the transferee is subject to any obligations to which the transferor was subject, immediately before that day, under a resident agreement or community care agreement entered into with a care recipient provided with care in respect of the place.

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Government of Western Australia
Department of Mines, Industry Regulation and Safety
Consumer Protection

WESTERN AUSTRALIA
Associations Incorporation Act 2015
(Section 31)

IARN: A0590019B

Certificate of Incorporation on Change of Name

This is to certify that

SPINE & LIMB FOUNDATION (INC)

an association incorporated under the
Associations Incorporation Act 2015 changed its name to

ALINEA INC.

The new name commenced on the
twenty eighth day of November 2018

David Hillyard
Acting Commissioner for Consumer Protection

I hereby certify this to be a
true and correct copy of the
original document.

Tracy Zemunik
CHARTERED ACCOUNTANT

CERTIFICATE