



Pharmacy
Board of
Australia

GUIDELINES FOR PROPRIETOR PHARMACISTS

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GUIDELINES FOR PROPRIETOR PHARMACISTS

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GUIDELINES FOR PROPRIETOR PHARMACISTS

Introduction

These guidelines have been developed by the Pharmacy Board of Australia (the Board) under section 39 of the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law). They provide guidance to pharmacists in relation to the professional responsibilities of pharmacy proprietors, not set out in the legislation or a registration standard.

Note:

1. *As part of the agreement by the Council of Australian Governments to provide for the National Law, pharmacy ownership, regulation of premises, inspections and related matters do not form part of the National Law. Each jurisdiction has separate legislation, guidelines and/or requirements for these purposes.*
2. *In each jurisdiction, the type of registration required by pharmacist proprietors is specified in the legislation regulating pharmacy premises. The Board maintains a list outlining each jurisdiction's requirement on its website (refer to Pharmacy Board of Australia fact sheet Registration type required by proprietor pharmacists).*

Who needs to use these guidelines?

These guidelines were developed to provide guidance to registered pharmacists or those seeking to become registered pharmacists. They apply to all registered pharmacists who own or hold a proprietary or pecuniary interest in a pharmacy business. They also apply to a pharmacist who holds a position of authority in a corporate structure or who acts as a trustee of a trust in a corporate structure.

What happens if I do not comply with these guidelines?

Pharmacists (including proprietors) must comply with all legislation relevant to the practice of pharmacy and requirements for pharmacy premises in their jurisdiction. Additionally, all pharmacists are expected to

be aware of and comply with the profession's standards and guidelines (including any other standards or guidelines referred to in those documents), as relevant to their scope of practice and type of registration. The pharmacy practice standards and guidelines can be accessed on the websites of the relevant professional bodies:

- Pharmaceutical Society of Australia (PSA) (www.psa.org.au), and
- The Society of Hospital Pharmacists of Australia (The SHPA) (www.shpa.org.au).

Non-compliance with these guidelines and the practice standards and guidelines may be notified to the Board for appropriate action under the National Law. Under section 41 of the National Law, these guidelines can be used in disciplinary proceedings under the National Law or law of a co-regulatory jurisdiction as evidence of what constitutes appropriate professional conduct or practice for pharmacists. When considering notifications (complaints) against proprietors, the Board will give consideration to whether a breach of these guidelines has taken place. The Board will also have regard to the relevant legislation and requirements for pharmacy premises, and the practice standards and guidelines relevant to pharmacy practice.

Further information for pharmacists regarding the possible outcomes of notifications is available on the website of the Australian Health Practitioner Regulation Agency (AHPRA) (www.ahpra.gov.au).

Summary of guidelines

These guidelines focus on the professional responsibilities of proprietor pharmacists that impact on the safe, effective delivery of services to the public.

A registered pharmacist who is a proprietor of, or who has a pecuniary interest in, a pharmacy business, must:

- maintain, and be able to demonstrate an awareness of, the manner in which that pharmacy business is being conducted, and
- where necessary, intervene to ensure that the practice of pharmacy is conducted in accordance with applicable laws, standards and guidelines.

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Guidelines

1 Proprietors to maintain an active interest in how the pharmacy business is conducted

If the proprietor/owner or partner-in-ownership pharmacist is not the pharmacist usually in charge of that pharmacy, he or she must vigilantly maintain an active interest in how the practice of pharmacy is being conducted. This is to ensure that the pharmacy operation is in accordance with:

- any applicable state, territory or Commonwealth law
- relevant Pharmacy Board of Australia policies, codes and guidelines
- applicable professional practice and quality-assurance standards and guidelines, and
- good pharmacy practice.

If the proprietor finds that the practice of pharmacy does not operate in accordance with these, he or she must intervene to ensure that the pharmacy business is conducted properly.

2 Proprietor pharmacists cannot delegate their professional obligations

A proprietor/owner or partner-in-ownership of a pharmacy cannot delegate his or her professional obligations, even if that partner is not regularly present at the pharmacy. This applies to pharmacists who own a pharmacy, or pharmacies, in all forms of business structures.

3 Responsibilities of proprietor pharmacists

For the purposes of these guidelines, ensuring the pharmacy business is conducted properly includes:

- assuring themselves that the pharmacists they employ are complying with and adhering to the Board's registration standards and guidelines, and where applicable, make any necessary arrangements that facilitate the pharmacists meeting these requirements, for example:
 - proprietors who arrange professional indemnity insurance (PII) cover for an

employed pharmacist should ensure that sufficient evidence of currency of PII cover is available to the employed pharmacist

- ensuring that their employed pharmacists have ready access to the list of essential references specified by the Board in Guideline 1 of its *Guidelines on practice-specific issues*
- ensuring compliance with any state or territory legislation regarding facilities and equipment required for the types of services delivered at the pharmacy
- ensuring appropriate risk management procedures are in place for the operation of the pharmacy, including all types of services delivered at that pharmacy
- ensuring that confidential patient information is appropriately stored and accessed
- having an awareness and understanding of the range of goods sold and services provided at the pharmacy, including non-traditional and novel goods and services, and their associated liabilities
- ensuring that the pharmacy is suitably resourced, and that staff members are suitably trained and appropriately supervised to provide services in accordance with their position descriptions
- maintaining an awareness of and responsibility for the services being provided including unregulated services, and goods being sold, particularly those known to be subject to abuse or misuse and those not regulated through the Therapeutic Goods Administration (TGA) or the pharmacy premises registering authorities
- ensuring that business procedures, policies and protocols are developed, implemented and routinely followed for all services delivered at the pharmacy, and
- ensuring that advertising of services and/or products sold at the pharmacy is carried out in accordance with applicable legislation and guidelines.

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The vigilance of the practice described in these guidelines includes on-site visits and attendance at staff meetings at a frequency that ensures that the proprietor is able to fulfill the above responsibilities at all times.

The proprietor/owner or partner-in-ownership pharmacist must ensure that procedures and policies for all services provided by the pharmacy, as well as those relating to occupational health and safety, are documented and available within the pharmacy for all staff to access and follow.

Proprietors of pharmacies that are not approved to supply pharmaceutical benefits must ensure that:

- consumers are made fully aware that the pharmacy cannot supply pharmaceutical benefits
- the pharmacy staff do not engage in unprofessional practices such as purporting to be able to supply pharmaceutical benefits when the pharmacy is unapproved to do so, and
- no claims for pharmaceutical benefits are made from the pharmacy.

Definitions

A **co-regulatory jurisdiction** means a participating jurisdiction in which the National Law declares that the jurisdiction is not participating in the health, performance and conduct process provided by Divisions 3 to 12 of Part 8. Queensland and New South Wales are co-regulatory jurisdictions.

Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a pharmacist in their profession. For the purposes of these guidelines, practice is not restricted to the provision of direct clinical care. It also includes working in a direct non-clinical relationship with clients; working in management, administration, education, research, advisory, regulatory or policy development roles; and any other roles that impact on safe, effective delivery of services in the profession.

Proprietary or pecuniary interest means a legal or beneficial interest and includes a proprietary interest as a sole proprietor, as a partner, as a director, member or shareholder of a company and as the trustee or beneficiary of a trust.

Scope of practice means the professional role and services that an individual health practitioner is educated and competent to perform.

References

Pharmacy Board of Australia fact sheet *Registration type required by proprietor pharmacists*

Pharmacy Board of Australia *Guidelines on practice-specific issues*

A recognition of the principle of proprietor responsibilities is acknowledged in the decision of the Supreme Court Judge in the case of David Loewy and Sandra Loewy v The Pharmacy Board of Victoria, [1991] VSC 113 01.

Review

Date of issue: 2 September 2015

In effect from: 7 December 2015

Date of review: September 2020

These guidelines will be reviewed at least every five years.

From 7 December 2015, these guidelines replace the Pharmacy Board of Australia *Guidelines on responsibilities of pharmacists when practising as proprietors* published 8 December 2010.