

Pharmacy Business Ownership Bill 2023

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To: [Economics and Governance Committee](#)
Subject: Committee Inquiry into the Pharmacy Business Ownership Bill 2023
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Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

19 January 2024

Dear Sir/Madam,

RE: Committee inquiry into the Pharmacy Business Ownership Bill 2023

I write to you regarding my concerns about the Pharmacy Business Ownership Bill 2023 as it currently exists. My concerns are:

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

Issues:

- The current version of the Bill does not adequately define what a pharmacy service is.
- The definition is too narrow and is limited to dispensing and compounding of medicines only. This is not an accurate reflection of the services that a pharmacist provides and means that, for example, where the dispensing of a medicine is considered a pharmacy service, the provision of advice about that medicine, is not.
- By having a narrow definition of pharmacy services, it limits how the Bill is able to deal with the concept of external control of how pharmacy services are delivered to the public (clause 22). If control of pharmacy services is linked to the definition of *core pharmacy services* then there is a risk that a number of relevant pharmacy services will be left outside the regulatory control of the Bill.
- Where the intent of the Bill is to describe who may own a pharmacy business, a robust definition of what constitutes a pharmacy business (through definition of the services that business provides) must be offered as part of the 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;

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

Issues:

- The definition of a supermarket is not broad enough to capture the likely increase in online supermarket businesses in the future.
- By inclusion of the word 'premises' in the definition, it ties the concept of a supermarket to a bricks and mortar place, and it is not able to capture the growing online marketplace.
- 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.

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

Issues:

- The definition of a material interest is inadequate in capturing the interest that may be held in a pharmacy business.
- The definition is inconsistent with other jurisdictions as it does not use the terms 'legal' and 'beneficial'.
- A failure to appropriately define a material interest means that interests that are 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.

The existing clause 13(2) would be renumbered 13(3).

Matters relating to the Queensland Pharmacy Business

Ownership Council (the council) (Clauses 147, 150, 153, 207)

Issues:

- 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.
- 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 unacceptable. 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.
- 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 needed.

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
Michelle Duncan

