

Pharmacy Business Ownership Bill 2023

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Dear Sir/Madam,

Committee inquiry into the Pharmacy Business Ownership Bill 2023

I am a pharmacy owner and have been owning and running community pharmacies in Queensland since 1993. There has been much discussion and a few draft versions presented of the PBOB2023. I believe there are some areas of concern that need addressing. The Bill should cover what is required today, as well as the future as much as we can. Pharmacy is changing rapidly, and legislation must be presented that has a chance of accommodating industry changes, which no doubt will be upon us earlier than we all imagine. It also needs to accommodate the craftiness of some businesses that might want to impose themselves as suppliers of pharmacy services, but who just see this as an area to profiteer, leaving the public exposed to some form of harm.

1) The definition of core pharmacy services (Clause 8(3))

- The current version of the Bill has a narrow and limited definition which does not adequately define what a “pharmacy service” is. Pharmacy does more than dispense and compound medicines. As an example, we offer advice. I believe the provision of advice does not fit the definition as a service. Limited prescribing is around the corner in almost every jurisdiction of Australia and indeed the world. How does that fit the intent of the Bill?
- A narrow definition leads to narrow control. I believe many pharmacy services will remain outside of the Bill with no ability to control these services.
- If part of the intent of the Bill is to describe who may own a pharmacy business, a more encompassing and modern definition of what is a pharmacy business through incorporating a more accurate and wider definition of services has to be part of the new Bill.

Proposed change:

To adopt a broader definition of ‘core pharmacy services’ as ‘pharmacy services’:

pharmacy services means –

(a) health services (including dispensing, supply, prescribing, selling, administering, repackaging, compounding, possessing, disposing of medicines and the provision of clinical service or advice (either at or from a licensed premises or through digital platforms)) provided in the course of practice by a pharmacist or a person who holds themselves out, or is held out by another, as a pharmacist;

2) The definition of a supermarket (Clause 11(3))

- The definition of a supermarket does not capture the likely increase in online supermarket businesses in the future. Online seems to sit outside of the Bill.
- The inclusion of the word 'premises' in the definition ties the concept of a supermarket to a bricks and mortar place. I don't believe it captures online activity. Online will surely overtake bricks and mortar in the near future.
- To ensure that the policy objective of the Bill to 'prohibit the council from issuing a licence if the pharmacy business is located in a supermarket' is met, the Bill must have application to pharmacy businesses and supermarkets whether they are online or physical locations.

Proposed change:

- To adopt the following definition of a supermarket:

supermarket means a premises or online store used primarily for selling a range of food, beverages, groceries and other domestic goods.

3) What is a material interest in a pharmacy business (Clause 13)

- The definition of a material interest is not sufficient in capturing the interest that may be held in a pharmacy business.
- Other jurisdictions include the terms 'legal' and 'beneficial' in their definitions of material interest.
- If material interest is not able to be defined sufficiently well it will mean that interests not expressed in the current definition may not be able to be deemed unlawful interests.

Proposed change:

To adopt an amendment to the definition of 'material interest' to include the words 'legal' and 'beneficial':

Clause 13(1)(c) should say:

(c) any other interest, **legal** or **beneficial** in the business, other than an interest of an owner of the business.
(2) to remove any doubt, an interest includes, but is not limited to, having a right to receive consideration directly or indirectly that varies according to the profits or takings of the pharmacy business.

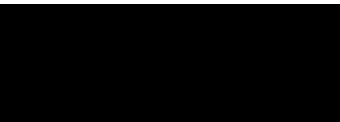
4) Matters relating to the Queensland Pharmacy Business Ownership Council (the council) (Clauses 147, 150, 153, 207)

- One of the main purposes of the Bill is to maintain public confidence in the pharmacy profession. To ensure this can be achieved, it is not acceptable that there is no mandatory requirement that the register of licensed pharmacy businesses is listed on the council's website. This will ensure there is transparency for the public so that they know who the owner of the pharmacy is. AHPRA has a public database of all registered health practitioners, as "Public safety is our priority".
- The council is funded by the industry to perform a critical function in registering and licensing pharmacy businesses. The function of the council must not be diluted by becoming involved in the functions of any other Act.
- The composition of the council membership as it is currently stated is not acceptable. The council is an industry body that has the potential to be weighted inappropriately, where industry experts may be significantly outnumbered. There must be a majority of pharmacy business owner members to ensure that the council is able to function as intended. This seems a logical change.
- There is currently no limit to the number of terms that a member of the council is permitted to serve. To ensure a contemporary and representative council, there should be a limit to the number of consecutive terms, and terms in total, that a member is permitted to serve. The term of membership is one year longer than councils in other states and territories, so a maximum number of terms is required. Most organizations do specify a term or maximum number of terms in their constitutions. Surely this is a common sense approach to membership of the council?

Proposed changes:

- Clause 207 (5) must be amended:
*The council **must** publish the information contained in the register on the council's website.*
- Clause 147 (1)(g) must be amended:
any other function given to the council under this Act.
- Clause 150 (4) must be amended:
the council must consist of –
(a) a majority of persons mentioned in subsections (3)(a)(i) and (3)(a)(ii) with the actual number dependent on the size of the council
- Clause 153 (2) should be amended to include a limit to the number of times a council member can be reappointed:
(2) a council member may be reappointed a maximum of two terms

Yours sincerely,



Michael Kaluschke

