



Ramsay Pharmacy Group

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Committee Secretary
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Dear Committee members

Ramsay Pharmacy welcomes the opportunity to make a submission to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's (**Committee's**) inquiry into the establishment of a pharmacy council and pharmacy ownership in Queensland.

Ramsay Pharmacy is a wholly owned business unit of Ramsay Health Care, which was established in Australia in 1964 and has provided quality healthcare services to Australians for over 50 years. In Queensland, Ramsay Health Care operates 18 facilities with over 2,500 beds and employs over 10,000 Queenslanders. In addition to several large Brisbane hospitals, the Company operates many major regional facilities and continues to invest in the burgeoning growth areas of Ipswich, Cairns and Rockhampton as well as the Gold and Sunshine Coasts.

In pharmacy, Ramsay Health Care has had more than 10 years' experience in operating dispensaries within the acute hospital setting. Approved under Section 94 of the *National Health Act 1953* (Cth) (**NHA**), Ramsay Health Care dispenses PBS medications and highly specialised drugs to patients treated in or at these facilities either as admitted patients or day patients. On an annual basis, the pharmacies in Ramsay Health Care's hospitals dispense approximately 1.2 million prescription medications safely to patients and oversee the clinical ordering of in excess of 100,000 complex chemotherapy doses.

In 2013, Ramsay Pharmacy established a franchise network of community pharmacies which are operated by registered pharmacists as franchisees under the Ramsay Pharmacy brand. As at 30 June 2018, Ramsay Pharmacy has 54 franchises in Australia with 27 in Queensland including two 24/7 pharmacies in Brisbane and on the Gold Coast. Ramsay Pharmacy also owns the Malouf Pharmacies brand in Queensland, with Malouf Pharmacies also operating under a franchise arrangement.

Ramsay Health Care, through Ramsay Pharmacy, is able to provide a vertically integrated pharmacy service and an expanding community pharmacy brand which leverages the evolved corporate governance, compliance, and operational frameworks of a major healthcare institution supporting franchisees in the delivery of a continuum of care within the community. This integrated approach, and a strong focus on the improved quality use of medicines, sets the foundations for reduced medication misadventure, an improved transition of care, and optimised patient outcomes.

Ramsay Pharmacy also supports the advancement of the pharmacy profession through delivery of training and development programs focusing on clinical education, management development and risk management. This ensures we support the development of a

committed, competent and high-performing workforce which transcends both the hospital and community pharmacy environments. For example, our Greenslopes Private Hospital dispensary recently was awarded one of only two Australian clinical pharmacy residency programs.

With this extensive experience, Ramsay Pharmacy believes it is well-qualified to provide insightful comment to this inquiry. The attached submission answers the issues posed by the inquiry.

In relation to the broad terms that the Committee has been asked to inquire into a) the establishment of a pharmacy council, and b) all transfers of pharmacy ownership in Queensland over the past two years to ensure compliance with existing legislation, Ramsay Pharmacy's position is as follows:

- Transfers of pharmacy ownership in Queensland over the past two years include pharmacies that were purchased by Ramsay Pharmacy franchisees. All these transfers occurred strictly in accordance with the *Pharmacy Business Ownership Act 2001 (Qld) (Act)* and were subject to rigorous assessment by Queensland Health. The same processes and approvals have been undertaken in other States (NSW and Victoria). Ramsay Pharmacy is aware that the Pharmacy Guild, the lobby group for pharmacy owners, is not supportive of the Ramsay Pharmacy franchise network and have waged a campaign against these transfers. However, there are many pharmacy franchise groups in the community pharmacy market, including Chemist Warehouse, Terry White Chemmart, Priceline Pharmacy and Amcal. Further, the acquisitions of pharmacies by Ramsay Pharmacy franchisees have all passed the legal requirements in Queensland, NSW and Victoria following rigorous assessment processes.
- Ramsay Pharmacy does not believe it is necessary to establish a separate Pharmacy Council in Queensland as Queensland Health has shown that it has been able to competently and independently carry out its obligations under the Act to ensure quality care for patients and public confidence in the system. If a pharmacy council was established, Ramsay Pharmacy contends that its members must be independent and free of any actual or perceived conflicts of interest with all stakeholders in the industry. An alternative would be the establishment of a national pharmacy authority.

In relation to the general effectiveness of the current systems and processes in place in Queensland to regulate pharmacy business ownership in Queensland and protect Queensland consumers, Ramsay Pharmacy contends the following:

- That the current pharmacy ownership restrictions are not necessary to protect consumers and deliver accessible and affordable medicines. Indeed, in-house hospital pharmacy dispensaries, which are licenced under section 94 of the NHA, are owned by corporations yet the medications are supplied at a lower cost, under the professional control of a registered pharmacist and provided with the highest level of professional care with rigorous governance and risk management processes in place.
- That there is no evidence to suggest that removal of ownership restrictions, whether wholly or partially, would be detrimental to the community at large. Indeed, there is no basis on which to differentiate pharmacy from other health services; the ownership of surgical hospitals, medical centres, pathology services and diagnostic imaging services are not confined to doctors and no-one could credibly argue that patient safety and community wellbeing has been compromised as a result.

- That partial deregulation should occur, allowing any person to own a pharmacy subject to exceptions for some industries and individuals with clear conflicts of interest (such as supermarkets, tobacco and alcohol retailers, pharmaceutical manufacturers and medical practitioners authorised to prescribe medications).
- That, if pharmacy ownership restrictions were relaxed, current regulatory requirements which stipulate that dispensing should only occur under the supervision of a pharmacist should be maintained or strengthened.

In responding to this inquiry, Ramsay Pharmacy notes that there have been several independent reviews of pharmacy regulation which have made recommendations on the need to reform the way pharmacy is regulated in Australia and that these recommendations have been ignored by successive governments. In October 2017, Stephen Duckett of the Grattan Institute noted:

“A 15 year cycle of inquiry recommendations and further review can only be breeding public cynicism and disengagement. Pharmacy regulation is overdue for reform, not further review with implementation stymied by vested interests.”

We look forward to the outcome of this inquiry and that it may look to meaningful and lasting reform that will benefit all Queenslanders. Ramsay Pharmacy’s responses to each of the questions in the issues paper are outlined below.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Peter Giannopoulos', with a stylized flourish at the end.

Peter Giannopoulos
Chief Executive Officer
Ramsay Pharmacy

ATTACHMENT

Submissions to Inquiry into the establishment of a pharmacy council and pharmacy ownership in Queensland

1 Are pharmacy ownership restrictions imposed by the <i>Pharmacy Business Ownership Act 2001</i> (Qld) necessary to protect consumers and deliver accessible and affordable medicines and services? Why or why not?
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The current ownership restrictions are not necessary to protect consumers and deliver accessible and affordable medicines and services.

There is no evidence based relationship between the ownership restrictions and the accessibility and affordability of medicines and services. Accessibility to pharmacies and medicines is determined by the Pharmacy Location Rules which is a Commonwealth responsibility and beyond the scope of this Inquiry. Affordability of medicines is determined by Pharmaceutical Benefits Scheme (**PBS**) pricing.

Both the Pharmacy Location Rules and PBS pricing are determined by the Community Pharmacy Agreement (**CPA**), currently the sixth CPA, which is an agreement between the Minister for Health on behalf of the Commonwealth of Australia and the Pharmacy Guild of Australia. (It should be noted that the CPA is not negotiated with the benefit of, nor does it take into account the views of, various stakeholders that are major contributors to the supply of PBS medications to the community, contrary to the National Medicines Policy¹.)

There is also no evidence to suggest that the removal of ownership restrictions would be detrimental to patient safety and community wellbeing. Ramsay Pharmacy has been a responsible supplier of PBS medications in a number of its hospitals for over 10 years now, demonstrating that non-pharmacist ownership does not erode patient safety nor community well-being.

It could be argued that restricting ownership of pharmacies to pharmacists only, whether as individuals or through corporations controlled by pharmacists, potentially poses a risk to consumers. The current rules force pharmacist owners to devote significant time and effort towards running a business rather than spending that time focusing on the delivery of pharmacist services to promote quality patient care and public confidence. This is the case especially for independent owners. It is no small task for proprietors to have to excel in finance, business management, administration, human resources and marketing as well as their professional obligations as a pharmacist.

Ultimately, there is no basis on which to differentiate pharmacy from other health services such as surgical hospitals, medical centres, pathology services and diagnostic imaging services with respect to ownership. The ownership of the aforementioned services are not confined to doctors, and no one is able to credibly argue that patient safety and community well-being has been compromised as a result. This was confirmed by the Competition Policy Review (March 2015), which recognised that:

*"no analogous ownership rules apply to GP practices, and the Panel is unaware of any evidence that this absence of regulation compromises high professional standards of care and accountability in the provision of primary medical services ..."*²

¹ Australian Government, Department of Health and Ageing (2000) National Medicines Policy, 2.

² Ian Harper et al, Competition Policy Review Final Report (March 2015) (**Harper Review**), 180.

The restriction on pharmacy ownership to pharmacists only is an artificial and out-dated model which is self-serving, established only to protect the interests of current pharmacy owners and which does not adequately protect the interests of aspiring pharmacy owners, the pharmacy profession or Queensland consumers.

2 Are the ownership restrictions sufficiently clear, particularly regarding the restrictions on corporations owning pharmacies? If not, how could the restrictions be made clearer?

The Act is sufficiently clear in relation to the ownership restrictions, particularly in respect of the restrictions on corporate ownership of pharmacies. The primary provision of the Act, section 139B, only uses three defined terms (own, friendly society and relative) and does not require any cross-referencing to other provisions except for the definitions of the defined terms.

There are also 'grandfathering' provisions within the Act which allow friendly societies and Mater Misericordiae Health Services Brisbane Limited to own pharmacies³. This is a current exception within the Act which allows non-pharmacists to own pharmacies.

The clarity of the ownership restrictions in its current form is highlighted by the fact that Queensland Health is able to clearly explain this to the public in approximately half a page on its website⁴.

3 Would changing the pharmacy ownership restrictions under the Act improve community outcomes? If so, how should the restrictions be changed?

Ramsay Pharmacy believes that community outcomes would be improved if there was 'partial deregulation' of the pharmacy ownership restrictions. In this way, Ramsay Pharmacy acknowledges that complete deregulation may not be in the best interests of patient safety or public confidence.

By 'partial deregulation', Ramsay Pharmacy considers that ownership restrictions should be removed except for certain industries with potential conflicts of interest such as:

- supermarkets;
- tobacco and alcohol retailers;
- pharmaceutical manufacturers; and
- medical practitioners authorised to prescribe medication.

The above sectors, amongst others, should be excluded as there are clear conflicts of interest with pharmacy ownership. Tobacco and alcohol retailers sell items which could lead to many chronic health conditions which is antithetical to the provision of pharmacy services. This has been recognised in other jurisdictions⁵. It is self-evident that pharmaceutical manufacturers would be incentivised to increase pharmacy sales and the number of dispensed prescriptions with the potential risk to patient and community safety. If medical practitioners were allowed to own pharmacies this may result in the over-prescription of unnecessary medications at the risk of patient safety to increase pharmacy revenue.

³ ss 139B(c)- (d).

⁴Queensland Government Queensland Health, *Pharmacy Ownership* (10 October 2017) <<https://www.health.qld.gov.au/system-governance/licences/pharmacy>>.

⁵ *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA) s 44(a).

A 'fit and proper' person test could be implemented to ensure approved pharmacy owners are able to competently and safely provide pharmacy services to the Queensland community. Such a test would consider the following factors:

- the compatibility of personal and corporate business philosophies;
- whether there are risks of the professional responsibilities of pharmacists being compromised;
- the risk to the safe and competent practice of pharmacy; and
- any commercial arrangements associated with third parties outside the ordinary course of a pharmacy business.

In relation to how community outcomes would be improved from partial deregulation of pharmacy ownership, please refer to the response to Question 4.

The 'partial deregulation' of pharmacy ownership could be simply achieved by amending the Act as follows:

- removal of definitions in section 139A (Definitions) some of which would no longer be required;
- removal of the current restrictions and grandfathering provisions in section 139B (Restrictions on who may own a pharmacy business) and insertion of industries to the excluded from pharmacy ownership;
- removal of grandfathering provisions from section 139H (Restriction on number of pharmacy businesses in which a person may have beneficial interest); and
- insertion of a new section containing a 'fit and proper' person test.

4 Should the Act be amended to allow any party to own a pharmacy, subject to requirements for dispensing only by a qualified pharmacist? Would the community be better off under such a scenario? Why or why not?
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As noted above, Ramsay Pharmacy advocates that the Act should be amended to allow for 'partial deregulation', which would to allow most third parties to own a pharmacy (subject to certain exceptions). However, any amendments to the Act to allow for deregulation of the pharmacy ownership laws must also ensure that:

- the dispensing of medication can only performed by or under the direct supervision of a pharmacist (as is currently the case)⁶; and
- there is no interference by owners with respect to a pharmacist's professional and ethical responsibilities.

Pharmacist owners, especially independent owners, have to devote significant time and expense towards the operational and commercial aspects of the business, potentially at the expense of their professional responsibilities. The operational and commercial demands of running a pharmacy perhaps provides the context for the proliferation of managed service arrangements, banner groups and franchise systems in the industry. By relaxing ownership restrictions, pharmacists could focus on patient safety and consumer protection whilst allowing the non-pharmacist owners to focus on the operational and commercial aspects of the business for the benefit of customers, employees and the Queensland community at large.

⁶ Act s 141.

In its decade-long history of operating dispensaries within Ramsay Health Care's facilities, Ramsay Pharmacy can categorically state that the professional and ethical duties of its employed pharmacists have never been compromised or fettered because of corporate ownership. In fact, Ramsay Pharmacy submits that corporate ownership has only served to enhance clinical and service quality by virtue of Ramsay Health Care's commitment to and investment in safety, governance and audit frameworks. Unlike smaller operators, Ramsay Pharmacy is able to provide its franchisees with access to market leading IT solutions, compliance systems and staff training.

In relation to the dispensing of pharmaceuticals under the direct supervision of a pharmacist, this is already required under section 141 of the Act, which includes a penalty provision of up to \$6,527.50 for the owner⁷. This section requires that a pharmacist is personally present in the premises during opening hours, other than for a period of not more than one hour. If the Act was amended to relax the ownership restrictions, section 141 could be amended to require pharmacist supervision at all times if scheduled medications (as determined by the Therapeutic Goods Administration) are to be dispensed or sold but allowing the sale of over the counter medication or retail products to continue in the absence of a pharmacist on the premises. South Australia currently employs a similar model of requiring direct supervision⁸.

In a deregulated ownership environment, patient safety and public confidence in the pharmacy profession would also be fostered if pharmacy owners were required to notify Queensland Health of the pharmacist in charge with daily responsibility for the premises. This is currently required in the Northern Territory⁹.

Queensland consumers benefit from competition

The removal of ownership restrictions, either wholly or partly, will go towards driving competition and increasing affordability and accessibility to medications for patients. It is generally accepted that increased competition fosters innovation and investment which would lead to increased quality of care and patient safety, which in turn helps to improve public confidence.

A free market economy allows business owners to freely choose the appropriate business model most suited to their circumstances and markets. Consumer choice fosters competition and it is irrational to suggest that allowing non-pharmacist owners to enter the market would pose a risk to patient safety and community wellbeing. Indeed, in Ramsay Pharmacy's experience within the hospital setting, it is clear that corporate ownership has not led to inferior levels of patient safety. In the community setting, business owners are acutely aware that superior service needs to be provided to ensure sustainability in a competitive environment. This competitive drive can lead to new service offerings, diverse product lines, and technology based solutions all of which are in the patients' best interests.

Any suggestion that 'big box discount models', a perfectly valid business model in any industry, sacrifices patient safety and community wellbeing for the pursuit of profit is offensive, and is not supported by evidence (but note that Ramsay Pharmacy does not employ a 'big box discount model'). Further, there are safeguards for the public against anti-competitive conduct under the *Competition and Consumer Act 2010* (Cth) including the *Australian Consumer Law* and in the requirement for pharmacists to comply with their professional and ethical obligations.

Affordability and accessibility would still be governed by the Pharmacy Location Rules and PBS pricing which is solely determined by negotiations between the parties to the CPA.

⁷ *Penalties and Sentences Regulation 2015* (Qld), r 3.

⁸ *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA) s 43.

⁹ *Health Practitioners Act* (NT) Sch 7 cl 7.

Accessibility is also maintained by the risk of market cannibalisation – where a single owner opening new stores in proximity to each other would be likely to result in reduced sales at the pre-existing store. The Pharmacy Location Rules combined with the risk of market cannibalisation would ensure accessibility to medicines is maintained if ownership restrictions are relaxed. Further, a study of the Swedish pharmacy market conducted after deregulation, concluded that lower costs and higher availability were achieved through increased trading hours and number of pharmacies¹⁰.

An increase in competition has been shown to improve affordability and accessibility for all consumers as demonstrated in overseas markets which have been deregulated.

Queensland consumers to benefit from Ramsay Pharmacy

As a significant provider of health care services in Queensland, the current ownership restrictions deny Queenslanders an optimal continuum of care model that could be offered if Ramsay Pharmacy were able to own community pharmacies.

It is generally accepted that pharmacists are medication specialists and are well-placed to make meaningful contributions to the health and wellbeing of patients. Well trained and competent pharmacists will ensure that the profession continues to be a relevant stakeholder within the multidisciplinary health care team. Pharmacist-led activities which are within the pharmacists' scope of practice can help to alleviate pressures in other areas of the health care network.

Pharmacists continue to be the most readily accessible of all health care professionals for the majority of consumers. Community pharmacies are also service points for medical and other health-related goods and services, including complementary medicines, wound care, baby-care, and condition management, and serve as distribution points for publicly-funded programs including the Commonwealth's National Diabetic Supplies Scheme and state-administered addiction management schemes such as safe methadone dispensing.

Pharmacists can play an increasing role in medication adherence and compliance activities for patients. They are a key stakeholder in providing preventative health solutions for patients post discharge from hospital. Ramsay Pharmacy has demonstrated that a pharmacist intervention prior to discharge and a post discharge support service provided by community based pharmacy staff helps to minimise the potential for medication related misadventure and reduces the risk of hospital readmission.

It would clearly be beneficial for consumers if patients who are treated in Ramsay Health Care's facilities can continue to be cared for by Ramsay Health Care once their hospital stay has ceased and they are back out in the community. Ramsay Health Care believes that it could make an even greater contribution to the enhancement of a patient's recovery and general health and well-being under a regulatory regime that allowed it to own and operate pharmacies and provide a fully integrated health care service.

5 Is there any difference in performance of pharmacies owned by non-pharmacists in Queensland (such as those run by friendly societies or Mater Misericordiae Health Services Brisbane Limited) in relation to protecting consumers and delivering accessible and affordable medicines and services?

Ramsay Pharmacy does not have access to the relevant data required to provide a fair and balanced evidence based response to this question. In light of this, Ramsay Pharmacy refrains from providing a substantive response at this time.

¹⁰ Mia Hackelsjö, *Competition in the Swedish Pharmacy Market* (Master Degree Thesis, University of Gothenburg, 2015) 8.

6 Does the Act provide adequate protections to promote the professional, safe and competent provision of pharmacy services, and to maintain public confidence in the pharmacy profession now and in the future? If not, what additional protections should be included in the Act and why?

The Act currently empowers inspectors to conduct investigations and inspections to enforce compliance¹¹. Inspectors under the Act are authorised to enter premises either with consent or a warrant to seize evidence in relation to enforcement of the Act¹². Part 4 of the Act allows the criminal prosecution for offences under the Act. Sections 170 to 174 of the Act provide inspectors with compulsory powers to request information in order to enforce compliance with the Act.

Additional safeguards promoting the professional, safe and competent provision of pharmacy services are provided in section 197 of the Act, where executive officers of a pharmacist's corporation may be deemed to have committed the offence if certain requirements are met. This ensures that, despite fears of corporate ownership, the responsible officers are still accountable for their actions. These deeming provisions apply to sections 139B and 139H relating to restrictions on who may own a pharmacy business and the restriction on the number of pharmacy businesses in which a person may have a beneficial interest.

The penalties for a breach of the Act range from \$6,527.50 to \$26,110 which is likely to foster compliance and deter breaches of the Act¹³.

The combination of inspectors' powers, vicarious liability for corporate officers and the penalty provisions ensures that there are adequate protections to facilitate safe and competent pharmacy practice whilst maintaining public confidence in the profession.

7 Are you aware of any transfers of pharmacy ownership which have not conformed to the requirements under the Act?

Ramsay Pharmacy is not aware of any transfers of pharmacy ownership which have not conformed to the requirements of the Act and does not believe any review of transfers of pharmacy ownership is necessary.

Given the level of scrutiny undertaken by Queensland Health in relation to the acquisition of the Malouf transaction by Ramsay Pharmacy franchisees (not Ramsay Pharmacy or Ramsay Health Care, as has been misleadingly reported), Ramsay Pharmacy is confident that stringent processes are in place to review all transfers of ownership to ensure compliance with the Act prior to their approval. As such, Ramsay Pharmacy has no reason to believe that there have been transfers of ownership that have occurred which did not conform to the Act.

Ramsay Pharmacy notes that the Inquiry's Terms of Reference include "*all transfers of pharmacy ownership in Queensland over the past two years to ensure compliance with existing legislation*". Any subsequent review of transfers of pharmacy ownership under a different regulatory regime other than that in force at the time of the relevant transfer would introduce a significant risk to pharmacist owners as this brings into question the validity of their business purchases. If a pharmacy owner was to lose their approval as a result of any review, this would lead to significant losses for small business owners which would be largely detrimental to themselves and their families. This outcome would impact them not just financially but also potentially their health and wellbeing.

¹¹ s 142.

¹² ss 150 and 159.

¹³ *Penalties and Sentences Regulation 2015* (Qld), r 3.

The following consequences, amongst others, may arise from an adverse finding resulting from a review of pharmacy ownership transfers requiring a subsequent transfer:

- the risk of the pharmacy business being undervalued is higher as the owner has reduced bargaining power due to the mandatory sale of the pharmacy business;
- the requirement to pay penalties and break-fees for the early termination of contracts. This could result in a break in the continuity of care for nursing home and care facility patients;
- consequences for loan facilities if the pharmacy business is the collateral for a non-pharmacy related loan which may require an immediate repayment of the loan in full;
- legal and other professional costs of the current pharmacy owner associated with a forced sale of the pharmacy business; and
- uncertainty for employees of pharmacies the subject of a mandatory sale.

In addition, there is a question whether, in order to be objectively fair and avoid any claim of discrimination or bias, all pharmacy ownership transfers since 2001 should be reviewed (i.e. all transfers since the introduction of the Act), not just transfers in the past two years.

8 Are the offences prescribed in the Act necessary and sufficient to ensure the objectives and intent of the legislation are being met, and are the maximum offences that apply appropriate?

Ramsay Pharmacy is not aware of any evidence to suggest that the offences in the Act are inappropriate to achieve the Act's objectives to:

- promote the professional, safe and competent provision of pharmacy services; and
- maintain public confidence in the pharmacy profession¹⁴.

As Ramsay Pharmacy does not have access to the relevant data required to provide a fair and balanced evidence based response to this question, it refrains from providing a substantive response at this time.

9 Do you think there should be restrictions on the number of pharmacies a pharmacist may own in Queensland? Are the current restrictions under the Act appropriate?

There is no credible evidence to suggest that the current restriction on the number of pharmacies one may own in Queensland (or elsewhere for that matter) is either appropriate or inappropriate.

The rationale for restricting the number of pharmacies that a pharmacist may own is presumably to ensure that pharmacist owners are not potentially risking the quality of care provided to customers/patients in an effort to ensure commercial and operational outcomes. However, restricting the number of pharmacies one may own may not assist in delivering professional, competent and safe pharmacy practice if robust operational, safety and quality governance frameworks are not in place. Providing highly compliant operational, safety and quality governance frameworks can be a significant burden and, at times, uncommercial for smaller operators.

¹⁴ s 8.

Regardless of the number of pharmacies one owns, Ramsay Pharmacy strongly believes that the key to ensuring safe, competent and professional practice and maintaining public confidence in pharmacists is to implement robust operational, safety and quality governance frameworks and to retain the requirement of direct supervision by a pharmacist during opening hours as is already required by the Act¹⁵.

In Ramsay Pharmacy's view, the number of pharmacies a pharmacist may own should be determined in accordance with their ability to provide or procure highly compliant operational, safety and quality governance frameworks, which ensure that the delivery of pharmacy services to Queensland communities is undertaken in a safe, considered and ethical manner.

10 Given there are no restrictions in the Australian Capital Territory and the Northern Territory, are community outcomes in the Australian territories different from the Australian states? If so, how are they different?

There is no evidence to suggest that a lack of restrictions on pharmacy ownership or the number of pharmacies one may own has adversely affected patient safety and public confidence in the pharmacy profession in the Australian Capital Territory or the Northern Territory.

In particular, the lack of restrictions on the number of pharmacies one may own in the Northern Territory has not been shown to be detrimental to community outcomes¹⁶. This is the case notwithstanding the geographical dislocation of many of the Northern Territory's residents. The legislative requirements to have a pharmacist in charge present during all opening hours coupled with other legislation such as the *Competition and Consumer Act 2010* (Cth), which includes the *Australian Consumer Law*, means that the potential for market dominance to be abused to the detriment of the public is highly unlikely.

11 Has pharmacy ownership regulation in other Australian jurisdictions improved community outcomes (relative to Queensland)? If so, how?

Ramsay Pharmacy is not aware of any reliable evidence to suggest:

- that additional pharmacy ownership regulation in other Australian jurisdictions (such as approval and registration of pharmacy premises in New South Wales and Victoria) has improved community outcomes (relative to Queensland); or
- the absence of restrictions on the number of pharmacies one may own (such as in the Northern Territory and Australian Capital Territory) has resulted in a lower standard of care for patients.

It is noted that the following information may assist in forming a fair and balanced, evidence based understanding of whether pharmacy ownership regulation in the other Australian jurisdictions has improved community outcomes (relative to Queensland):

- hospital admission rates due to medication errors;
- results of coronial inquests into medication error related deaths;
- prosecutions for breaches of relevant pharmacy legislation; and
- costs to the community due to medication errors.

¹⁵ s 141.

¹⁶ Edward Tilton Consulting, Review of Schedule 8 of the Northern Territory *Health Practitioners Act* and the Pharmacy Premises Committee (November 2011), 27.

While there may be a lack of reliable data to enable an objective evidence based analysis of whether pharmacy ownership regulation in the other Australian jurisdictions has improved community outcomes (relative to Queensland), Ramsay Pharmacy can say that Ramsay Health Care being permitted to operate in-house hospital pharmacy dispensaries under section 94 of the NHA has enabled the supply of pharmaceuticals by registered pharmacists with the highest level of professional care. This superior standard of care directly results from Ramsay Health Care's continued investment in rigorous governance and risk management processes. This has no doubt improved community outcomes.

12 What functions might a pharmacy council perform in Queensland? How would these functions differ from the current functions performed by Queensland Health?

Pharmacy supervision is the responsibility of Medicines Regulation and Quality within the Chief Medical Officer and Healthcare Regulation Branch of Queensland Health. The Act does not require approval of pharmacy premises or the maintenance of a public register of pharmacy premises and owners. Although Queensland Health does not technically have an application process for transfers of ownership, it has a notification process which is designed to ensure that the "*proposed change complies with the ownership provisions of the Act*"¹⁷. In practice, the current notification process serves as an 'approval' as PBS approval from Medicare for change of ownership cannot be obtained without Queensland Health's prior 'approval' of the notification.

It is noted that, similar to Queensland, the Australian Capital Territory regulates pharmacies through ACT Health rather than a separate pharmacy council.

The Pharmacy Council of New South Wales (**PCNSW**) is responsible for the regulation of the pharmacy under the *Health Practitioner Regulation National Law (NSW)*. Its responsibilities include:

- approving pharmacy ownership transfers and pharmacy premises;
- maintaining a public register of pharmacy owners and pharmacy premises; and
- managing complaints about the conduct, performance and health of registered pharmacists in NSW.

The Victorian Pharmacy Authority (**VPA**) has the following functions as set out in section 82 of the *Pharmacy Regulation Act 2010* (Vic):

- licensing of persons to carry on a pharmacy business or pharmacy department;
- registering premises;
- issuing standards in relation to the operation of pharmacies;
- advising the Minister on any matters relating to its functions and providing information as requested by the Minister;
- keeping a public register; and
- any other function conferred by legislation.

Ramsay Pharmacy believes that if a pharmacy council is to be established in Queensland, its paramount objectives should be consumer protection, patient safety and maintaining public confidence in the pharmacy profession. This would include the following functions:

- approval of proposed transfers of ownership;

¹⁷ Queensland Health, Pharmacy Change of Ownership Notification Form, 1.

- approval of specific premises as pharmacy premises;
- maintenance of a public register of pharmacies and their owners; and
- enforcement of relevant legislation.

The only additional functions of a pharmacy council compared to the current functions of Queensland Health would be to approve pharmacy premises and maintain a public register of pharmacies.

Any pharmacy council should be open to developing collaborative relationships with industry stakeholders to ensure quality patient care and public confidence in pharmacists. This is similar to the approach taken by the PCNSW and VPA.

Queensland Health provides adequate oversight

Ramsay Pharmacy is confident that functions similar to those carried out by the PCNSW and the VPA could be competently carried out by Queensland Health such that there is no real need to go to the additional expense of establishing a pharmacy council in Queensland.

Ramsay Pharmacy's confidence in making this statement stems from Queensland Health's comprehensive review of the Malouf Pharmacies transaction, which saw nine Ramsay Pharmacy franchisees purchase 18 Malouf Pharmacies in December 2017. As part of its review, Queensland Health sought external advice as to the structure of the transactions, including agreements between the franchisees and Ramsay Pharmacy, to ensure compliance with the Act. During its thorough review of the transaction, Queensland Health was forthcoming with information as to steps taken and estimated timeframes and Ramsay Pharmacy and its franchisees experienced a (and appreciated the) collaborative approach.

The Malouf Pharmacies transaction as a whole was approved including the terms of the agreements between franchisees and Ramsay Pharmacy. The three month review process undertaken by Queensland Health demonstrates that a comprehensive, rigorous, impartial review process already exists under the Act.

13 How would the establishment of a pharmacy council in Queensland improve community outcomes?

Ramsay Pharmacy does not believe, and is unaware of any evidence to support the contention, that the establishment of a pharmacy council in Queensland would improve community outcomes. As discussed in response to question 12, there are already comprehensive and rigorous processes in place allowing Queensland Health to ensure compliance with the Act in relation to pharmacy ownership and to facilitate the objectives of the Act¹⁸. Further, the enforcement and investigation powers given to inspectors under the Act already go towards ensuring quality care for patients and public confidence.

In Ramsay Pharmacy's view, it is unlikely that there would be any significant improvement in community outcomes resulting from the establishment of a pharmacy council. In this way, Ramsay Pharmacy rejects any suggestion that Queensland Health is incapable of fulfilling its functions under the Act and questions the motivations of any person or group who suggests otherwise. Due to the existence of a number of groups with 'vested interests' in how pharmacy is regulated in the community, it is essential that the members of any council established must be free from any potential or perceived conflicts of interest – Ramsay Pharmacy expands on this point in response to question 16.

¹⁸ s 8.

14 What would be the costs and benefits to the community of establishing a pharmacy council in Queensland?

Ramsay Pharmacy is not aware of any reliable data which would enable a rigorous cost benefit analysis to be undertaken. Such analysis should be based on evidence, not on unverifiable assumptions.

15 What other viable alternatives should be considered to deliver superior community outcomes?

The current landscape for pharmacy regulation places different responsibilities on the Commonwealth and state and territory governments. As such, an alternative that is likely to result in the delivery of superior community outcomes would be the formation of a harmonised national body to regulate pharmacy ownership (**National Authority**). For this to happen, the states would be required to refer their power in relation to pharmacy regulation under section 51(xxxvii) of the *Constitution*. The Commonwealth has previously contemplated the harmonisation of standards¹⁹, and state referral of power to the Commonwealth would go towards achieving this.

Currently, Pharmacy Location Rules and approval to supply PBS medications is the responsibility of the Commonwealth through the Australian Community Pharmacy Authority (**ACPA**) and Medicare respectively. However, pharmacy ownership and approval of specific premises are still the responsibility of state and territory governments resulting in heavy administrative burdens for pharmacy owners.

In practice, this means ACPA can approve the location of a new pharmacy but the relevant state or territory authority may refuse approval of a pharmacy premises or application for ownership under state or territory legislation. Conversely, if a state or territory authority has approved a pharmacy premises or application for ownership, Medicare may refuse the grant of section 90 PBS approval²⁰. This results in uncertainty for aspiring pharmacy owners.

Pharmacist registration is also currently the responsibility of the Commonwealth Government through the Pharmacy Board of Australia (**PBA**) and the Australian Health Practitioner Regulation Agency (**AHPRA**).

In establishing a National Authority, Ramsay Pharmacy considers that its paramount role would be to ensure consumer protection, patient safety and to maintain transparency and public confidence in relation to all aspects of pharmacy regulation. The National Authority would ensure uniformity and consistency in applications for ownerships and approval of premises across Australia resulting in reduced administrative costs for pharmacy owners. Further, a National Authority responsible for all aspects of pharmacy regulation is likely to result in raising professional standards and developing strong regulatory best practice.

Ramsay Pharmacy considers that an optimal National Authority would be based on the models of the Pharmacy Council of New South Wales and Victorian Pharmacy Authority, which have the following responsibilities:

- approval of ownership applications;
- approval of pharmacy premises;
- issue of licences to carry on a pharmacy business;
- maintenance of a public register of pharmacies and their owners; and

¹⁹ Australian Government, Department of Health and Ageing (2000) National Medicines Policy, 2.

²⁰ *National Health Act 1953* (Cth).

- enforcement of relevant legislation.

Ramsay Pharmacy acknowledges that the referral of state powers to the Commonwealth for the purposes of establishing a National Authority would require extensive negotiations between the Commonwealth and state and territory governments to ensure superior community outcomes are achieved. If such a proposal ever came to fruition, Ramsay Pharmacy would welcome the opportunity for consultation in line with The Australian Government Guide to Regulation²¹.

16 If a pharmacy council was established in Queensland, what issues would need to be considered in its interactions with other agencies or individuals involved in regulating pharmacy businesses and practice? What legislation would need to be changed?

If a pharmacy council was established in Queensland, the following issues would need to be considered in terms of inter-agency cooperation:

- legislative complexity is a potential issues and in order for complexity to be reduced the pharmacy council should have sole jurisdiction over pharmacy ownership and operation with a legislatively defined role and council membership;
- there could potentially be a lack of clarity about the roles, responsibilities and contributions of all agencies involved in health and pharmacy regulation; and
- to be seen as properly and fairly regulating pharmacy businesses and practices, the council must be independent and free from potential or perceived conflicts of interests.

Registration of pharmacists will remain with the PBA and AHPRA as Commonwealth bodies.

It is essential to the delivery of superior community outcomes that council members are independent and committed to achieving the paramount objectives of consumer protection, patient safety and transparency in the absence of any potential or perceived conflict of interest. Such a requirement for member independence should be embodied in the relevant legislation establishing the council, with other features of council membership to include prescribed maximum terms for member appointments and precluding individuals who have been affiliated with certain interest groups in a preceding period (e.g. five years) from being appointed.

The composition of any pharmacy council should include all relevant stakeholders, including representatives of:

- Queensland Health;
- community pharmacists (whether owners or employees) with non-binding recommendations by the Pharmaceutical Society of Australia as the recognised peak national body for pharmacists;
- hospital pharmacists;
- consumer advocates; and
- Indigenous Australians.

If industry representation on the council was deemed necessary or desirable, the Pharmaceutical Society of Australia is the only current organisation that could sensibly be

²¹ Australian Government Department of Prime Minister and Cabinet (2014), The Australian Government Guide to Regulation, 2.

given a right to appoint a member to the council. The regulation of the pharmacy industry is of interest to all pharmacists – not just those who happen to own a pharmacy – and the Pharmaceutical Society of Australia is recognised by the Commonwealth as the peak national body for the approximately 29,000 registered pharmacists in Australia²².

The role of a pharmacy council should be inclusive and reflect the interests of the many stakeholders, including governments of all levels, health care providers and educators, consumers and suppliers amongst others. As such, in establishing a pharmacy council in Queensland, the views of all stakeholders in the supply of pharmaceutical services to the community should be afforded equal prominence.

Finally, if amendments to the Act are required, it will be necessary to consider if any amendments are required to the following legislation (including subordinate legislation):

- *Health Act 1937* (Qld);
- *Health Ombudsman Act 2013* (Qld);
- *Information Privacy Act 2009* (Qld);
- *Pharmacy Business Ownership Act 2001* (Qld); and
- *Right to Information Act 2009* (Qld).

17 What effect would relaxing pharmacy ownership restrictions have on community outcomes (such as protecting consumers and delivering accessible and affordable medicines and services) in Queensland? What are the potential risks to consumers?

The quality of pharmacy services provided in European countries, including deregulated ones such as the United Kingdom, Norway and Sweden, remained appropriate in all countries which was attributed to high professional standards being maintained amongst pharmacists²³. In Norway, patients remained satisfied with the advice they received post deregulation²⁴.

Ramsay Pharmacy is confident that relaxation of pharmacy ownership restrictions in line with what it has submitted regarding partial deregulation would not have a detrimental effect on community outcomes in Queensland. On the contrary, Ramsay Pharmacy believes that community outcomes in Queensland will only be enhanced. For example, accessibility to medicines was determined to have increased after deregulation in Norway due to the increase in the number of pharmacies and longer opening hours (such as 24 hour pharmacies of which there are two operating as Ramsay Pharmacy franchises in Queensland)²⁵. However, it is acknowledged that the number of pharmacies is unlikely to be affected as this will be determined by the Pharmacy Location Rules.

It is illogical to consider that a relaxation of ownership restrictions would reduce the quality of care offered to patients as such a reduction in quality of care would be extremely detrimental to a sustainable business model. High quality patient care is required to drive a sustainable pharmacy business and any pharmacy owner would therefore be required to always put

²² Pharmaceutical Society of Australia, Submission NO 481 to Department of Health, *Review of Pharmacy Remuneration and Regulation*, 29 September 2016, 6.

²³ Sabine Vogler, Danielle Arts and Katharina Sandberger, *Impact of pharmacy deregulation and regulation in European Countries*, (March 2012) 3.

²⁴ *Ibid* VI.

²⁵ *Ibid* 53-54.

quality of care and patient safety first. Studies of the Norwegian pharmacy industry after deregulation have shown that there was no increase in dispensing errors²⁶. Further, some participants in the Norwegian pharmacy industry believe that the quality of pharmacy services has improved due to the implementation of quality programs by pharmacy chains²⁷.

As long as quality standards, professional and ethical obligations, and robust qualification requirements are maintained by the PBA, there is no basis for suggesting that deregulation of pharmacy ownership would result in a lower quality of care and increased negative outcomes for patients. Despite deregulation, England has maintained robust practice regulations which are monitored by professional audit or mystery shopping programs²⁸.

Further, AHPRA offers transparency to consumers through public access to the Register of Practitioners which allows consumers to see if pharmacists have been involved in any disciplinary proceedings or if their practice is subject to any limitations. Pharmacists are required to undertake continuing professional development annually and this ensures patients are provided with best practice quality of care²⁹.

Relaxation of pharmacy ownership would not affect accessibility and affordability of medications as this is governed by the Pharmacy Location Rules and CPA. This would ensure access to medications in rural, regional and remote areas is maintained at an affordable price.

18 Should the scope of practice of pharmacists and pharmacy assistants in Queensland be extended? If so, in what areas of practice?

Pharmacists are custodians of medicines. Their training supports them in the roles as the medications experts and enables them to play a crucial role in delivering the National Medicines Policy. Ramsay Pharmacy believes that the role of pharmacists will expand alongside the needs of an ageing population and the increasing number of people living with chronic disease. This is an area that needs to be explored further, together with primary care physicians and other allied health professionals, with the joint goal of providing value-based, accessible and consumer-focused healthcare services to patients. The role of pharmacists should be expanded so they become part of a coordinated team providing health care to their local community and working with GPs to manage treatment for patients with chronic disease.

19 What additional training for pharmacists/pharmacy assistants, or other risk reduction measures, should be implemented to ensure patient safety?

Ramsay Pharmacy is a strong proponent of a robust and contemporary training and development program for registered pharmacists and support staff. Ramsay Pharmacy supports the national competency standards endorsed and supported by professional bodies such as the PSA and the Society of Hospital Pharmacists of Australia (**SHPA**). It also acknowledges that a competent workforce requires the support and structure of established evidence based clinical and operational governance frameworks, including policies and procedures that support the provision of safe evidence based pharmacy services.

²⁶ Ibid 60.

²⁷ Ibid.

²⁸ Ibid 18.

²⁹ *Health Practitioner Regulation National Law (Queensland)* (Qld) s 128.

The registration requirements of pharmacists demand evidence of contemporary practice inclusive of learning and development on an annual basis. The current registration regime supports a pharmacist workforce that can support the provision of pharmacy services in a variety of settings, including the practice of and/or provision of services to residential care, Aboriginal Health Services, GP practices, roles in Medicines Advisory Committee (MAC) or health services Drug and Therapeutics Committees (DTC), formulary management, Drug Utilisation Evaluation (DUE), Antimicrobial Stewardship (AMS), Medication Safety, Electronic Medication Management (eMM) and Medicines Information

With increased utilisation of complex medication treatments and regimes, the provision of safe patient treatments will require increased pharmacist clinical intervention. To better support pharmacists in providing these services, professional bodies such as the SHPA have recognised that to develop advanced practice roles in integrated care, there is a need to build capacity not just in the pharmacist workforce but also through developing and expanding the scope of practice of pharmacy technician and assistant roles.

This is consistent with international strategies for the transformation of the pharmaceutical workforce, as outlined by the International Pharmaceutical Federation (FIP) in their Pharmaceutical Workforce Development Goals.