Pharmacy Business Ownership Bill 2023

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Submitted by: The Royal Australian College of General Practitioners Ltd (RACGP)

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Submission to
Queensland
Parliamentary
Economics and
Governance
Committee Inquiry
on the Pharmacy
Business Ownership
Bill 2023

19 January 2024



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Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Q 4000
via email to: eqc@parliament.qld.qov.au

Dear Committee Secretary,

RE: Pharmacy Business Ownership Bill 2023

Thank-you for the opportunity for the Royal Australian College of General Practitioners (RACGP) to provide a submission (attached over the page) to the Queensland Parliamentary Economic and Governance Committee inquiry on the Pharmacy Business Ownership Bill 2023.

If the Committee requires further information regarding this submission, please contact Mr James Flynn, State Manager RACGP Queensland.

Yours sincerely,

Dr Cath Hester FRACGP Chair RACGP Queensland



RACGP submission to the Queensland Parliamentary Economic and Governance Committee inquiry on the Pharmacy Business Ownership Bill 2023

1. Introduction

The Royal Australian College of General Practitioners (RACGP) Queensland Faculty welcomes the opportunity to provide a submission to the Queensland Parliamentary Economic and Governance Committee inquiry on the *Pharmacy Business Ownership Bill 2023* ('the Bill'). This submission forms our response to the consultation documents.

The RACGP is Australia's largest professional general practice organisation, representing more than 46,000 members working in or towards a career in general practice, and including nearly 8,000 members across Queensland. The RACGP has been the voice of general practitioners (GPs) for more than 60 years, setting the standards for education and practice.

General practice is the foundation of the Australian healthcare system. Australians see their GPs more than any other health professional. Australia's GPs see more than two million patients each week with almost nine in ten people consulting a GP every year. GPs support Australians through every stage of life. The scope of general practice is unmatched.

The RACGP sets and maintains the standards for high-quality general practice care in Australia and advocates on behalf of the general practice discipline. As a national peak body, our core commitment is to support general practitioners (GPs) to address the primary healthcare needs of the Australian population.

2. RACGP overarching position

- The RACGP opposes ownership and location regulations in the pharmacy sector. These regulations stifle
 competition which can result in increased pricing of medicines, limited consumer choice and slow sector
 improvements.
- 2. The RACGP is concerned by the definitions of a pharmacy business/ core pharmacy services and potential overlap with general practice. The RACGP would like assurances that the Bill will not in any way:
 - inhibit pharmacists from working to their full scope of practice in general practices or other primary care environments
 - · prohibit general practices and GPs from storing, supplying or administering medicines directly to their patients.

GPs and general practices supply medicines to patients in a variety of ways. It is important for the health of Queenslanders that the Bill does not affect these services. Examples include:

- Medical practitioners working in remote locations where there is no convenient and efficient pharmaceutical service currently can apply to become an approved medical practitioner for the purpose of supplying PBS medicines.
- Provision of urgent and emergency care in the practice or the community. It may be necessary to supply medicines directly to patients to avoid exacerbation of a condition that may require transfer to hospital if left untreated or delayed treatment.
- In some circumstances it may be necessary for GPs to supply a medicine when the usual supply via the pharmacy is impractical or impossible. Such as outside standard pharmacy business hours,



in rural and remote areas where there is often a significant distance to travel to the closest pharmacy, where patients have significant mobility issues or during or after major emergencies (floods, bushfires, cyclones, asthma thunderstorms).

- Treatment that is short, requiring a one-off dose or a short course such as antibiotics for chlamydia or ondansetron wafers for a vomiting child.
- o Treatment is of a deeply personal nature (eg sexual health).
- Palliative care. Examples include where a pre-terminal patient is experiencing increased pain or discomfort, mild confusion or nausea and vomiting.

Additionally, certain medicines are supplied or administered during routine general practice care. Examples include:

- immunisations
- o corticosteroid injections
- medications used for surgical interventions and wound care
- long-acting injectable antipsychotics
- o injectable disease-modifying anti-rheumatic drugs
- o injectable anticoagulants
- o hormone implants
- o vitamin B12 injections
- o iron infusions
- allergy immunotherapy
- topical antibiotics
- o topical anaesthetics
- medicine samples.

3. Background

The RACGP notes that the Bill was introduced to the Queensland Parliament on 30 November 2023 by the Hon Shannon Fentiman MP, Minister for Health, Mental Health and Ambulance Services and Minister for Women.

The Pharmacy Business Ownership Bill 2023 seeks to repeal the Pharmacy Business Ownership Act 2001 and replace it with a modern framework for regulation of the ownership of pharmacy business. It is noted that the Bill intends to implement the Government's 2019 response to recommendations 8, 9, 10 and 11 in the 2018 report (Inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership in Queensland).

We note that The Bill does depart from recommendation 6 which calls for an advisory council to be established to advise Queensland Health in its administration of the Pharmacy Business Ownership Act. Instead, the Bill establishes a regulatory council as an independent statutory body and transfers responsibility for regulating pharmacy ownership from Queensland Health to the council.

4. Comments on the Bill

1. Pharmacy ownership

What does the Bill state?

Only eligible persons may own a pharmacy business and there is a limit on the number of pharmacies allowed.

Per the <u>consultation documents</u>, the Bill retains and clarifies the existing requirements relating to pharmacy ownership. An eligible person is defined in s10 (Who is an eligible person) to include: a practising pharmacist; a corporation whose directors and shareholders are either all practising pharmacists or a combination of practising pharmacists and close



adult relatives of practising pharmacists; a friendly society that on 29 April 2005 carried on a pharmacy business (or an amalgamation of two or more friendly societies that carried on a business on 29 April 2005); and the Mater Misericordiae Ltd ('the Mater').

The Bill also retains the limits on the number of pharmacies a person may own or have a material interest in (up to five pharmacy businesses). Eligible friendly societies and the Mater may have an interest in up to six pharmacy businesses.

RACGP's response

The RACGP opposes ownership and location regulations in the pharmacy sector. These regulations stifle competition which can result in increased pricing of medicines, limited consumer choice and slow sector improvements. This position has been formed after review of the impacts of pharmacy deregulation overseas and the review of a large body of literature including:

- The <u>Competition Policy Review</u> conducted by an independent panel of experts in 2015 recommended as part of immediate reform the removal of pharmacy location and ownership rules, concluding they did not serve the objectives of the National Medicine Policy as it limits both consumers' ability to choose where to obtain pharmacy services and suppliers' ability to meet consumers' demands.
- The <u>Productivity Commission Research Paper Efficiency in Health</u> in April 2015 which stated that there is no reason to treat pharmacy differently from other sectors of the economy and recommended removing location and ownership restrictions.
- o The Review of Pharmacy Remuneration and Regulation Final Report in September 2017 ('the King Review) which recommended numerous reforms around ownership and location of pharmacies.

1.1 Comments specific to 'Eligible persons' criteria

The <u>explanatory notes</u> for the Bill state that an appropriately qualified pharmacists is needed in order to understand the professional ethics associated with the qualification and a thorough understanding of the risks of the restricted substances stored and sold in the pharmacy and to ensure they are operated in a manner that places the health and wellbeing of customers and community ahead of commercial considerations.

The RACGP notes that the Bill (s10) solidifies pharmacist ownership, to the exclusion of 'others'; yet:

- Medical practitioners working in remote locations where there is no convenient and efficient pharmaceutical service currently can (and do) apply to become an approved medical practitioner for the purpose of supplying PBS medicines. So, precedence already exists demonstrating that another health professional such as a GP could technically be a 'pharmacy business' under the current definitions.
- It is a worrisome situation when other qualified health practitioners (like GPs) would be prevented from owning a pharmacy, but an unqualified adult child or spouse for example, may have ownership rights under the new Bill. This outcome begs the question "who does this clause of the Bill seek to serve?"
- o In addition to these nepotistic provisions, s83 (Death of licence holder) further provides that an executor, administrator, or trustee of the deceased licence holder's estate may be an owner of, or carry on, the pharmacy business, for up to one year, and two years if approved by the council. There appears to be no requirement for such executor, administrator, or trustee to be a pharmacist.
- In the event that a pharmacist's general registration has been cancelled under Health Practitioner Regulation National Law, s84 permits the deregistered pharmacist to continue to be a holder of their pharmacy business licence and may continue to carry on the pharmacy business to which the licence relates for up to one year (via approval by council of 3month periods). Professional conduct and ethics would be forsaken in aid of protecting owners of pharmacies.
- The proposed Bill alleges to ensure only practising pharmacists can own a pharmacy business. However, the transitional arrangements referred to in paragraph 3.5 permit non-practising pharmacist owners to continue to own their businesses, and the requirement to be a practising pharmacist only kicks in if they were to transfer their business.



The RACGP cannot logically see how an unqualified adult child, spouse, executor, administrator or trustee (who is not a practising pharmacist) could provide better clinical governance than a GP or other health professional. Yet, a pharmacy could potentially operate for two years under these arrangements in preference to allowing GPs (or other health professionals) to own pharmacies. The RACGP is wholly opposed to cherry picked selective ownership rules.

The RACGP also notes that Aboriginal and Torres Strait Islander Health Services have been excluded from owning and operating a pharmacy located within that service. This does not serve to benefit the cultural needs of these communities and this policy is not aligned to the King Review outcomes. This is another example of where ownership rules do not benefit consumers.

1.2 Comments specific to 'limits on the number of pharmacies that can be owned'

The <u>explanatory notes</u> proposed that relaxing ownership restrictions could result in the formation of monopolies focussed on maximising shareholder profits.

The RACGP would suggest that:

- monopolies already exist, so ownership and location regulations have done little to address this.
- the Australian Competition and Consumer Commission would be well placed to review overlapping ownership impact on competition

1.3 Other comments about pharmacy ownership and location

• Pharmacies in supermarkets

The RACGP notes that under the Bill, premises located in or directly accessible from a supermarket would not be considered to be authorised premises under this bill for conducting pharmaceutical business or pharmacy business.

During the <u>public briefing</u> to the Committee, Ms Sanderson stated that stakeholder feedback highlighted that supermarkets were not really appropriate healthcare environments and that consumers may not feel comfortable receiving that kind of healthcare advice or other health services provided by pharmacy businesses. This is another example of cherry-picking selective rules.

The RACGP notes that the majority of retail pharmacies sell supermarket-like products such as lollies, perfume, face creams and other cosmetics, hair products, jewellery, laundry powder, nappies, clothing, footwear and other household products and gifts. (Please refer Appendix One which shows images from pharmacy catalogues and websites and supermarket chains to see similarities).

Retail pharmacies in Australia operate in a unique environment in which they provide government-funded health services and retail products. Pharmacies apply commercial principles to the health environment, selling a number of products that are non-evidence based and unrelated to health as a way to maintain a viable business. A Department of Health commissioned Pharmacy Financial Survey in 2017 found that almost two-thirds of the pharmacy respondents allocate between 21% and 60% of their floor space to retail.¹

On average, prescription medicines make up 63% of a pharmacy's revenue. The remainder is comprised of non-prescription medicine sales (16%) and the sale of general retail products (21%).² Between July 2019 and January 2023 there was a 33.7% increase in pharmacy spending.³ Whilst the dispensary spend per basket only increased by 5.5%, spend at a service-oriented pharmacy increased by 13.4% per transaction between July 2019 and February 2022.⁴

The explanatory notes stated that stakeholder feedback (largely from pharmacy sector) was concerned about the suitability of a supermarket setting to conduct health services. Overseas, Costco supermarket pharmacies are set up like larger versions of existing Australian pharmacies. The dispensary is at the rear of the store, separated from the rest of the store. Consumers can drop off their prescriptions and complete their shopping



whilst they wait. In Australian retail pharmacies, consumers drop off their prescriptions whilst they wait (or shop for other retail products).

Therefore, the RACGP is of the opinion that there is no logical distinction between a supermarket and any other pharmacy retail environment. Thus, there is no reason to preclude pharmacies from operating within supermarkets.

• Pharmacies are protected

The location and ownership rules in retail pharmacy are stated to be in place as a mechanism to improve access to, and quality use of, medicines. However, many other areas within the healthcare system are faced with similar challenges of providing a government-subsidised service, promoting patient access and maintaining business viability – yet similar rules are not applied. For example, general practice faces parallel challenges in ensuring access to healthcare, particularly for vulnerable patient groups and patients located in rural and remote areas.

- Restrictions on retail pharmacy location and ownership are focussed on protecting the vested interests of incumbent pharmacists, and not the health of their consumers across Australia. The rules limit competition and make it harder for many people to access discounted pharmacy services where individual pharmacists or small groups of pharmacists can monopolise some or all pharmacies in towns, resulting in consumers paying more for their medicines and having limited choice of pharmacy services.
- The pharmacy location rules do not appear to have the desired effect as pharmacists appear to be more maldistributed than general practice.
- The rules were established under the justification of protecting the viability of smaller businesses at a time when small community pharmacies were the majority of practices. Since this time, there has been a significant change in the models of operation of retail pharmacy, with most pharmacies now divided into a handful of very large, effectively operated corporate businesses, located in major cities and rural areas. A comprehensive review of pharmacy remuneration and regulation in 2017, led by independent economist Stephen King, recommended reforms to pharmacy location rules stating that the 'rules have not established robust competition, with some pharmacists having monopolies in some locations.' Error Bookmark not defined.
- Pharmacies can provide government-funded services, but are not restricted by the same advertising restrictions as general practices
- o The Bill appears to protect the interests of pharmacist proprietors over consumer interests.

2. Pharmacy Business Ownership Council

What does the Bill state?

The Bill establishes the Pharmacy Business Ownership Council which is given responsibility for administering the licensing scheme and monitoring and enforcing compliance with the Bill. The council will have at least five members appointed by the Governor in Council on the recommendation of the Minister. At least one council member must be a pharmacy business owner and one must be a practising pharmacist who is an employee of a pharmacy business. Other members can include: a person qualified in accounting, business, financial management and law; or a person the minister considers is qualified to represent consumers on pharmacy services.

RACGP's response

The Queensland Productivity Commission's 2018 report on 'Cost-benefit analysis of establishing a pharmacy council' did not support establishment of a Pharmacy Business Ownership Council and this Bill appears to be a direct contradiction of the recommendations.

"The Commission found no evidence that:

 other Australian states with pharmacy councils have better outcomes for producers and consumers than Queensland



- that the existing premises regulation is resulting in unsafe conditions in pharmacies
- more intensive enforcement of the ownership restrictions would provide greater consumer benefits."

The RACGP notes that the King Review recommended the establishment of a single pharmacy regulator as opposed to jurisdictional replicates. However, this recommendation has not been enacted by any jurisdiction. Given the price tag for the Queensland Pharmacy Business Ownership Council is \$9.8 million over the next four years to set up and run the Council with ongoing costs recouped through licence fees from 2025, this adds up significantly when replicated across jurisdictions. Ultimately consumers will pay for any costs incurred by pharmacy.

The RACGP also highlights that there are existing structures, such as the Australian Competition and Consumer Commission, that might be better placed to reduce pharmacy monopoly than the Council, by reviewing overlapping ownership impact on competition.

If proceeding with a Council, the RACGP notes and agrees with the approach to setting a minimum number and no maximum number of members to the council. However, the RACGP suggests that further improvements could be made regarding membership.

- Non-pharmacist eligible persons are not mandatory and therefore there is no compulsion on a council to ensure a diverse membership. This could begin to look like a self-regulated industry.
- The absence of council members who might represent consumers is worrisome. As stressed by Dr Shane Jackson in the 'Inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership' "...there would remain an obvious community concern if a pharmacy council was largely composed of people or organisations closely affiliated with those it was supposed to be regulating."⁵

Membership composition would become particularly important when the Council is ruling on decisions in which members with a declared conflict of interest would be required to remove themselves from the discussion and decision making and could effectively rule the group inquorate.

3. Definition of 'core pharmacy services'

What does the Bill state?

The definition of 'core pharmacy services' varies significantly across the jurisdictions and Queensland's definition in particular, is different from the others. The Bill s8 (What is a pharmacy business) defines a pharmacy business as a business that provides pharmacy services in Queensland that include core pharmacy services.

A core pharmacy service means:

- the compounding of medicines for sale to members of the public; or
- the dispensing, by or under the supervision of a practising pharmacist, of medicines to members of the public.

Compound is defined in schedule 1 to mean mixing, compounding, formulating or reconstituting a medicine with any other substance.

Dispense is defined in schedule 1 with reference to section 25(2) of the Medicines and Poisons Act and means 'to sell medicine to a person on prescription'.

The explanatory notes state that the definition is intentionally narrow to ensure that the policy doesn't inadvertently capture other types of businesses that may offer some services that are similar to general services offered by pharmacy businesses as a pharmacy business. For example, a GP practice offering advice on medicines or a supermarket that may sell Panadol. The Bill's intention is to capture only those businesses that offer compounding and dispensing services.

RACGP's response

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- o Treatment is of a deeply personal nature (eg sexual health).
- Palliative care. Examples include where a pre-terminal patient is experiencing increased pain or discomfort, mild confusion or nausea and vomiting.

Additionally, certain medicines are supplied or administered during routine general practice care. Examples include:

- o immunisations
- o corticosteroid injections
- o medications used for surgical interventions and wound care
- o long-acting injectable antipsychotics
- o injectable disease-modifying anti-rheumatic drugs
- o injectable anticoagulants
- o hormone implants
- o vitamin B12 injections
- o iron infusions
- allergy immunotherapy
- topical antibiotics
- topical anaesthetics
- o medicine samples.

4. General comments

The Bill s207 (Council must keep register of licensed pharmacy businesses) states that the council must keep a register of licensed pharmacy businesses and the Council may publish the information on a website and it may contain information about pharmacy services. Whilst it is understandable that the Council would need a register of licensed business, the RACGP is of the opinion that the use of taxpayer funds to promote the interests of one section of primary care (through publication of above information) over all others cannot be justified. Such a register must list all primary care service providers and the services they provide. The cost of upkeep of such a register in the public domain would not have a cost benefit for consumers, particularly when the Federal Government has already established 'healthdirect' to provide similar details.



References

https://documents.parliament.qld.gov.au/tableoffice/tabledpapers/2018/5618T1639.pdf [accessed on 28 February 2023]

¹ Hall and Partners Open Mind. Pharmacy Financial Survey Research Report. March 2017.

² Statista. Australia breakdown of pharmacy revenue by segment. (Distribution of revenue of pharmacies in Australia in the year ended June 2018, by segment). [Accessed 18 April 2022].

³ The Pharmacy Guild of Australia and Westpac. Data-driven insights 2023: Pharmacies on the healthcare frontline. 2023

⁴ The Pharmacy Guild of Australia and Westpac. Data-driven insights 2022: Counting on community pharmacies. 2022

⁵ Queensland Productivity Commission, Inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership in Queensland, October 2018. Available at



Appendix One – examples of retail catalogues and website to demonstrate the lack of distinction between supermarkets and retail pharmacy setting.

 Woolworths catalogue vs Amcal, Chempro and Chemist Warehouse webpages – the retail pharmacies all advertise and sell similar products to supermarkets.











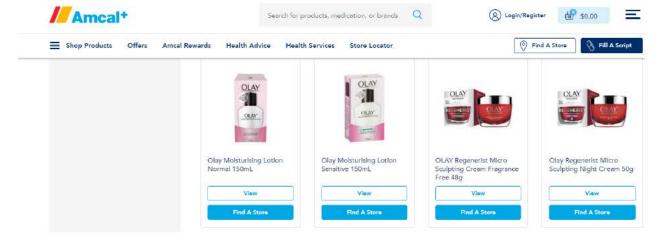




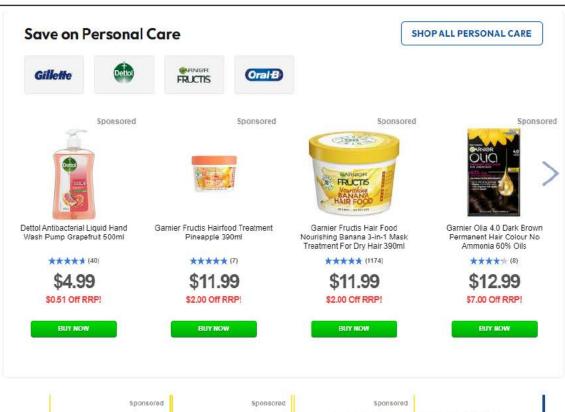


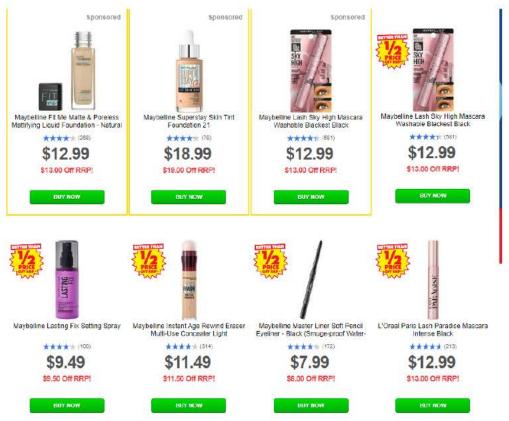








































Below is an example of a Brisbane pharmacy that has a medicinal cannabis dispensary – they sell T-shirts, hoodies, caps in addition to 'Bong Bath' and 'Herbal Smoke Mix' products.





