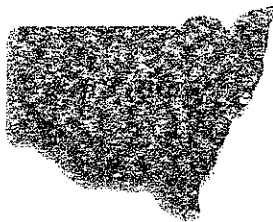


**INQUIRY INTO OPPORTUNITIES TO CONSOLIDATE  
TRIBUNALS IN NSW**

**Organisation:** Pharmacy Council NSW

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Parliament House  
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### **Submission by the Pharmacy Council of New South Wales in response to the Inquiry into Opportunities to Consolidate Tribunals in NSW**

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The Pharmacy Council of New South Wales adopts the submissions of the Health Professional Councils Authority (HPCA).

The Council agrees that the current model under which the Health Professional Tribunals operate is cost effective. Significant efficiencies and consistencies are already achieved as nine out of ten of the Tribunals operate from the same premises, share the same support staff, and are Chaired by a number of common Chairpersons and Deputy Chairpersons.

Any inflation in costs associated with a consolidation of Tribunals off site could not be sustained by the Pharmacy Council given that any additional costs would need to be born by the health professionals' registration fees which are currently determined at a national level.

The Council also agrees that the appointment of Chairpersons and Deputy Chairpersons across a number of Health Professional Tribunals has resulted in the development of significant expertise in dealing with matters within the health care professions. The Council views it essential that the current quality and consistency in decision making across professions be maintained.

Council is of the view that the continuation of the current model will ensure that the interests of the public is served by ensuring matters before the Tribunals are dealt with expeditiously and without any undue delay. Any adverse impact on the timeliness of decision-making in an environment of increasing trends in complaints and in a proposed environment of potential additional competing demands will not be in the public's nor the individual practitioner's interests.

Finally, the Council supports the continuation of the current model which allows for Councils to appoint the professional members of the Tribunal. Appointments are made with due consideration for the nature of the complaint before the Tribunal and, most importantly, the type of practitioner (eg area of specialty and nature/context of practice or various practice settings of pharmacists). Similar must apply to the appointment of lay members where the Pharmacy Council would want to be involved in the selection of lay members given its clear preference to appoint a lay member that has not previously held registration as a health practitioner of any kind at any time in the past.

However, to the extent that the Government ultimately forms the view that it is preferable to consolidate the Health Professional Tribunals into another Tribunal, the Pharmacy Council of New South Wales prefers Option 1:

**OPTION 1 – Establish and Employment and Professional Services Commission, by renaming the IRC and transferring functions from:**

- The ADT (including the Anti-Discrimination Division and professional discipline functions in relation to lawyers); and
- Health professional tribunals, including the medical tribunal.

The Pharmacy Council of NSW considers the advantages of Option 1 include the following:

1. The ADT already has significant experience in professional discipline jurisdictions affecting, for example, registered architects, registered surveyors, veterinary surgeons, licensed conveyancers and accredited certifiers in its General Division and solicitors and barristers in its Legal Services Division.
2. In all of these matters a multi-member panel is constituted. Consistent with the HPCA submission, however, it will be critical to ensure that the composition of Tribunals continues to reflect the intent of the Health Practitioner Regulation National Law (NSW) in particular section 165A. As mentioned above, it is also critical that the expertise on Tribunals is not diminished given the various practice areas / work settings of pharmacists, as well as consideration of "expert" or peer reports. In addition, it will be a necessity to manage conflict of interest situations accompanied by the potential need for preparation of an excluded list of pharmacists who may have been involved or provided opinion or report concerning the respondent.
3. The Legal Services Division of the ADT hears applications for disciplinary orders from the Law Society, the Bar Council or the Legal Services Commission in relation to alleged misconduct by legal practitioners. The Division may also deal with client claims compensation arising from misconduct and considers practitioner applications allowing employment of persons convicted of a serious offence. Practitioners may also apply to the Tribunal for review of disciplinary orders made by the Law Society or the Bar Association under the (lower tier) disciplinary powers vested in those bodies by the legislation. This is not unlike the process that currently operates as between the Pharmacy Tribunal and the Pharmacy Council of New South Wales.
4. It is the Pharmacy Council of New South Wales's view that a lay person/consumer member should be involved in the decision-making process for Pharmacy matters, as well as persons with legal and professional expertise. As stated previously, the Pharmacy Council has a clear preference regarding the appointment of lay members.
5. Option 1, which would see the professional discipline functions of the ADT transferred to the IRC, is preferable to the other Options referred to in the Issues Paper for the reasons set out in the Issues Paper, particularly having regard to resourcing issues. It seems this option would ensure that there are quality Judicial Members, accommodation and registry services immediately available.

In preparing this paper the writer has referenced the ADT Annual Report 2009-2010.

**Submitted by:**

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25 November 2011