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The effect of red tape on pharmacy rules

Grattan Institute submission to the Senate Select Committee on Red Tape

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Summary

In this submission we explore several aspects of the Senate Select Committee on Red Tape's inquiry into the effect of red tape on pharmacy rules. Existing red tape is designed principally to protect the interests of pharmacy owners, not consumers. There are several areas where red tape could be reduced:

a. We recommend that existing location rules be replaced with simpler regulations which focus on ensuring patients have appropriate access to good-quality medicines

- Existing location rules restrict the establishment, relocation and expansion of pharmacies across Australia
- These rules are anti-competitive and tend to protect incumbent pharmacies and restrict market entry
- Stifling competition between pharmacies results in higher retail drug prices

b. We recommend cautious removal of the pharmacy ownership rules

- These rules are more effective in protecting the commercial interests of pharmacy owners than in serving the public interest
- They lock pharmacists into inefficient business models which contribute to high dispensing costs
- Care needs to be taken to ensure that the cost savings from liberalisation are shared

c. We recommend that pharmacists be permitted to provide a much broader range of health services

- Pharmacists are highly skilled health care professions who, with further training, could safely perform several additional roles, including administering vaccines and prescribing repeat medications to patients with simple and stable medical conditions
- This could mitigate the reduction in incomes to pharmacists caused by liberalisation

d. We recommend that the Health Department develop clear standards and processes for working with industry and lobby groups

- Existing pharmacy regulation has been intractable despite several independent recommendations for the removal of ownership and location rules
- Grattan Institute research and national audits suggest that the pharmacy industry has far too great an influence on its own regulation

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1 Reforming pharmacy regulation

Pharmacies and pharmacists play a crucial role in the delivery of primary health care to the Australian community. Improving the ability of the sector to deliver efficient, high-quality care to all consumers is crucial to improving the sustainability of the Australian health system.

1.1 Location rules

Existing location rules restrict the establishment, relocation and expansion of pharmacies across Australia. Several independent reviews of the pharmacy sector over the past decade have found these rules to be anti-competitive, especially in urban areas.[1]

Far from serving the public interest, these rules tend to protect incumbent pharmacies and restrict market entry.[2] Stifling competition between pharmacies results in higher retail drug prices – a cost borne by patients and taxpayers. It also limits the choice of drugs for many consumers.

These rules should be replaced with simpler regulations which focus on ensuring patients have appropriate access to good-quality medicines. Similar reforms in Europe have improved pharmacy access for urban consumers, with more pharmacies opening, and average opening hours increasing.[3] Importantly, rural areas are unlikely to benefit from this form of deregulation and therefore should be exempt from it.

1.2 Ownership rules

Australia's rigid ownership rules, like the location rules, appear much more effective in protecting the commercial interests of pharmacy owners than in serving the public interest. They also lock pharmacists into inefficient business models. By effectively mandating the existence of many, smaller pharmacies, the rules enforce high capital costs for each pharmacy, protecting commercial rather than public interest.

International experience shows that the cost savings from removing ownership restrictions are unlikely to be shared with consumers and government if extreme concentration of ownership is the result.[4] The rules should be carefully relaxed, under the supervision of the Australian Competition and Consumer Commission. It is important to prevent abuse of market power by a more concentrated sector, which could arise from major pharmacy mergers. Nevertheless, the introduction of more competition would bring the pharmacy sector more in line with how other sectors are regulated.

Allowing pharmacies to merge would create economies of scale. Larger scale would facilitate lower procurement, logistics and marketing costs. Some of these cost savings may then be passed on to consumers.

[1] Duckett and Romanes (2016)
[2] Wilkinson (2000)
[3] Organisation for Economic Co-operation and Development (2015)
[4] Vogler, *et al.* (2014)

1.3 Pharmacists scope of practice

Pharmacists are highly trained, have deep expertise in medicines, are among the most trusted of all professionals,[5] and are located in communities throughout Australia. Yet their role is far more limited in Australia than in many other countries.

Liberalisation of the sector, resulting in lower costs to patients, could reduce the incomes of community pharmacists. To mitigate this, the role of pharmacists should be expanded so they become part of a coordinated team providing health care to their local community. In particular, local pharmacies, as part of a team with general practitioners, should be empowered to:

- **Administer vaccinations.** Currently this role takes up GPs' time, which could be better used managing more complex medical cases
- **Give drug information to patients, review their medication and adjust doses when required**
- **Prescribe repeat medications** for patients with simple and stable medical conditions
- **Work with GPs** to manage treatment for patients with chronic diseases

With appropriate further training, pharmacists could safely perform these additional roles.[6] Giving pharmacists the authority to administer vaccinations and provide repeat medications has been found to improve patient satisfaction and access to treatment.[7]

Managing the care of patients with chronic diseases is an increasingly important part of the health care system. At present, this responsibility rests primarily with GPs. But coordinated health care teams, which include physicians, nurses and pharmacists, have been found to be most effective in managing patients' chronic conditions.[8]

In fact, pharmacists and physicians believe a more collaborative approach produces better results for patients.[9] These coordinated health care teams could be funded by a combination of public money and private stakeholders.

[5] After nurses and on par with doctors. Roy Morgan Research (2016)
[6] For example, pharmacists can now provide influenza vaccinations in most Australian states. Overseas, nurses and pharmacist immunisers are required to adhere to guidelines which protect patient safety and privacy. Similar guidelines could be adopted in Australia.
[7] Papastergiou, *et al.* (2014); Backus, *et al.* (2015); Tsuyuki, *et al.* (2015); McConeghy and Wing (2016)
[8] Proia, *et al.* (2014); Hirsch, *et al.* (2014)
[9] Kelly, *et al.* (2013)

2 Policy inaction and the influence of lobby groups

Attention is required regarding the issue of regulatory arrangements necessary to promote high standards of delivery and accountability among pharmacies.

In 2015, the Australian National Audit Office conducted an audit of how the Commonwealth Health Department administers the Community Pharmacy Agreement. Among many negative findings, the audit found that the Health Department:

- Over-estimated the savings the Agreement would generate
- Reallocated funding covered by the Agreement without authority
- Did not keep formal records of meetings with the Pharmacy Guild (which represents pharmacy owners, who receive billions in funding from the Agreement).[10]

Consultation with industry experts is crucial to getting policy right, but the risks of regulatory capture are real: senior Health Department employees have noted the risk of more junior staff being captured by influential stakeholders.[11]

A Lobbying Code of Conduct applies to all Commonwealth public servants, but it only covers consultant lobbyists that work for third parties. It does not cover lobby groups for professional groups or members, such as Medicines Australia, the Generic Medicines Industry Association or the Pharmacy Guild.[12] To fill the gap, the Health Department should develop clear standards and processes for working with lobby groups.

A new era or another ignored recommendation?

The recently released 'Shifting the Dial' report from the Productivity Commission makes bold recommendations about the future of pharmacies in Australia.[13] By leveraging off new technologies such as e-scripts and machine drug dispensing, it questions the need in the future for the 20,000 pharmacists currently employed. It further argues that pharmacists should be better integrated into multi-disciplinary health care teams.

The Productivity Commission's recommendations should be considered in the context of the policy limbo to which multiple previous reports on pharmacy regulation have been consigned.

Independent reviews of pharmacy regulation have been ignored by successive governments. This policy purgatory now houses a plethora of independent reviews, Grattan Institute research and national audits. Report after report disappears, with the only explanation being that the pharmacy industry has far too great an influence on its own regulation.

The Senate Review on Red Tape provides yet another opportunity to review pharmacy regulation. While we welcome this review, we hope that it proves the last of its kind. A 15-year cycle

[10] Australian National Audit Office (2006)
[11] Australian Public Service Commission (2014)
[12] McKeown (2014)
[13] Productivity Commission (2017)

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.

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