



## Legislation Review Committee

Correspondence received in response to the Legislation Review Committee  
Digest No. 13/57 – 5 Mays 2020



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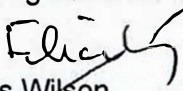


The Hon. Brad Hazzard MP  
Minister for Health and Medical Research



Ms Felicity Wilson MP  
Chair  
Legislation Review Committee  
Email: Legislation.Review@parliament.nsw.gov.au

Your ref LAC20/007.04  
Our ref H20/9517-7

  
Dear Ms Wilson

Thank you for your letter about the Legislation Review Committee's (Committee) consideration of the *Health Practitioners Regulation (NSW) Amendment (Pharmacy Fees) Regulation 2020* (Amending Regulation). The Amending Regulation amends the *Health Practitioner Regulation (New South Wales) Regulation 2016* to increase the fees relating to pharmacy premises applications, the annual renewal of registration of a pharmacy premises, and the registration of a financial interest.

I appreciate the role and functions of the Committee in reviewing legislation and regulation and acknowledge the Committee's concerns about the Amending Regulation.

The NSW Pharmacy Council (the Council) is entirely funded by the fees paid by pharmacists. This assists the Council in undertaking the important work of managing complaints and notifications related to the conduct, performance or health of pharmacists practising in NSW and NSW pharmacy students. The Council is also responsible for the approval and registration of pharmacy premises in NSW. The Council derives its funding from fees paid by pharmacists (via their registration fees), and pharmacy owners (via the fees relating to pharmacy premises applications, the annual renewal of registration of a pharmacy premises, and the registration of a financial interest).

The Council operates on a cost recovery basis for all its work. As a result of the continued increase in complaints and complexity in pharmacy ownership, the Council made a year-end deficit for FY2018/19 of \$628,000. This compares to the FY2017/18 deficit of \$271,000. The FY2019/20 budget forecast deficit is anticipated to be \$779,000. These continued deficits would result in the Council becoming financially unviable, which is why the Amending Regulation seeks to make an increase to the component of the registration fee and also ownership fees.

The increase in fees set out in the Amending Regulation follow a review by the Council regarding ownership fees. The Review determined that the fees need to increase in order to support the Council's financial viability. Specifically, the fee increases will contribute to the recovery of costs to regulate pharmacies and ensure that non-pharmacy owners do not subsidise pharmacy owners. In conducting the Review, the Council consulted with all relevant NSW pharmacy stakeholders including the NSW Branch of the Pharmacy Guild, the Pharmaceutical Society of Australia and the Society of Hospital Pharmacists of Australia. Each of these bodies acknowledged that fee increases were necessary due to the increasing complexity in pharmacy ownership.

The Amending Regulation is considered to be an effective and proportional response to ensure the financial viability of the Council.



Thank you again for your letter. If you would like more information, please contact Ms Anna Read, Senior Legal Officer, NSW Ministry of Health, at [anna.read@health.nsw.gov.au](mailto:anna.read@health.nsw.gov.au) or on 9424 5863.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brad Hazzard', written in a cursive style.

**The Hon. Brad Hazzard MP**  
Minister for Health and Medical Research

5 JUN 2020



**The Honourable Kevin Anderson MP**  
Minister for Better Regulation and Innovation

Our reference: COR-02744-2020

Ms Felicity Wilson MP  
Chair  
Legislation Review Committee  
By email: [legislation.review@parliament.nsw.gov.au](mailto:legislation.review@parliament.nsw.gov.au)

Dear Ms Wilson MP 

Thank you for your correspondence on behalf of the Legislation Review Committee.

I have considered the Committee's comments in Digest No. 13/57 concerning the *Building and Development Certifiers Regulation 2020* (the **Regulation**).

As observed by the Committee, the Regulation does tighten the requirements for building certifiers and introduces requirements that may add to the costs of doing business in the industry. The Department considers that the proposed provisions are appropriate and notes that the Committee makes no further comments.

The Department notes the Committee's preference for the offence provision under Part 7 of the Regulation to be included in the *Building and Development Certifiers Act 2018* (the **Act**) rather than in the Regulation itself.

Extensive consultation was undertaken with the building and construction industry before finalising the regulation, including releasing an exposure draft of the regulation and holding an industry roundtable to discuss the proposed reforms.

The approach taken by Parliamentary Counsel when drafting is for substantive matters, including offences attracting significant penalties, to be set out in the principal legislation. The Act refers the framework for maintaining records to be prescribed by regulation. Subsequently the provisions under Part 7, including the penalties, were prescribed in the Regulation due to the administrative nature of the requirements. The offences have been maintained from the existing legislation and are appropriate to promote compliance and positive behaviour. The Government considers that the proposed provisions are suitable and notes the Committee makes no further comments.

Thank you for bringing these matters to my attention and the valuable ongoing contribution the Committee makes in ensuring robust legislation in NSW.

Yours sincerely



**Kevin Anderson MP**  
Minister for Better Regulation and Innovation

Date: 22.7.2020