



Your Community Pharmacist: the health professional you see most often

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Ministry of Health
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Requirement for Pharmacists involved in Pharmacy Ownership within Companies to have an Annual Practising Certificate

Dear Sue

Thank you for the opportunity to provide feedback on the proposal to require the majority shareholder pharmacist(s) in a company to hold a current Annual Practising Certificate (APC). The Pharmacy Guild of New Zealand¹ supports the goals of the proposal, as we believe it is important to the integrity of the pharmacy ownership regulations that the person(s) exerting effective control over a pharmacy are eligible to practise the profession. However, we foresee a number of practical difficulties with implementing the proposal. We are happy to provide assistance with working through some of the issues. We would like to suggest a meeting/workshop between the MoH, the Guild, the Pharmacy Council, and any other interested parties to work through these practical difficulties.

We would like to make the following comments:

1. The proposal seems limited to companies that own pharmacies. Will the same standard be required of individuals and bodies corporate? If the same standard is not required then the proposed requirement can be avoided by changing the ownership structure from a company to another body corporate.

¹ The Guild is a member-based organisation representing the interests of community pharmacy in New Zealand. For more information please visit <http://www.pgnz.org.nz>

2. We believe that the implied implementation time frame for the proposal of 1 July 2010 is too tight for existing license holders who fail to meet the requirement of a current APC. While the requirement could be implemented immediately for new license applications, we believe existing licence holders should be grandfathered for a further year so they may make the necessary adjustments to the new policy (whether that be obtaining an APC or by selling their holding of the company).

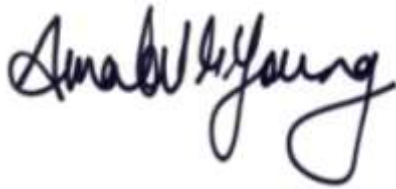
In order to prevent new applicants exploiting the grandfathering we recommend the new policy is implemented immediately upon announcement for new applicants, rather than delaying until 1 July 2010.

3. Furthermore, we believe that the Licensing Authority should retain the ability to temporarily renew licenses under exceptional circumstances. For instance, when the controlling pharmacist goes on maternal leave and is unable to renew their APC. It is unfair to force a change in the ownership structure of the pharmacy due to a temporary absence from the pharmacy.
4. The Licensing Authority should have clear policies around the types of exceptional circumstances that would lead to the granting of a temporary renewal, and for how long temporary renewals would last. We would expect such circumstances to include temporary absences for parental leave or to care for dependents. The “exact and universal date” nature of both the APC process (valid 1 April to 31 March) and the Licence process (valid 1 July to 30 June) means that the time frames are incredibly tight for any renewing licence holder that fails to renew their APC in time. It is unreasonable to expect a major change in ownership structure to be completed to the satisfaction of all parties within a 3 month window.
5. It is unclear how residency requirements fit into the proposed policy. While New Zealand residency is required to hold an APC, it is unclear how meticulously the Pharmacy Council currently enforces this requirement. Will the Licensing Authority undertake your own checks, or rely on the checks performed by the Pharmacy Council?
6. Anecdotally, there are instances of pharmacists that do not have effective control over the pharmacy despite having greater than 50% of the share capital in the company. This may arise because the ownership is a passive investment, or because of the existence of non-voting shares in the company structure, equity-like debt structures, atypical leasing agreements, and other such arrangements. There is also the question of how the control test is applied where a large number of pharmacists hold small parcels of shares adding up to 51%. We believe this area

needs to be examined more closely by the Licensing Authority, with the ultimate aim of refusing licences to pharmacist(s) without effective control of their companies.

Thank you for consulting us on this issue. We look forward to working with you on this proposal.

Yours sincerely

A handwritten signature in black ink, appearing to read "Annabel Young". The signature is written in a cursive, flowing style with a large, prominent 'Y' at the end.

ANNABEL YOUNG

Chief Executive