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AMA submission – Senate Inquiry on the effect of red tape on pharmacy rules

The AMA welcomes the opportunity to provide its views to the Senate Red Tape Committee regarding pharmacy rules and red tape.

The AMA's submission focuses on two key areas of regulation which create unnecessary and unjustified barriers to better quality, integrated care and increased patient convenience.

Pharmacy location rules

The AMA supports changes to Commonwealth pharmacy regulations which would allow more pharmacies and medical practices to be co-located. The current restrictions are inflexible and are difficult to justify in terms of public benefit.

The AMA was disappointed when the Federal Government announced this year that it had entered into an agreement with the Pharmacy Guild of Australia to continue indefinitely the current protections the pharmacy location rules provide to Guild members.

This decision was made despite the obvious benefits that would accrue by allowing access to high quality primary health care services in a way that is convenient to patients, enhances patient access and improves collaboration between health care professionals.

Facilitating collaboration between medical practitioners and pharmacists will only improve patient outcomes through less medication mismanagement and better medication compliance.

The AMA supports high quality primary health care services that are convenient to patients, enhance patient access and improve collaboration between health care professionals. Co-location of medical and pharmacy services would clearly facilitate this.

The current regulations require that for a pharmacy to be located within a medical centre, there must be at least 8 full-time prescribers. This does not recognise that the general practice workforce is increasingly made up of part-time medical practitioners, particularly those with family responsibilities who still wish to practise.

The regulations also require that any new pharmacy must be at least 500 metres from the nearest pharmacy. However with an ageing population, more patients are elderly and/or with chronic illnesses that impact on their mobility.

Restricting co-location of pharmacies and medical practices also reduces the opportunities of increased collaboration and communication provided by close proximity of doctors and pharmacists.

State and Territory legislation ensures there is a clear separation between prescribing and dispensing, with registered pharmacists responsible for medicines dispensing at all times.

Several independent reviews of pharmacy location rules (for example, the Federal Government 2014 Competition Policy Review) have concluded that there is no evidence that relaxing current restrictions would negatively impact on patient health.

Pharmacy ownership rules

For similar reasons, the AMA also supports changes to State/Territory pharmacy regulations to allow broader ownership of pharmacy businesses, not only by pharmacists.

The AMA agrees that control of medicines dispensing should remain the responsibility of registered pharmacists, however the current ownership restrictions prevent the development of healthcare models that could benefit patient care. For example, co-located medical practitioners and pharmacists would facilitate coordinated and enhanced care for patients, as well as increase convenience for patients. Under current regulations, this model is only possible under very limited circumstances.

Incorporating pharmacy services into general practice, under the ownership a medical practitioner, would improve patient care by allowing GPs to lead a team of co-located health professionals, including pharmacists and general practice nurses, in providing multidisciplinary health care to patients at the local community level. It would allow each health professional to work to their full potential in a well-supported environment.

Importantly, patient medication management would improve through the close cooperative relationship between the doctor and the pharmacist.

Recognising the potential, and potentially perceived, conflict of interest when doctors own pharmacies, the AMA has developed guidelines for its members on ensuring the proper and ethical management of pharmacy services and the clear separation of prescribing and dispensing. The guidelines are attached to this submission and available on the AMA's website at: https://ama.com.au/position-statement/ethical-guidelines-doctors-addressing-potential-conflicts-interest-owning.

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Ethical Guidelines for Doctors on Addressing Potential Conflicts of Interest in Owning a Pharmacy 2010. Revised 2015

1. Introduction

1.1 In Australia, legislation currently restricts pharmacy ownership to pharmacists only.

1.2 The AMA believes it is appropriate and not contrary to the public interest for doctors to own pharmacies, provided such ownership is managed properly and ethically. This involves maintaining the clear distinction between prescribing and dispensing.

1.3 The AMA recognises that real and perceived conflicts of interest might develop if a doctor owns a pharmacy.[1] Any potential conflicts of interest need to be addressed appropriately in order to maintain public confidence that the profession will continue to fulfil its primary duty to put patients' interests first and protect the integrity of the doctor-patient relationship.

1.4 When it comes to doctors owning pharmacies, the obvious potential criticism is that the doctor's interest as an owner of the pharmacy may interfere with the doctor-patient relationship by potentially compromising their professional duty to prescribe or recommend treatments that best serve patients' interests. Some may perceive that ownership of the pharmacy may create a perverse incentive to prescribe or recommend those treatments that will increase the pharmacy's profit margin, regardless of whether those treatments are best for the patient.

1.5 In recognising the very real concerns that patients and the wider public may have in relation to doctors owning pharmacies, the AMA has developed the following guidelines to help doctors who have a direct financial interest in a pharmacy to manage potential conflicts of interest and maintain patients' trust in their doctor and public confidence in the wider medical profession. These guidelines are based on the key principles of respect, integrity, transparency and accountability.

2. Openness and transparency

2.1 Trust is an essential component of the doctor-patient relationship. Trust may be damaged if patients perceive that a doctor is placing his/her financial or commercial interests above patients' interests.

2.2 One of the most important elements of maintaining patients' trust is through open and honest disclosure of the doctor's financial and commercial arrangements that may affect, or be perceived to affect, patient care.

2.3 As such, the doctor has a duty to inform patients of any financial and commercial interests that the doctor, or the doctor's practice, has in the pharmacy. In order to fulfil this duty, doctors may wish to consider the following:

- posting a sign at the reception desk (or other obvious location) informing patients of the doctors' interest in the pharmacy (one or more doctors at the practice may have an interest in the pharmacy);
- posting a sign in the pharmacy stating that it is owned by the doctor(s);
- informing each individual patient of the doctors' interest in the pharmacy at the time of prescribing.

[1] These concepts may be defined in the following terms (from the Royal Australasian College of Physicians' Guidelines for ethical relationships between physicians and industry, 3rd edition, 2006):

An 'interest' is a commitment, goal or value arising out of a social relationship or practice;

A 'duality of interest' arises when two or more interests coexist. These interests may or may not conflict, depending on the specific circumstances; and

A duality may become a 'conflict of interest' when a particular relationship or practice gives rise to two or more contradictory interests.

2.4 Doctors who are also employers must ensure their pharmacy ownership is open and transparent to their doctor-employees. The doctor must inform employees of any financial and commercial interests that the doctor, or the doctor's practice, has in the pharmacy.

3. Separation of commercial interests from professional values and decision-making

3.1 Doctors have a duty of care to patients that takes a primacy above all else. The patient's health needs must be the primary consideration when recommending or prescribing products and services. The doctor's financial and/or commercial interests in pharmacy ownership must not influence their prescribing decisions or other treatment recommendations.

3.2 Patients must have the choice to attend whichever pharmacy they choose. Doctors should inform their patients that they may attend the pharmacy of their choice and that their choice will not affect the doctor-patient relationship.

3.3 Doctors must ensure that other, unrelated pharmacies or pharmacists are not disparaged in any way and that patients are not discouraged from attending them.

4. Ethical operation of pharmacies

4.1 As a further means of maintaining patients' trust and public confidence in doctors owning pharmacies, doctors and pharmacists should each maintain their professional autonomy. This includes:

- maintaining a clear separation between prescribing and dispensing where pharmacists retain the professional and legal responsibility for dispensing medicines, independent of the doctor;
- ensuring that pharmacists are under no incentive or obligation to refer patients to the doctor/the doctor's practice and vice versa.

4.2 Doctors who own a pharmacy should not participate in any inducement process regarding referral of patients to that pharmacy.

4.3 All pharmacies regardless of ownership should ensure that accurate and truthful information regarding complementary and alternative therapies should be available so that patients can make an informed choice regarding their use.[2]

[2] See also AMA *Position Statement on Complementary Medicine 2012* and AMA *Position Statement on Direct to Consumer Advertising 2007*