Pharmacy Business Ownership Bill 2023

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Submission to the Economics and Governance Committee Regarding the Proposed Pharmacy Ownership Bill

To the Honourable Members of the Economics and Governance Committee,

I write to you regarding the Pharmacy Ownership Bill recently introduced in the Queensland Parliament, which may have profound implications on the pharmacy profession in Queensland. My concern primarily lies in the retrospective nature of the bill and its overarching control, which I believe are unfair and to be against the interest of the industry.

Overarching Control and Penalisation:

The bill demonstrates an intent to exert extensive control over pharmacists' activities, verging on a totalitarian approach. Section 78 exemplifies this by imposing severe penalties for minor administrative oversights, such as failing to update contact information. More distressingly, it penalises pharmacists in emotionally taxing situations, such as the death of a partner or co-director, demanding bureaucratic compliance within an unreasonably short timeframe.

Transformation of the Council's Role:

The shift of the council's role from advisory to regulatory is troubling. This change burdens pharmacists with stringent regulations and the potential for significant delays in various administrative processes, from licence renewals to structural business changes. The absence of a mandated response time from the council exacerbates this issue, leading to potential commercial uncertainties and financial burdens.

Impact on Non-Practising Pharmacists:

The bill's provisions regarding non-practising pharmacists are particularly concerning. These experienced professionals are unjustly barred from owning or having an interest in pharmacies, contrasting with practices in other states like Victoria, South Australia, and Western Australia.

The bill's retrospective application in this context is alarming, as it forces current owners with non-practising registration to divest their interests, undermining their established legal rights.

Retrospective Nature and Vested Rights:

The retrospective application of the bill is its most questionable aspect. It challenges the principle that laws should not make unlawful what was legal when done. Pharmacists who have organised their affairs and made investments based on the existing legal framework now face the prospect of significant personal and financial upheaval. The bill fails to respect vested rights, forcing pharmacists to restructure their businesses and personal affairs in compliance with the new, retrospectively applied rules.

Restrictions on Trust Ownership Structures:

The bill's restrictions on trust ownership structures are discriminative and ignore the diverse ethnic and cultural backgrounds of many pharmacy owners. By limiting trust beneficiaries, the bill disregards common ownership structures that provide taxation and succession planning benefits, equivalent to those available to other business owners. This limitation not only affects the pharmacists' financial planning but also their ability to support extended family members, a practice embedded in many cultures.

Limited Transitional Provisions and Amnesty:

The transitional provisions and the proposed two-year amnesty period are insufficient and misaligned with the reality of the business structures of many pharmacies. The criteria for eligibility are narrowly defined, excluding a significant number of pharmacists who do not meet the stringent requirements set before the law's commencement. This approach puts undue pressure on pharmacists to reorganise their ownership structures in a constrained timeframe, often without a clear understanding of the new law's ramifications.

Fit and Proper Person Criteria:

The criteria for determining a 'fit and proper person' are vague and could lead to arbitrary and unfair determinations. This ambiguity risks unjustly impacting pharmacists' professional and business operations, potentially based on subjective interpretations of contractual agreements.

Control and Enforcement Issues:

The bill's approach to control and enforcement, particularly in Section 22, appears to overextend its reach. This provision could void contractual provisions based on perceived intentions of control, which is a marked expansion from the current legislation. A more judicious approach would be to enhance the current legislation's investigation and enforcement powers, targeting non-compliance directly rather than imposing a prescriptive and potentially overreaching new framework.

In conclusion, while the intention to regulate pharmacy ownership and ensure professional standards is commendable, the bill in its current form raises significant concerns. Its retrospective nature is particularly troubling, as it disregards established legal rights and imposes undue burdens on pharmacists. I urge the Committee to reconsider these aspects of the bill to ensure it is fair, just, and practical, and does not unduly penalise or disadvantage the pharmacy profession.

Thank you for considering this submission.

Respectfully,

Matthew McLean B.Pharm
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