EXPLANATORY STATEMENT

National Health Act 1953

National Health (Cabrini Private Hospitals Paperless Prescribing, Dispensing and Claiming Trial) Special Arrangement 2026

PB 123 of 2026

Authority

This legislative instrument is made under subsections 100(1) and 100(2) of the *National Health Act 1953* (the Act).

Subsection 100(1) of the Act enables the Minister to make special arrangements to ensure that an adequate supply of pharmaceutical benefits will be available to people, including when these benefits can be supplied more conveniently or efficiently under the arrangements. Subsection 100(2) provides that the Minister may vary or revoke such arrangements. Subsection 100(3) of the Act provides that Part VII of the Act, along with any regulations or other instruments made for Part VII, will have effect subject to a special arrangement.

Purpose

The purpose of the *National Health (Cabrini Private Hospitals Paperless Prescribing, Dispensing and Claiming Trial) Special Arrangement 2026* (the Special Arrangement) is to provide a continued legal framework for the paperless management of Pharmaceutical Benefits Scheme (PBS) medicines at the Cabrini Private Hospitals identified in the Schedule to the Special Arrangement, Cabrini Brighton and Cabrini Malvern.

The Special Arrangement revokes and replaces the *National Health (Epworth and Cabrini Private Hospitals Paperless Prescribing and Claiming Trial) Special Arrangement 2016*, which is due to sunset on 1 October 2026. By remaking the Special Arrangement, the Department is ensuring that Cabrini can continue to pilot digital medication chart workflows—specifically the inclusion of streamlined authority prescriptions. In particular, the results of this trial continue to inform digital health policy relating to the adoption and use of electronic medication chart solutions in acute care settings. This arrangement enables the safe prescribing, supply, and administration of medicines without the requirement for parallel paper-based documentation.

Background

Since its inception, the Cabrini trial has served as a primary testing ground for hospital-based electronic prescribing and claiming. While the *National Health (Pharmaceutical Benefits) Regulations 2017* (the Regulations) enabled prescription and supply of pharmaceutical benefits using electronic charts generally, there are currently no electronic medication chart systems that meet requirements necessary to prescribe pharmaceutical benefits in Australian hospitals. In order to enable the use of electronic medication charts within the nominated hospitals to write prescriptions for supply under the PBS, a special arrangement made under section 100 of the Act must be used. The Special Arrangement also enables the two nominated hospitals to continue to use paper-based medication chart orders that are not standard PBS Hospital Medication Charts to write prescriptions for the supply of pharmaceutical benefits on the PBS.

Authorised Version Explanatory Statement registered 28/09/2026 to F2026L01310

The Special Arrangement uses a modern drafting approach to making the special arrangements and standardising record-keeping obligations. This initiative aligns with Australia's National Digital Health Strategy and the government's commitment to Electronic Prescribing by default. The trial also provides valuable insights into clinical workflows and system interoperability, which are directly informing the development of the National Electronic Medication Charting Framework.

Commencement

The Special Arrangement commences on 30 September 2026.

Consultation

The Special Arrangement was developed in direct response to a request from Cabrini Private Hospitals. Consultation was undertaken with Cabrini management to ensure the provisions meet current clinical needs and technical system capabilities. Engagement confirmed their commitment to the trial and the necessity of including streamlined authority provisions. As this instrument continues and refines an existing trial, wider public consultation was not considered necessary.

General

The Special Arrangement is a legislative instrument for the purposes of the *Legislation Act 2003.*

Details of the Special Arrangement are set out in Attachment A.

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Authority: Section 100 of the *National Health Act 1953*

ATTACHMENT A

Details of the *National Health (Cabrini Private Hospitals Paperless Prescribing, Dispensing and Claiming Trial) Special Arrangement 2026*

Part 1 - Preliminary

Section 1 – Name

This section specifies that the title of the Special Arrangement is the *National Health (Cabrini Private Hospitals Paperless Prescribing, Dispensing and Claiming Trial) Special Arrangement 2026* and that it may also be cited as PB 123 of 2026.

Section 2 – Commencement

This section provides that the Special Arrangement commences on 30 September 2026.

Section 3 – Authority

This section provides the Special Arrangement is made under subsections 100(1) and 100(2) of the *National Health Act 1953* (the Act).

Section 4 – Schedule 2

This section provides that each instrument that is specified in Schedule 2 to this Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Instrument has effect according to its terms.

Section 5 – Definitions

This section provides definitions for key terms used in the Special Arrangement.

The Special Arrangement defines the new terms "eligible hospital" and "eligible approved supplier" as, respectively, an approved supplier mentioned and a hospital mentioned in the table in Schedule 1. It also introduces the concept of an "electronic medication chart order" and “paper-based medication chart order” as the mechanism for prescribing under the Special Arrangement. An electronic medication chart order is an order for the supply of a pharmaceutical benefit, prepared and approved electronically and which forms part of an eligible hospital’s electronic medication charting system for the purpose of treating a patient of the hospital. A paper-based medication chart order is a paper-based order for the supply of a pharmaceutical benefit for the purpose of treating a patient of an eligible hospital.

The provision defines a “streamlined authority prescription” as an authority prescription where the authority required procedures are satisfied by including the relevant streamlined authority code in the prescription.

Part 2 – Special arrangements for prescribing, supply and claiming of pharmaceutical benefits

Section 6 – Meaning of *special arrangement supply*

This section defines the criteria for a supply of a pharmaceutical benefit to be a “special arrangement supply” for the purposes of the instrument. The criteria ensure that a special arrangement supply is limited to supplies to patients of an eligible hospital, supplied by an

eligible approved supplier and the supply is based on a prescription by a PBS prescriber using an electronic or paper-based medication chart order.

This definition streamlines drafting throughout the rest of the Special Arrangement but is not intended to make any substantive change from the operation of the *National Health (Epworth and Cabrini Private Hospitals Paperless Prescribing and Claiming Trial) Special Arrangement 2016* (previous Special Arrangement).

Section 7 – Pharmaceutical benefits covered by this instrument

This section specifies that the Special Arrangement applies to pharmaceutical benefits generally available for supply under Part VII of the Act. This limitation also applied under the previous Special Arrangement.

However, section 7 has been updated to include a definition of a pharmaceutical benefit "generally available for supply under Part VII of the Act", meaning a benefit that:

- does not contain a drug where all pharmaceutical benefits containing the drug can only be supplied under a special arrangement;
- is not a benefit where the pharmaceutical benefit can only be supplied under a special arrangement; and
- if the benefit is a pharmaceutical benefit that, in specified circumstances, can only be supplied under a special arrangement – the supply is not in those circumstances.

Section 8 – Prescribing a special arrangement supply of a pharmaceutical benefit - general

This section specifies that a PBS prescriber may only write a prescription for a special arrangement supply for the purpose of treating a patient of an eligible hospital. Subsection 8(2) limits the use of authority prescriptions under the Special Arrangement to where they are streamlined authority prescriptions, addressing a key policy requirement for the management of Schedule 8 medicines within the trial.

The previous Special Arrangement did not allow the writing of any kind of authority required prescription.

Section 9 – Prescribing a special arrangement supply of a pharmaceutical benefit – modification of section 41

This section modifies section 41 of the Regulations, which relates to writing medication chart prescriptions.

The modifications made by section 9 operate so that a prescription written by completing an electronic medication chart order generated from an electronic medication chart system, or a paper-based medication chart order, will be a medication chart prescription for the purposes of section 41 of the Regulations.

Section 9 of the Special Arrangement also disapplies certain requirements in section 41 of the Regulations, including requirements relating to the standard periods of validity for medication charts and active ingredient prescribing requirements in subsection 41(2A) of the Regulations, to reduce burdensome requirements on eligible hospitals. This will enable convenient and efficient supply of pharmaceutical benefits to eligible patients of the eligible hospitals, by

Authorised Version Explanatory Statement registered 28/09/2026 to F2026L01310

allowing an electronic or paper-based medication chart order to be a valid PBS prescription in a hospital setting.

While the drafting of section 9 has been modernised, it is not intended to substantively change existing arrangements for the writing of prescriptions under section 7 of the previous Special Arrangement.

Section 10 – Supplies by eligible approved suppliers

This section modifies the operation of sections 45, 47, and 51 of the Regulations in relation to special arrangement supplies.

Section 45 of the Regulations deals with the supply of pharmaceutical benefits on the basis of medication chart prescriptions. Section 47 relevantly deals with information that must be collected by an approved supplier where a supply is made on the basis of a medication chart prescription. Section 51 deals with repeated supplies of pharmaceutical benefits.

Subsection 10(2) of the Special Arrangement provides that references to a medication chart prescription in sections 45, 47 and 51 of the Regulations is taken to include a reference to a prescription written using an electronic or paper-based medication chart order in accordance with section 41 of the Regulations as modified by the Special Arrangement.

Subsection 10(3) provides that a reference in section 45 of the Regulations to an electronic medication chart is taken to include a reference to an electronic medication chart order.

Subsection 10(4) provides that certain provisions in the Regulations relating to the requirement for supply within a defined period of validity for a medication chart set by the Regulations do not apply for electronic or paper-based medication chart orders. It also disapplies requirements relating to what the approved supplier needs to write on a medication chart or copy of a medication chart when making a supply. Alternative requirements for special arrangement supplies are imposed by subsection 10(5) of the Special Arrangement.

Subsection 10(6) modifies requirements in section 51 of the Regulations that relate to requirements for approved suppliers to write 'immediate supply necessary' on a prescription. This would be necessary where a repeated supply is required in a shorter period that otherwise allowed by section 51 because, for example, an approved supplier reasonably believes that the pharmaceutical benefits previously supplied to the person have been lost or destroyed.

These provisions ensure that modern digital supply and verification rules apply to the Special Arrangement, rather than defaulting to stricter paper-based requirements. However, it allows for supply on paper-based prescriptions to continue where necessary.

Section 11 – Claims for payment

This section outlines the requirements for claims and reporting of information for under co-payment supplies in relation to special arrangement supplies. It provides that the *National Health (Supply of Pharmaceutical Benefits—Under Co-payment Data and Claims for Payment) Rules 2022* apply with the modifications that:

- a reference to a medication chart prescription is taken to include a reference to a prescription written using an electronic medication chart order or a paper-based

medication chart order in accordance with section 41 of the Regulations, as modified by the Special Arrangement.
- items 20 and 21 of the table to Schedule 1 of those rules, which relate to information about the period of validity of a medication chart, do not apply.

Section 11 modernises drafting around the process for making claims for payment under the Special Arrangement but are not intended to substantively change the arrangements in place under section 8 of the previous Special Arrangements.

Section 12 – Pharmacy records

Subsection 12(2) requires that where an eligible approved supplier has made a claim under section 99AAA of the Act for payment in relation to a special arrangement supply, the eligible approved supplier must prepare an electronic pharmacy record and retain that record for at least 2 years from the date of supply. Subsection 12(3) sets out that the information to be included in an electronic pharmacy record is the information that would be required to be included in a standard 'CTS claim' (i.e. a Claims Transmission System claim) for payment for the supply of a pharmaceutical benefit, with appropriate modifications relating to information about the period of validity of a medication chart prescription.

This provides alternative record-keeping requirements to those in section 61 of the Regulations, noting the period for retaining records is 2 years in both cases.

Subsections 12(1) and 12(4) respectively require, where notified by the Chief Executive Medicare in writing:

- an eligible hospital to provide Services Australia with a copy of an electronic or paper-based medication chart order for a special arrangement supply; and
- an eligible supplier to provide Services Australia with a copy of an electronic pharmacy record.

Subsection 12(5) makes clear that a notification under subsection 12(1) or (4) may apply to one or more medication chart orders or electronic pharmacy records.

These requirements also appeared in section 8 of the previous Special Arrangement.

Part 3 – Application and transitional arrangements

Section 13 - Definitions

This section defines key terms used in the transitional provisions of the Special Arrangement. Transitional prescriptions are prescriptions made before the transition time under the previous Special Arrangement. Transition time is defined as 30 September 2026.

Section 14 – Supplies made on transitional prescriptions

This section confirms the ongoing validity of supplies made on transitional prescriptions. Supplies of pharmaceutical benefits based on transitional prescriptions remain valid, even after the repeal of the previous Special Arrangement. Section 8 of the previous Special Arrangement continues to apply to these supplies, regardless of whether the supply occurs before, on, or after 30 September 2026.

Section 15 – Claims for supplies made on transitional prescriptions

This section confirms that claims for supplies made on transitional prescriptions before 30 September 2026 remain valid. These claims continue to be governed by section 8 of the previous Special Arrangement, ensuring continuity beyond the transition date.

Section 16 – Retention of records and provision of documents

Subsection 16(1) provides for the continuation of the requirement to keep electronic pharmacy records, if the two year period under subsection 8(3) of the previous Special Arrangement has not passed. It also clarifies that the requirement to provide Services Australia a copy of an electronic pharmacy record under subsection 12(4) of the Special Arrangement will apply for notifications made after 30 September 2026.

Subsection 16(2) clarifies that the requirement to provide Services Australia with a copy of an electronic or paper-based medication chart order under subsection 12(1) of the Special Arrangement will apply for requests made after 30 September 2026, as if the request for a copy of a medication chart under the previous Special Arrangement were an electronic or paper-based medication chart order.

Schedule 1 – Eligible hospitals and eligible approved suppliers

Schedule 1 provides the name and address of the eligible hospitals participating in this Special Arrangement and the name, address and approval number of the eligible approved suppliers associated with the hospitals participating in this Special Arrangement.

Schedule 2 – Repeals

National Health (Epworth and Cabrini Private Hospitals Paperless Prescribing and Claiming Trial) Special Arrangement 2016

Schedule 2 provides for the repeal of the previous Special Arrangement.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

NATIONAL HEALTH (CABRINI PRIVATE HOSPITALS PAPERLESS PRESCRIBING, DISPENSING AND CLAIMING TRIAL) SPECIAL ARRANGEMENT 2026

This Special Arrangement is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of this Special Arrangement is to allow Cabrini Brighton and Cabrini Malvern to use an electronic medication charting system to prescribe, dispense, and claim pharmaceutical benefits. It also continues the use of paper-based prescriptions for business continuity. This trial improves clinical safety through real-time digital records and reduces administrative burden.

Human rights implications

The Special Arrangement engages Articles 9 and 12(1) of the *International Covenant on Economic Social and Cultural Rights* (ICESCR), specifically the rights to social security and health.

The Right to Social Security

The right to social security is contained in Article 9 of the ICESCR. It requires that state parties must recognise the right of everyone to social security, including social insurance. A country must, within its maximum available resources, ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care. Countries are obliged to demonstrate that every effort has been made to use all resources that are at their disposal in an effort to satisfy, as a matter of priority, this minimum obligation.

The Right to Health

The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR. The UN Committee has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

Analysis

The Special Arrangement promotes the right to health and the right to social security by ensuring clinicians have immediate access to necessary medication information within the electronic management system. The Special Arrangement enables informed clinical decisions and reduces medicine safety risks.

Conclusion

The Instrument is compatible with human rights as it promotes the right to health and the right to social security under Articles 9 and 12(1) of the ICESCR, and does not impinge upon any applicable rights or freedoms.

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Authorised Version Explanatory Statement registered 28/09/2026 to F2026L01310