



HOUSE OF ASSEMBLY

TUESDAY 30th MAY 2017

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 12 April 2017.)

Mr PEDERICK (Hammond) (11:14): I rise to speak to the Health Practitioner Regulation National Law (South Australia) (Miscellaneous) Amendment Bill 2017. I reiterate what the lead speaker, the member for Schubert, said—that we will be supporting small businesses, that we will be supporting competition and that we will be supporting the individual pharmacy owners in this bill. We will not be supporting the increase one group wanted in their ownership capability, but we will be supporting other measures in the bill.

It is interesting to note the growth of pharmacies, and some have turned into quite big businesses. For example, there is a Chemist Warehouse in Murray Bridge as well as, I think, at least six other pharmacies around my electorate, in places like Tailem Bend and Goolwa. Pharmacies are a very important part of everyone's life. Certainly, as you get older, you find that you need to go to them more and more often for various things, not just for yourself but for your family. They are a very important part of our community, and we need to ensure that the legal and regulatory framework around chemist ownership and pharmaceutical supplies throughout the state is right.

The Health Practitioner Regulation National Law (South Australia) Act 2010 provides the legislative framework for the professional registration of health professionals, and it also deals with related matters that are not part of the national registration scheme, including pharmacy regulation. Under the act, all pharmacy premises and their owners must be registered with the Pharmacy Regulation Authority South Australia, primarily to protect the safety of the public—and that should be paramount.

The regulatory provisions include a requirement that an entity be limited on the number of pharmacies it may own. A pharmacist can individually own up to six pharmacies, but there is no cap on the number of pharmacies owned by individual pharmacists in aggregate. In regard to ownership, most European countries and all Australian jurisdictions require pharmacies to be owned by pharmacists to uphold the quality of pharmacy services and protect the sector from the damage perceived to have been done by the penetration of large corporate chains in the United Kingdom and the United States of America.

The strict regulation in Australia is aimed at stopping major chains from getting involved in the industry, but the regulatory framework can be subverted. There are some companies that have over 300 pharmacies through maintaining a web of partnerships that interconnect around members of two families. There are others that have accumulated a range of up to about 25 pharmacies. At the last federal election, Prime Minister Malcolm Turnbull wrote:

The Coalition continues to support the model of pharmacies being owned by pharmacists to ensure community pharmacy remains focused on the needs of patients. The established community pharmacy model continues to serve Australians well.

Friendly societies are allowed to own pharmacies in all jurisdictions except the Australian Capital Territory. The bill we are discussing today was introduced on 12 April 2017, and the major element, as I indicated earlier, is to increase the limits on pharmacy ownership for friendly societies. The Friendly Society Medical Association Limited, trading as National Pharmacies, was established in 1911 as a mutual organisation where profits made through operations are returned to members in the form of monetary benefits and services.

By 1928, National Pharmacies owned and operated seven pharmacies, 13 pharmacies by 1939 and 26 by 1947. Since 1947, National Pharmacies' ownership has been capped at 26 from 1947, 31 from 1961 and since 2007 the cap has been set at 40. National Pharmacies have over 200,000 South Australian members, pays a payroll tax of around \$1.56 million per annum and employ 1,000 people. Other friendly societies are limited to nine pharmacies in total. Only one such pharmacy operates, and that is in Mount Gambier.

Since 2014, National Pharmacies have sought to increase their cap by 15, from 40 to 55. They particularly seek that rise to, in their words:

...give National Pharmacies the opportunity to maintain their market share — that is to operate the same proportion of pharmacies as a percentage of total pharmacies that they owned in 1947 when the cap was introduced.

They further argue that when the cap was first introduced in 1947 National Pharmacies had a 12.1 per cent share of South Australian pharmacies but that their share has now fallen to 8.7 per cent. An increase to 55 pharmacies, as at today, would have provided ownership of the same percentage of total state pharmacy numbers that existed when the cap was first introduced in 1947.

I note that this bill seeks to increase National Pharmacies by five rather than the 15 previously sought. In National Pharmacies' calculations, this reduces their market share from that top level in 1947—where they want to be—back to 9.4 per cent. The Pharmacy Guild opposed the proposed increase on the ground that National Pharmacies should only be given additional pharmacies as their membership numbers grow to enable them to service member demand. National Pharmacies themselves admit that their direct membership is stable but make the point that 20 per cent of their customers are not members and that new pharmacies would help them grow their membership.

In regard to the ongoing Pharmaceutical Benefits Scheme (PBS) reforms, National Pharmacies make the argument that they need to increase as well. They make the point that, in March this year, 17 South Australian staff were made redundant and that, whatever happens in regard to the Pharmaceutical Benefits Scheme and potential reduction in income, this affects pharmacies across the board, and the Pharmacy Guild certainly makes that point.

Regarding the view of the United Friendly Societies pharmacy in Mount Gambier, which is the only other friendly society that operates a pharmacy in South Australia, it does not support a transfer of all the unallocated numbers to National Pharmacies. In regard to other Pharmacy Guild concerns, the guild also objects to the increase in the cap on the basis that National Pharmacies should not be allowed to grow because their exemption from the principle that only pharmacists should own pharmacies is the result of grandfathering, which should not be allowed to be perpetual.

The guild's submission would not only mean that the cap should not be increased, but that the participation of friendly societies in the industry should be at least frozen or even phased out. The Pharmacy Guild also claims that friendly societies have unfair tax advantages and receive benefits as wholesalers. Both these matters are determined by commonwealth law and policy. National Pharmacies challenge that alleged tax advantage and refer to material from the commonwealth Treasury. They also point out that many individual pharmacists participate in buying groups.

Regarding the interaction with commonwealth regulation of pharmacies and what happens at the state level, the South Australian government sets pharmacy ownership limits for individual pharmacists and friendly societies and the PBS and Pharmacy Location Rules are regulated by the commonwealth government. A PBS licence is necessary to operate a pharmacy outlet and the Pharmacy Location Rules set out strict limits on where pharmacies are allowed to operate. These restrictions limit the overall number of pharmacies in South Australia.

We do not support this part of the bill passing because the raising of the cap, if this bill does pass, will only lead to new National Pharmacies being established if a pharmacy becomes available for sale or a greenfield opportunity is found. There are national discussions about the impact on pharmacy regulation in the future, including the current commonwealth Review of Pharmacy Remuneration and Regulation. The outcome of these discussions may impact on commonwealth, state and territory laws. We are told that any changes would be unlikely to be implemented until after the expiry of the Sixth Community Pharmacy Agreement, which expires in the year 2020. Whatever happens with this legislation, National Pharmacies are still very keen to have a further increase in their ownership cap, so we need to take note of that.

As I indicated earlier, regarding services to the regions, a pharmacy is a very important part of the total health effort in any community. There have been some changes recently regarding SA Health and its practices in relation to hospital pharmacies, whereby hospital pharmacies are supplying pharmaceutical products to citizens who are not currently patients of the hospital and a centralised supply of pharmaceutical products to hospitals, and this has a direct impact on regional pharmacies.

There are a couple of other amendments in this bill about selling magnifying or ready-made spectacles. They can currently be sold without a prescription, provided that a warning label is attached to the glasses stating that they are not prescription glasses. The bill is seeking to remove the requirement of the manner in which the warning label is to be affixed to the ready-made spectacles. There is another minor technical amendment to give effect to the merger of the CrimTrac agency with the Australian Crime Commission regarding investigating the potential of any criminal history of any individual pharmacist or health practitioner involved in the field.

We support the minor amendments but, with regard to pharmacy ownership and having major change just to increase their presence, we support competition, we support individual pharmacy owners and wish them to become more competitive in the field rather than giving one of the major players a larger presence in the field of pharmacy ownership. That is our position on the bill, and I look forward to the rest of the debate.