

Pharmacy Business Ownership Bill 2023

Submission No: 117
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Publication:
Attachments:
Submitter Comments:



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

19 January 2024

Via: [<EGC@parliament.qld.gov.au>](mailto:EGC@parliament.qld.gov.au)

Dear Sir/Madam,

RE: Committee inquiry into the Pharmacy Business Ownership Bill 2023

I am the director of Nguyen P Pty Ltd which trades Priceline Pharmacy Riverlink. I have been a pharmacy owner for 12 years and a registered pharmacist for over 20 years.

I am very concerned to ensure that the legislative regime regulating pharmacy ownership continues to adhere to the principle that pharmacy services are best provided if ownership of pharmacies remains with pharmacists. I similarly believe that the legislative framework should continue to limit the amount of pharmacies that can be owned by an individual.

I have identified several concerns in the proposed bill and in particular with respect to the wording of proposed section 17 and how it proposed to limit the amount of pharmacy business a person can have an interest in. I provide further detail about this below.

My concerns are set out below:

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.

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(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).

Limit on number of pharmacy businesses a person may hold interest in (clause 17)

Issues:

- The section provides “a person must not hold an interest” which is different language used in clause 13 with respect to who may have an interest.
- This is likely to lead to confusion and potentially unintended outcomes as a court asked to interpret the section is going to start from the position that the difference is intended.

Proposed change:

- To adopt an amendment to which uses language consistent with clause 13.

Clause 17 should say:

A person must not hold a material interest in more than the following number of pharmacy businesses at the same time-

Particular activities relating to licensed pharmacy business prohibited (clause 22)

Issues:

- The section restricts what a person, other than a pharmacy owner, can do in relation to a pharmacy business.
- The restriction to prevent control of how pharmacy services involving medication in (1)(a) is inconsistent with the restriction on the prohibition on restricting types of medical or health services in (1)(b).
- This would lead a court interpreting (1)(a) to import a narrow view.

Clause 22(1)(a) should say:

- (a) Control how pharmacy services involving medicines or health services are provided to the public by the business;

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.



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- This ought not be controversial as a similar practice is adopted by the Queensland Law Society with respect to the registrar of solicitors to name one example.
- 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

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