Pharmacy Business Ownership Bill 2023

Submission No: 91

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Publication:

Attachments:

Submitter Comments:

From:	Alex Themistocleous
To:	Economics and Governance Committee
Subject:	Pharmacy Business Ownership Bill Submission
Date:	Friday, 19 January 2024 1:20:58 PM
Attachments:	[redacted]

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Sir/Madam,

Friday 19th January 2024

RE: Committee inquiry into the Pharmacy Business Ownership Bill 2023

I am writing to submit my deep concerns regarding the Pharmacist Business Ownership Bill currently under review. While I recognise the necessity of regulatory frameworks to ensure the integrity of pharmacy services, I wish to draw attention to specific aspects of the Bill that warrant careful examination, particularly with regard to its retrospective nature and potential ramifications.

1. Restrictions on Common Trust Ownership Structures:

The limitation of trust beneficiaries to the practising pharmacist, their spouse, and adult children represents a noteworthy constraint on a prevalent and legitimate ownership structure. This restriction not only contradicts the inherent flexibility and tax advantages associated with discretionary trusts but also introduces a discriminatory element, impeding pharmacists of diverse backgrounds from reciprocating familial support through this structuring approach.
Needless to say, current ownership structures that are compliant with the law today should be allowed to continue.

2. Stamp Duty and CGT Burden:

I would urge the government to seek a Private Ruling from the Commissioner of Taxation before the legislation is enacted. This proactive step is crucial to ensure that current pharmacy owners comprehensively understand their taxation liability and the valuation approach the Commissioner would adopt. The potential Capital Gains Tax (CGT) implications, particularly for pharmacists compelled to restructure their businesses, may be significant enough to necessitate selling. Such a scenario not only jeopardises carefully planned retirements but also deprives communities, long served by these pharmacists, of the enduring benefits derived from the close relationships, trust, and support of their local pharmacy. Let us not forget the role pharmacists played during COVID and the various natural disasters that have befallen Australia.
In addition, the proposed legislation fails to delineate a manageable or economically viable transition pathway from the prior permissible ownership structures to the newly sanctioned framework. This lack of clarity introduces uncertainty, undermines productivity and detrimentally affects the services extended to pharmacy consumers. The financial burden stemming from stamp duty and CGT - even

for those capable of managing it through cash reserves or financial instruments - may curtail plans for crucial investments in pharmacy infrastructure, technological upgrades such as dispense robots for enhanced efficiency or commitments to augment their businesses and provide a comprehensive range of professional health services.
Requesting a Private Ruling would not only engender certainty for the government, pharmacy owners and consumers but also elucidate the economic and financial ramifications arising from the proposed legislation. This clarity is essential for informed decision-making and would foster a more transparent understanding of the implications of the new law.

3. Council Transformation and Regulatory Implications:

The current iteration of the Bill seemingly transitions the existing advisory council into a regulatory body, introducing a substantial regulatory burden without commensurate obligations for timely responses. The absence of prescribed timelines for the council's decision-making process introduces uncertainty, potentially resulting in significant delays that could impede commercial transactions and escalate transactional costs for pharmacists.

4. Fit and Proper Person Determination:

Granting the council discretionary powers to ascertain the fitness and propriety of individuals based on contractual arrangements - specifically referencing void provisions - introduces a potential avenue for subjective evaluation. This provision, focused around contentious contractual terms, may stigmatise pharmacists, creating unwarranted barriers to entry without a transparent and objective criteria framework.

5. Limited Transitional Provisions:

The transitional provisions, particularly those pertaining to corporations and trusts, appear to lack the requisite robustness. The criteria for deemed eligibility and the narrow scope of the two-year amnesty may compel pharmacists into hastily restructuring their ownership arrangements, incurring undue and unfair financial burdens and administrative complexities.

6. Control Restrictions:

The limitations imposed on third-party activities under Section 22, while aimed at preventing undue control, introduce complexities. The voiding of provisions, even in the absence of enforceable rights, may engender legal uncertainties and hinder legitimate business activities.

7. Advocating for a More Pragmatic Solution:

In lieu of the implementation of prescriptive legislation, a more pragmatic solution could have involved augmenting the investigation and enforcement powers under the existing legislative framework. Such enhancements would have facilitated the identification and rectification of non-compliance issues without necessitating comprehensive and retrospective alterations.

To conclude, while acknowledging the imperative nature of regulatory measures to safeguard the pharmacy profession's integrity, the Pharmacist Business Ownership Bill in its current manifestation elicits substantial reservations. The retrospective character of certain provisions, coupled with indistinct formulations and potential unintended consequences, raises ethical concerns. I respectfully implore the committee to meticulously reconsider these facets and endeavour to strike a balance that upholds regulatory integrity without imposing undue burdens on pharmacists.

Sincerely,

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