

Pharmacy ownership inquiry submission

Some may argue that this inquiry is a forgone conclusion. Do we legitimize (via legislation) the questionable corporate behavior (breaching the spirit of ownership laws) of a few at the expense of many current owners and future aspirants?

I once spoke to a graduate pharmacist who told me he was moving to western Australia as he thought there were better prospects of ownership, removed from corporate governance and greed. There are many young graduates and pharmacy students looking at this inquiry with keen interest, in particular any comments or actions made by the green and labor candidates in relation to the support of multibillion companies in their pursuit of pharmacy ownership.

The question of whether Queensland needs a pharmacy authority is a non-issue. The question is whether the authority will have enough legislative power and resources in order to enforce and administer the required revised acts and subsequent penalties.

Corporate ownership of pharmacies and the structures that have enabled them to operate outside the spirit of the pharmacy ownership act have been in play for many years. As one prominent industry lawyer told me “there has been one rule for some and one for the rest”. The guild has known of these loopholes for many years but rather than confront them with limited legislative power they used the “burden of proof” defense in order to distract and lessen the attention that these breaches may provoke.

It is a widely held view amongst corporate Australia or at least those targeting pharmacy ownership that Queensland has the most “relaxed” governance in relation to the percuniary interest test. This has suited many existing pharmacy groups and some wholesalers who have used this loophole to purchase interests in pharmacy. A major obstacle that now arises for them is offloading their vast interests in a market where ownership is restricted/regulated.

The irony is not lost on the younger generation of pharmacists who have seen a select few acquire many pharmacies whilst the laws were respected, honored and applied in good faith whilst now lobbying the government and guild to change the intent of the law in order to gain a commercial advantage by selling to multinationals.

Briefly, the pharmacy ownership act has not kept pace with the complexities of trust legislation and their use as ownership vehicles, notwithstanding their role in distributing to beneficiaries and other subsidiaries. This combined with the lack of definition as to what constitutes a percuniary (and propriety) interest and our states inability to link them to a functioning licensing scheme has resulted in a grey area, which has been exploited by corporate groups.

Many pharmacies operate under a corporate structure in which the pharmacist is often a director. The company may have a few directors and is often a trustee that distributes to other trusts and beneficiaries so long as they don't have voting rights or shares in the pty company. Are we all to believe that corporates wont exert undue influence on pharmacist autonomy?

If the Queensland government is to amend the pharmacy ownership act and give credence to a Queensland pharmacy authority then I implore the committee to adopt the following recommendations.

1. Adopt the Victorian definition of what constitutes a pecuniary interest in pharmacy as legislated by the Victorian pharmacy authority.
2. Adopt the western Australian definition of proprietary interest as stipulated by the western Australian pharmacy authority
3. All shareholders and directors of the "holding" company, entity, trust or society should be required by law to sign a disclosure regarding their distributions. All distributions, loans and other creative vehicles from the company/trustee should be counted as both a pecuniary and proprietary interest. At the very least the ownership laws should be standardized across the states particularly victoria, western Australia and Queensland, as is the case with location rules.

In conclusion, whilst many may argue that corporatization is inevitable and that we will eventually follow the American model I myself see no merit in emulating the American health care model. It may well be the case that if ownership is opened up the likes of Coles, Woolworths, boots, ramsay, amazon etc. may control over 80% of the market as is the case with our grocery sector. We don't have anti trust legislation in Australia, as is the case in America that prevents one company from dominating more than 20% of one market.

I have held the view for a long time that community pharmacy is the most underutilized health resource in this country. I urge the committee to look at the Austrian and Finnish pharmacy models and the recent intervention from the Swedish government to re-regulate as a result of corporatizing pharmacy ownership.

I urge you to give hope and fuel to the aspirations of many young pharmacists who believe that by owning their own pharmacy they can own their own communities. And as Australians we will all be better for it.

Regards

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