



**AUSTRALIAN FRIENDLY SOCIETIES
PHARMACIES ASSOCIATION ^(inc)**

ABN 76 147 873 151

www.afspa.org.au

7 March 2008

Mr Dan Harvey
Services and Workforce Planning Branch
Department of Human Services
GPO Box 4057
Melbourne VIC 3001

Dear Mr Harvey

On behalf of the Australian Friendly Societies Pharmacies Association (AFSPA) I am writing to advise that AFSPA fully supports the submission of the Victoria Friendly Society Pharmacy Association (VFSPA) to the review of the present growth cap on friendly society pharmacy ownership that you are conducting.

Specifically, AFSPA very strongly supports the recommendation of VFSPA that Section 174 (4) of the *Health Professionals Registration Act 2005* should be allowed to expire at its specified sunset time of 16 November 2008.

In conducting this Review the Terms of Reference state that the aim of the Review is *to identify and assess the costs and benefits of the cap on the growth of friendly society pharmacy ownership in Victoria*. Recommendations to the Minister for Health resulting from this review are to take into account the following:

- The regulatory principles and framework set out in the *Victorian Guide to Regulation*,
- The views of stakeholders; and
- Relevant COAG decisions.

In order to explain, and justify, AFSPA's strong support of VFSPA's recommendation that the friendly society growth cap restriction should be allowed to sunset, some brief background is required.

Prior to the commencement of a cap on the growth of friendly society pharmacy ownership on 16 November 2004, there was no restriction on the number of pharmacies permitted to be owned by a friendly society in Victoria.

However, during the long drawn out process of the National Review of Pharmacy (the Wilkinson Review) conducted under the Competition Principles, a number of claims against friendly society ownership of pharmacy were persistently made by the Pharmacy Guild of Australia (the Guild).

All these claims were considered, measured and tested against the then National Competition Principles and this testing included a formal Review by the Australian Consumer and Competition Commission (ACCC).

Consequently, COAG agreed that no new restrictions should be placed on friendly society ownership of pharmacy and that any existing restrictions should be repealed. COAG also recommended that the number of pharmacies able to be owned by a pharmacist in the various jurisdictions should also be repealed.

NSW was the first jurisdiction to table a Bill on pharmacy ownership to provide for the repeal of its' restrictions against friendly society pharmacy ownership and its long standing restriction of restricting pharmacists to the ownership of 3 pharmacies. This was required in order to qualify for payments under the Competition Principles.

The Guild mounted a very significant and ultimately successful campaign against these provisions.

The then Prime Minister, the Hon. Mr John Howard intervened in the process and wrote to each Premier/Chief Minister advising of a formula tailored to each jurisdiction's of their then existing regulations relating to pharmacy ownership and number of pharmacies permitted to be owned by both friendly societies and pharmacists. Those jurisdictions which implemented the Prime Minister's formula on the number of pharmacies permitted to be owned by approved entities (pharmacists and friendly societies) were guaranteed their competition payments.

Measured against the provisions of the Competition Principles this produced a range of perverse outcomes:

- In Victoria it resulted in new restrictive growth provisions against friendly societies' pharmacy ownership without any reference to its (then) own detailed regulatory framework; and pharmacists had their "quota" increased from 3 to 5
- In the ACT where friendly societies are not permitted to own pharmacy, but where pharmacists have no restrictions on the number of pharmacies they are permitted to own, no change to its legislation was required
- In the NT, similar to the ACT, but where friendly societies can own pharmacy under special conditions with Ministerial permission, no change to its legislation was required.
- In NSW where only two friendly societies owned pharmacy but where historical restrictive relocation rules and onerous Ministerial approval rules for new pharmacies owned by friendly society applied, thus effectively limiting numbers, one received no relief because it already owned 6 pharmacies and the second was restricted to a new ceiling of 6 pharmacies, where no such ceiling had previously applied.

That is the background. In short, in Victoria there is currently a cap on the growth of friendly society ownership of pharmacy for no other reason then for political expediency.

Despite the recommendations of COAG, the National and subsequent State Reviews and a ACCC Inquiry, all held in accordance with the criteria of the National Competition Principles, it all came down to sheer political lobbying power.

No evidence was then required for a costs benefits analysis to justify the introduction of restrictive legislation against the growth of ownership of pharmacy by friendly societies. But in order to meet the Terms of Reference for this Review, friendly societies which own pharmacies are now being asked to analyse the costs and benefits of the current restrictions against them in order to justify their recommendation that the sunset clause should expire.

AFSPA is confident that the VFSPA submission has done that and it emphatically supports the evidence for this as set out in that submission.


Friendly society owned pharmacies provide an alternative choice for community pharmacy services. Choice of service provider is a fundamental principle of competition principles and is a principle that resonates throughout the Victorian Guide to Regulation.

Finally, it should be recalled and noted, that the restriction on the number of pharmacies permitted to be owned by a pharmacists is a total Guild construct, conceived a number of decades ago. It was first introduced into Australian Parliaments during the 1940's to head off the then planned expansion of the English Boots pharmacy empire into Australia.

All of this is well documented and AFSPA refers you to its earlier submissions.

In conclusion, AFSPA emphasises its view that the present growth cap on friendly society pharmacy ownership is anti-competitive and fails the "competition test" as set out in Step 5 of the Victorian Guide to Regulation.

Yours sincerely



Jim Howard
President
AFSPA



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6 March 2008

Mr Daniel Harvey
Policy Advisor
Service and Workforce Planning
Department of Human Services
GPO Box 4057
MELBOURNE VIC 3001

Dear Daniel

RE: REVIEW OF THE HEALTH PROFESSIONS REGISTRATION ACT 2005

Friendly Society Medical Association Limited, which trades as National Pharmacies, had considerable input into the submission of the Victorian Friendly Societies Pharmacies Association Inc. and supports their submission. There are two points in particular we wish to emphasise.

Firstly, there are over 20,000 pharmacists in Australia who are able to purchase pharmacies in Victoria, with 1,400 new graduates a year able to own pharmacy in Victoria. Each pharmacist can own 5 pharmacies in Victoria and up to a theoretical maximum of 120 across Australia. There are only 13 Friendly Society Pharmacy Associations operating in Victoria with another 20 spread across Australia. No new friendly society pharmacy association has been formed for at least 60 years. It is almost impossible to form a new friendly society pharmacy association and own pharmacy today given the high cost of acquiring pharmacy licences. The growth in the not for profit mutual model, which gives back to the community, will only come from these existing friendly societies which have the financial base from which to build going forward.

There has been discussion in the past of the need for a level playing field. The level playing field should be 50% of the market to the for-profit pharmacist owners and 50% for not for profit friendly society pharmacy associations, i.e. 50% each for each model of ownership.

Secondly, the retail community pharmacy marketplace has changed in the three years since the legislation came into effect in November 2004. The industry has seen changes to the branding and groupings of pharmacy ownership. As illustrated in the attached table, the increase in allowable ownership numbers by pharmacist owner operators from 3 to 5 has encouraged the owners to establish chains of pharmacies. These chains of pharmacies allow greater purchasing power. We are seeing the development of chains of discount pharmacies establishing which are low service models of pharmacy. This is not good for the community, because although they lower prices, they also do not provide the medical and community services normally supported by the pharmacy industry. The Pharmacy Guild of Australia has even rejected from membership a number of these groups.

The industry has changed; chains of for-profit owner operators have formed, margins are tighter and economies of scale are required as the Federal Government reduces gross profit margin in pharmacy. The decisions made in 2004 to put a temporary cap on friendly societies were made in the light of certain events at the time. Times have changed and the legislation should not now place another cap on the friendly society pharmacy associations.

If you require further information to support comments made here or in the VFSPA Submission, please contact me on (08) 8223 7565 or 0418 843 607.

Yours sincerely
National Pharmacies

A handwritten signature in black ink, appearing to read 'Jim Howard', written over a horizontal line.

JIM HOWARD
MANAGING DIRECTOR

Pharmacy Groups Operating in Victoria

	August 2004	February 2008	Banner	Principal Owner	
Amcal / Max	136	121	Sigma		
API Healthcare	31	0	API		
IPA	34	0	API		Unbranded Buying Group
ChemMart	49	45	Symbion		
Chemworld	11	2	API		
Full Life	10	0			
Guardian	116	75	Sigma		
Healthsense	13	0	Symbion		
My Chemist	49	36		Sam Gance	
National Pharmacies	22	23		FSMA	
Pharmacist Advice	4	1	API		
Pharmore	25	18		John White/ Ross Taylor	
Sigma National	53	0	Sigma		Unbranded Buying Group
Synergy	55	0	Symbion		Unbranded Buying Group
Terry White	27	25	Symbion		
The Medicine Shoppe	3	0	Symbion		
Soul Pattinson	11	6	API		
SUB TOTAL	647	352			
Priceline Pharmacies	-	60	API		
Pulse	-	48		Rohan Aujard	
Chemist Warehouse	-	35		Sam Gance	
Nova Pharmacy	-	15		Alan Feil	
Discount Drug	-	8			
Quality Pharmacy	-	10		Charles Khallouf	
Pharmacy Alliance	-	128		Simon Reynolds	Unbranded Buying Group
Pharmacy Choice	-	103	Symbion		Unbranded Buying Group
Pharmacy Best Buys	-	38	API		Unbranded Buying Group
Triple S	-	43	Sigma		Unbranded Buying Group
Advantage Group	-	39	Sigma		Unbranded Buying Group
Healthwise	-	12			
Pharmacy Select	-	11			
QVic Group	-	8			
TOTAL	647	910			

- Table compiled from data provided by Pharmabroker sales and telephone enquiries with the organisations.
- Victoria has 1,175 pharmacies.

11 March 2008

Hon Daniel Andrews MP
Minister for Health
GPO Box 4057
MELBOURNE VIC 3001

Dear Minister

Review of the effect of section 174(4) of the *Health Professions Registration Act 2005*

Submission by the Pharmacy Board of Victoria

1. Prior to commencement of the *Pharmacy Practice Act 2004* ("PPA") there were 14 Friendly Societies which owned pharmacies in Victoria.
2. It appears that information was gained by at least two organizations prior to commencement of the PPA which enabled them to restructure/take action which benefited their organizations:
 - Auburn & Lidcombe Friendly Societies amalgamated with the Friendly Society Medical Association (T/as National Pharmacies) during the evening of 15 November 2004.
 - East Yarra Friendly Society (EYFS) which owned 12 pharmacies solely and was in partnership with pharmacists in a further 34 pharmacies became a corporate owner upon commencement of the Act. This change in structure, the number of pharmacies owned, sales and transfers resulted in the Board spending over \$100,000 on legal advice to resolve what legal counsel described as poorly constructed sections of the Act. EYFS continues to use the name as its registered name with ASIC even though it does not operate as a Friendly Society as defined in the Act. This sometimes causes confusion and misunderstanding.
3. Federation Health and Australian Unity divested themselves of their pharmacies prior to commencement of the PPA given that they would not have complied with the mutuality provisions having previously de-mutualised.
4. Since 16 November 2004, being the date on which sections 1, 140, 147 and 148 of the PPA came into operation as a result of Royal Assent being granted on that date, there has been a net increase of three pharmacies owned by Friendly Societies.
5. The current *bona fide* Friendly Society owned pharmacies do not cause any concern or difficulty in terms of compliance for the Board.
6. The current Friendly Societies have not sought to increase their numbers to the extent permitted in sec 147(4)(b) of the PPA and covered in transitional provisions of the *Health Professions Registration Act 2005* ("the Act") in sec 174(4)(b).
7. A cap on numbers for Friendly Societies did not exist prior to commencement of the PPA and was an increased control placed on them in line with, but not the same as, restrictions placed on pharmacists as owners.

8. If the current cap on Friendly Societies were to be lifted as a result of the review then that would be inconsistent with restrictions imposed on pharmacists and pharmacist corporations.
9. A lifting of the restriction on numbers for all ownership categories would be advantageous to “cashed –up” pharmacists, those who may currently infringe ownership provisions and place an increased financial barrier on young pharmacists being able to purchase pharmacies.
10. A table showing ownership across the last four years is attached for information.
11. It is not the role of the Board to argue the matter of ownership by Friendly Societies. Acting as a statutory authority in the public interest means that the Board should provide factual information and comment on possible options with even-handed comment.

The Board submits that the following options are suitable for inclusion in your consideration of this review:

- a. removal of the cap on Friendly Societies
 - this would maintain a restriction on community pharmacists whilst there would not be a comparable restriction on Friendly Societies; or
- b. retention of current controls on numbers
 - with removal of the review date this would maintain the *status quo* and appears to be working well with respect to Friendly Societies; or
- c. removal of restriction on numbers for all categories of owner
 - as discussed in paragraph 8 this would seriously erode the maintenance of professional standards with all of the problems identified in the submission for the review of pharmacy legislation in this State and also during the review under National Competition Policy, or
- d. imposition of new controls

The Board would be pleased to assist the Service and Workforce Planning Branch in any further request for information or clarification.

Yours sincerely

Stephen Marty
Registrar

Pharmacy Board of Victoria

Friendly Society pharmacy ownership in Victoria

Proprietor	March 2004	June 2004	27 October 2004	18 January 2005	6 February 2008
Bendigo UFS	2	2	2	3	3
Central Victorian UFS Dispensaries Ltd					1
UFS Dispensaries Ltd	8	8	10	11	11
Cheltenham UFS	1	1	2	1	1
Box Hill UFS	1	1	1	1	0
Community Care Chemists F S	3	3	3	3	3
Community Pharmacy F S	5	5	5	4	5
Eaglehawk UFS Ltd	1	1	1	1	1
Federation Health	3	3	0	0	0
North West Dispensaries F S	3	2	2	2	2
Australian Unity F S	13	13	11	0	0
Friendly Pharmacy Vic Ltd	4	3	3	3	3
Wonthaggi Miners F S	1	1	1	1	1
Friendly Society Medical Association T/as National Pharmacies	17	18	24	24	25
East Yarra Friendly Society - solely	13	15	12	0	0
East Yarra Friendly Society – in partnership with pharmacists	29	29	34	0	0
Western Victorian UFS Dispensaries Ltd					1
Total	104	105	111 (65)	54	57



The Pharmacy
Guild of Australia

Health Professions Regulations Act (2005)

Review of Section 174(4) Sunset Provisions

11 March 2008

Victoria Branch

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The Pharmacy Guild of Australia
Supporting Community Pharmacy



11 March 2008

The Hon. Daniel Andrews MP
Minister for Health
GPO Box 4057
MELBOURNE VIC 3001
FACSIMILE: 9096 8355

Attention: Mr Dan Harvey

Dear Minister

**HEALTH PROFESSIONS REGISTRATION ACT 2005 (“THE ACT”)
REVIEW OF SECTION 174(4) – “SUNSET PROVISIONS”**

The Guild makes this submission in response to your letter of 24 January 2008.

At the outset we wish to reinforce the position of the Pharmacy Guild that pharmacies should be owned by pharmacists. In today’s commercial environment, the rationale for the taxation benefits allowed to friendly society pharmacies no longer exist.

The Pharmaceutical Benefits Scheme was introduced to ensure that all members of the community have access to the lowest cost medication. This is available through all pharmacies.

The additional tax benefits that apply to the corporately owned friendly societies do not apply to pharmacist owned pharmacies.

A LEGISLATIVE BACKGROUND

- 1 The Pharmacy Practice Act 2004 (“PPA”) came into force on 16 November 2004.
- 2 Section 25 of the PPA contained restrictions on ownership of pharmacy businesses.
- 3 When the Bill was first introduced into parliament in about May 2004, it allowed friendly societies, provided they complied with the criteria set out in section 25(1)(c) of the PPA, to own or have a proprietary interest in, an unlimited number of pharmacies.
- 4 In contrast, section 25(1)(a) and (b) imposed ownership restrictions respectively in respect to:
 - registered pharmacists, and
 - companies, all of whose directors were registered pharmacists, and in which all the shares and the beneficial and legal interest in those shares, were held by registered pharmacists.

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In each case, these parties were restricted to ownership of or a proprietary interest in, not more than 5 separate pharmacy businesses.

Later in 2004, the Bill was amended by the introduction of, inter alia, section 147, which imposed a “cap” on growth of pharmacy ownership for friendly societies. This cap on growth was to last for a period of 4 years, which terminates on 16 November 2008. It is commonly called a “sunset provision”.

In simplified terms, section 147 allowed:

- friendly societies which owned less than 6 pharmacies to own a maximum of 6, and
- friendly societies which owned more than 6 pharmacies, to increase the number of pharmacies owned by no more than 30% over the next 4 years.

5 The Health Professions Registration Act 2005, replicated, on these issues, the terms of the PPA.

6 In the absence of legislative intervention, section 174 of the Act (which was in the same terms as section 147 of the PPA) will cease to have any operation, after 16 November next.

B REVIEW OF SUNSET PROVISIONS

1 The then Minister for Health, the Honourable Bronwyn Pike, gave a commitment to review the effects of the restriction on ownership for friendly societies, before the sunset period expired on 16 November 2008.

2 The Pharmacy Guild of Australia is an organization of employers, registered under the Workplace Relations Act. It was registered under the predecessor of that legislation, in 1928. The Guild represents the interests of pharmacists throughout Australia. It has a Branch in every State and Territory. The Victorian Branch membership is 928, representing approximately 80% of pharmacy proprietors in this State.

3 The Guild would like to think that it will have the opportunity of making further submission, when the position of friendly societies (and for that matter, other interested parties), is known. The Guild appreciates the request of the Government to place submissions on the DHS website. To that end the Guild has no objection to this submission being made available to others.

C FACTUAL POSITION

1 As at about November 2004, there were some 1,160 pharmacies operating in Victoria. Of that number, only 64 were owned and operated by genuine friendly societies, that is, friendly societies that could be said to conform to the criteria set out in section 25(1)(c) of the PPA.

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- 2 The “capping” arrangements set out in section 147 of the PPA if given maximum operation, would have seen the growth in friendly society ownership increasing to 99 over the relevant 4 year period. In fact, the number of pharmacies owned by friendly societies has scarcely moved. The Guild’s inquiries suggest that the number is 55.
- 3 It should be mentioned that two friendly societies, which owned pharmacies in 2004, subsequently sold all their pharmacies. Australian Unity owned some 13 pharmacies and has disposed of them all. Yallourn Friendly Society Pharmacies Ltd owned 4 pharmacies and has disposed of them all.

The major friendly society operating in Victoria in 2004 was National Pharmacies, which at the time of the introduction of the PPA owned 19 pharmacies, and this has grown to 24.

- 4 From these figures it can be seen that, whilst friendly societies had the opportunity to increase the number of pharmacies owned and operated by them after November 2004, none of them appear to have taken that opportunity. In fact, the reverse has occurred – see attachment “Friendly Society Pharmacies in Victoria”.
- 5 Friendly societies are companies incorporated under the Corporations Act. The same is the case for company pharmacies, which comply with the strict requirements of section 101(b) of the Act. In that case, it is hard to see why different ownership requirements should apply. In other words, if a pharmacy company may own only 5 pharmacies, why shouldn’t the same restrictions apply to a friendly society. It would seem illogical and commercially discriminatory if pharmacy companies are subject to an ownership restriction of 5, whereas friendly societies would be completely unrestricted if the sunset provisions expire. The Guild supports limitation on pharmacy ownership, and in particular supported the imposition of a limit of 5 on registered pharmacists and company pharmacies. Those requirements are in conformity with the concept of community pharmacy which is widely accepted throughout Victoria and also throughout Australia.
- 6 All the factual evidence leads to the conclusion that apart from any other factor, friendly societies themselves have not sought to avail themselves of the opportunity to increase ownership since November 2004 – in fact rather the opposite has occurred. The introduction of the sunset provision specifically afforded friendly societies this opportunity over 4 years to increase their numbers, and that has not occurred.

D WHAT SHOULD BE DONE?

- 1 As previously stated, this submission by the Guild should be regarded as a preliminary submission. The Guild assumes that all parties who make submissions, will be afforded an opportunity to make further submissions in the light of what might be put forward by the interested groups. It is only if that process is pursued, and there is the opportunity of discussion with your department that the review process itself could be productive.

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- 2 On a preliminary basis, the Guild believes the best procedure to follow, is generally as follows:
- (i) there should be no extension of the “sunset provision”.
 - (ii) after 16 November 2008:
 - if a friendly society then owns less than 5 pharmacies, it should in the future be restricted to that number. This supports the position of the Guild that pharmacies should be owned by pharmacists so we do not support the future expansion of friendly society pharmacies.
 - if a friendly society owned 6 or more pharmacies, it would be restricted in the future to that number. There should be no right of further increase based on any particular percentage.
- 3 Put simply, the Guild supports the ownership limitations in the case of registered pharmacists and company pharmacies, and considers that the same type of concept should apply to friendly societies – and in the case of friendly societies owning more than 5 pharmacies, the status quo is maintained, so that no further increase would be allowed.

E CONCLUSION

The Guild has endeavoured to keep this submission brief and looks forward to the opportunity of discussion with the Minister’s staff on these points, and as previously stated would expect to be afforded the opportunity of making a further submission when further information generally is to hand.

Yours faithfully

Dipak Sanghvi
PRESIDENT

Victoria Branch

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Friendly Society Pharmacies in Victoria

Friendly Society	2002	2004	2008
Australian Unity Dispensaries Friendly Society Limited (Melbourne) DEMUTUAL	14	13	SOLD
Friendly Society Medical Association Limited (National Pharmacies)	12	19	24
UFS Dispensaries Ltd (Ballarat)	7	8	11
Community Pharmacy Friendly Society Ltd (Elsternwick)	5	5	5
Friendly Society Pharmacy (Vic) Ltd (Coburg/Brunswick)	4	3	3
Yallourn Friendly Society Ltd	4	4	SOLD
Community Care Chemist Friendly Society Ltd (Geelong UFS Dispensaries Ltd)	3	3	3
North West Dispensaries Friendly Society Ltd (Fairfield/Sunshine)	3	3	1
Bendigo United Friendly Societies Dispensaries Ltd	2	2	4
Cheltenham Friendly Society Dispensary Ltd	2	2	1
Box Hill Pharmacist Advice Friendly Society	1	1	1
Eaglehawk United Friendly Societies Dispensary Ltd	1	1	1
Wonthaggi Miners Friendly Societies Dispensary Ltd	1	1	1
Total	59	64	55

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*Submission by the
Pharmaceutical Society of Australia
(Victorian Branch)*

to the

**REVIEW OF THE GROWTH CAP ON
FRIENDLY SOCIETY PHARMACY OWNERSHIP
IN VICTORIA**

6th March 2008

Prepared by

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Introduction

This paper is a submission by the Pharmaceutical Society of Australia (Victorian Branch) to the review into the growth cap on friendly society pharmacy ownership in Victoria, being conducted by the Services and Workforce Planning Branch of the Department of Human Services.

The Society submits that the cap that has applied to friendly society pharmacy ownership since 2004 has not been a major impediment to friendly societies. On the other hand, the existing cap has benefited the community in that it has ensured friendly society pharmacies have not gained undue market dominance. With the exception of the two largest friendly societies, the cap has maintained a degree of equity between ownership capacity of pharmacist and friendly society.

There would be a potential cost to the community if the current cap was to be removed and friendly societies were able to own an unlimited number of pharmacies. Concentration of ownership would result in unfair commercial advantage in an otherwise regulated pharmacy ownership environment. It could potentially remove from individual pharmacists the ability to be solely responsible for decisions about patient care and would reduce opportunities for pharmacists to pursue ownership leading to increased risk of pharmacists leaving the profession.

The Society argues that a cap on friendly society pharmacy ownership should be retained. Furthermore the constraints that apply to ownership of pharmacies by friendly societies in Victoria should be aligned to the maximum extent possible with the constraints that apply to ownership by pharmacists and to the constraints that apply to friendly society ownership in other jurisdictions.

The Society welcomes the opportunity to discuss the rationale for retention of the cap.

Executive summary

The Pharmaceutical Society of Australia (Victoria Branch) believes the cap on friendly society pharmacy ownership in Victoria should be retained for the following reasons:

- 1. Both the National Competition Policy Review of Pharmacy and COAG support retention of control over the ownership of pharmacies.**

It has been determined by national enquiries and accepted by all levels of government that the community is best served by ownership of pharmacies being regulated, that ownership should be restricted to pharmacists and that the level of ownership by individual pharmacists should be limited.

Friendly society ownership of pharmacies has been an anomalous exception to these arrangements.

All other states have capped the number of pharmacies that friendly societies can own. In all states other than South Australia the number has been closely aligned with the number able to be owned by pharmacists.

2. Concentration of ownership has potentially deleterious effects

Removal of the cap on friendly societies would enable concentration of ownership and the development of undue market influence through size and financial resource. A situation in which ownership by friendly societies was unlimited but pharmacists' ownership remained limited would be inequitable and adversely affect the capacity of pharmacists to maintain services to the community.

Concentration of ownership in any form removes from individual pharmacists the ability to be solely responsible for the total direction of patient care.

Concentration of ownership would lead to fewer pharmacies being available for pharmacists to purchase leading to possible loss of qualified pharmacist to the profession.

3. Retention of the cap on friendly society ownership will provide specific benefits for the community.

Retention of the cap on ownership will limit the number of friendly society owned pharmacies thereby benefiting the community by reducing the potential for concentration of ownership of pharmacies.

The Pharmaceutical Society of Australia

The Pharmaceutical Society of Australia (PSA) is the national professional organisation for pharmacists in Australia. It represents almost 16,000 pharmacists in community practice, hospital, government, the armed services, industry, academic institutions as well as student pharmacist.

The PSA's purpose is to enable pharmacists to optimise their contribution to improve health outcomes for the community through excellence in pharmacy practice. The Society publishes Competency Standards for Pharmacists in Australia and Professional Practice Standards and presents a comprehensive program of professional development for pharmacists.

Submission

The background

PSA has consistently supported the principle of ownership of pharmacies by pharmacists.

We believe that there is strong public benefit in a healthy network of community pharmacies owned by individual professionals who are totally in control of, and accountable for, the decisions made in the interests of their patients' care.

Both the National Competition Policy Review of Pharmacy (The Wilkinson Report) and the COAG Review process that followed found that there was a net public benefit in pharmacists owning pharmacies.

We agree with this outcome of the reviews and see this as vindication of our view.

This position was supported by all political parties prior to the last election

Deleterious effects of concentration of ownership

PSA opposes heavy concentration of pharmacy ownership, whether in the hands of friendly societies or in the hands of pharmacists, and in its submission to the Review of the Pharmacists Act 1974, recommended both a cap on ownership by pharmacists and also that pharmacy ownership by friendly societies should be capped at numbers that then existed.

The Society is not opposed to genuine friendly societies which operate in the way they were originally intended to do.

However we cannot support uncontrolled expansion of friendly society pharmacies and the consequent concentration of ownership that we believe would occur if the cap was removed.

Independence of patient care decisions

Concentration of ownership in any form removes from individual pharmacists the ability to be solely responsible for the total direction of patient care, because many decisions are made for the overall benefit of the group as a whole by a management structure removed from the point of service delivery and based on commercial considerations.

Undue market influence

It would be inequitable for a corporate entity such as friendly society to own an unlimited number of pharmacies when individual pharmacists are limited in their ownership capacity. Individual pharmacist would face increasing difficulties in maintaining services in such a market.

The financial ability of a large corporate entity to access funds and be able to purchase any specific pharmacy would far exceed that of an individual pharmacist.

This was demonstrated in the rush of buying that occurred prior to the introduction of The Pharmacists Act 2004.

In March 2004, the National Pharmacies friendly society owned 17 pharmacies in Victoria and grew by over 40% to 24 by the time the Act was introduced just nine months later in November 2004.

The prices reputedly paid far exceeded normal market values and this would have reduced the capacity of pharmacists to purchase in that instance and would have had a distorting effect on the overall market for pharmacies.

Furthermore, an inflated price paid for a business eventually needs to be recouped from the operation of the business.

Career opportunities for pharmacists

By its nature, concentration of ownership in any form leads to fewer pharmacists being able to own pharmacies, especially young pharmacists. This is because fewer pharmacies are available for purchase.

Pharmacists enter the profession with an expectation of being able to own a pharmacy and pharmacy ownership is a desired career path for young pharmacists.

Denying them this opportunity increases the risk of losing them to the profession and creating a void in the natural succession planning of the profession with subsequent long term costs to the community.

Young pharmacists bring a desirable vigour to the profession and are best able to implement new initiatives and ideas in their own pharmacies.

It is vital that they continually be allowed to reinvigorate the profession.

This is best done in pharmacies that they own and control and where they are fully able to implement their own policies and decisions.

Knock on consequences

Unlocking the cap on friendly societies will allow for unlimited expansion of pharmacy numbers within friendly societies.

We fear this has the potential to lead to further deregulation of pharmacy ownership provisions and provide arguments for the proposition that supermarkets could be permitted to own pharmacies.

This would have dire consequences for the profession and is not supported by any of the major political parties as it would impose heavy costs on the community in decreased levels of patient care.

The argument that expansion is not contemplated or will not occur is not accepted by PSA and cannot be substantiated as evidenced by the buying spree demonstrated by the largest of the friendly societies just prior to the introduction of the Pharmacy Practice Act 2004.

Whilst friendly societies do not appear to be expanding at present, this could change instantly with a new CEO or a change of Board direction if the legislation is changed to allow expansion.

The outcome of unfettered expansion if it did occur would be of such magnitude for the profession that this decision cannot be left to chance.

If no expansion is contemplated, why do we need to unlock the cap?

PSA supports the current cap and believes it to be a fair and equitable to all parties and of net benefit to the community.

The existing cap recognises the realities that friendly societies should be allowed to expand but at the same time has not allowed uncontrolled expansion and is consistent with the existence of caps in all other states.

It is consistent with the concept that capping exists for other pharmacy owners.

Further, it would seem on reflection that the current cap has operated well and has not restricted the ability of friendly societies to expand.

The number of friendly society pharmacies currently existing in Victoria is 55 whereas the total number allowable under the cap is 99.

This means that friendly societies still have significant ability to expand under the current cap and PSA believes that this is the position that should be retained.

Keeping the playing field level

Ownership of pharmacies by pharmacists is our stated preferred model and one which has been supported by both political parties during the last election campaign and by the pharmacy competition reviews.

Uncapping the numbers that friendly societies could own, would allow them to buy unlimited numbers of pharmacies that would not then be available for young pharmacists to otherwise buy.

The COAG Review noted “that the jurisdictions will ensure that the same benefits, standards and ***constraints*** will apply to friendly societies as apply to pharmacist owned pharmacies.”

In view of this, we would argue that it makes no sense to uncap friendly societies whilst retaining a cap on individual pharmacists.

To do this would skew the playing field to give uncapped friendly societies a huge advantage over capped individual-owned pharmacies.

End of submission



29th February 2008

Hon Daniel Andrews MP
Minister for Health
GPO Box 4057
Melbourne VIC 3001

Dear Mr Andrews,

Thank you for the opportunity to comment on the cap review for friendly society pharmacy ownership.

As most of our membership relates to services provided in hospitals, the number of pharmacies owned by a friendly society is not of direct concern to us. However, as an advocate for optimising the safe and quality use of medicines (QUM), SHPA does have concerns that the quality of the service, the delivery of QUM, and the perception of pharmacists by the public may be compromised by corporations who are driven by profit, have lost the spirit in which friendly societies are intended to operate, and no longer place patient care as their highest priority.

We would suggest that the current limit of six pharmacies per friendly society remains unless your review indicates that the economies of scale rendered by greater ownership also affords greater pharmacist to client ratios and thus improved patient counselling and care compared to smaller scale operations.

We thank you again for the invitation for input on this review. Please do not hesitate to contact me should you wish to discuss the matter further.

Yours sincerely

Nicholas Jones
Chair, Society of Hospital Pharmacists of Australia, Victorian Branch

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