



POSITION STATEMENT

Pharmacies not approved to supply Pharmaceutical Benefits (unapproved pharmacies)

Position

The Pharmacy Guild of Australia believes that pharmacies that are not approved under section 90 of the *National Health Act 1953* (the 'Act') to supply PBS medicines (unapproved pharmacies) should only operate in areas of practice not related to the supply of PBS medicines.

The Guild believes that any involvement of an unapproved pharmacy in the supply of pharmaceutical benefits is inconsistent with and undermines the objectives of the Location Rules. The Location Rules are included in the Community Pharmacy Agreement to ensure there is a network of accessible and viable community pharmacies throughout Australia, including in rural and remote areas.

The community pharmacy sector operates within a framework of regulations to deliver medicines to the Australian community in a safe, timely, convenient, affordable and equitable manner. This is consistent with the central objective of the National Medicines Policy, intended to achieve the distinct Government aim of delivering the PBS in a way that ensures guaranteed availability, the quality use of medicines and the viability of the sector.

The Guild supports the notion that unapproved pharmacies cannot supply or collect payment from the Australian Government for any medicines supplied through an unapproved pharmacy and that wrongfully obtaining payment for the supply of a pharmaceutical benefit may constitute unsatisfactory professional conduct and/or professional misconduct under the *Health Practitioner Regulation National Law Act 2009* (Cth).

The Guild notes the *National Health Amendment (Pharmaceutical Benefits) Act 2017* (the Amending Act) provided clarity that approved pharmacists can only claim for PBS medicines supplied at premises which have been approved by the Department of Health and Aged Care (the Department). The Department may grant permission for an approved pharmacist to temporarily supply PBS medicines at alternative premises due to disaster, e.g. fire or flood, or exceptional circumstances, per disaster provisions introduced in the Amending Act.

This clarification is an important support for pharmacists who may have been affected by a small number of pharmacists who claimed payment for PBS medicines where the supply occurred at unapproved pharmacy premises.

The Guild supports this reinforcement of the law because approved pharmacies have invested in their businesses on the basis that PBS medicines will only be supplied by approved pharmacies. The claiming of payments on behalf of unapproved pharmacies undermines the integrity of the network and the viability of the model which provides timely access to PBS medicines for all Australian patients.

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The Guild also supports the compliance measures as outlined in the Unapproved Pharmacies fact sheet by the Department of Health and Aged Care.¹

The sharing of patient prescription information by an unapproved pharmacy to an approved pharmacy may also constitute a breach of the *Privacy Act 1988* (Cth) if the patient is unaware of and/or has not agreed for such transfer of information.

The Guild also supports the Pharmacy Board of Australia's requirement that proprietors of unapproved pharmacies must ensure patients are fully aware that the pharmacy cannot supply PBS medicines and the implications of this to the patient's Safety Net benefits.²

Background

The PBS gives all Australian residents and eligible overseas visitors access to prescription medicine in a way that is affordable, reliable and timely. Through the PBS, the Australian Government subsidises the cost of prescription medicine, making it more affordable for all Australians.

The *Act*, Regulations and instruments require that PBS supply be made at approved premises. As such:

- If a prescription is dispensed at an unapproved pharmacy ('switching' to a private prescription) at any stage, any subsequent repeats cannot be supplied under the PBS, which may disadvantage the patient;
- If the original supply is made through an approved pharmacy, the consumer retains the choice for all subsequent supplies to have them dispensed as either PBS or non-PBS (private) items;
- Unapproved pharmacies cannot issue Prescription Record Form (PRF) records or PBS Safety Net cards or issue receipts for the purpose of obtaining a refund under the PBS;

National Health (Pharmaceutical Benefits) (Conditions of approval for approved pharmacists) Determination 2017

The Act allows for payment of a claim for the supply of a pharmaceutical benefit where the supply has been made at or from premises for which a pharmacist is approved under the Act. An approved pharmacist is a pharmacist who is approved under Part VII of the Act to supply pharmaceutical benefits at particular premises (approved premises).

The Act sets out the conditions under which a claim for payment from the Australian Government in relation to the supply of a pharmaceutical benefit must not be made, to emphasise the importance of making a correct claim. It reinforces that an approved pharmacist must not make a claim for payment for the supply of a pharmaceutical benefit unless the pharmaceutical benefit was supplied at or from the pharmacist's approved premises.

A breach of the conditions of approval can be deemed an 'abuse' of approval and may lead to an investigation by a Pharmaceutical Services Federal Committee of Inquiry. Such an investigation may result in the suspension or revocation of the pharmacist's approval.

Anyone who has concerns about a potential breach of the Conditions of Approval for approved pharmacists, or any other compliance matter, can report their concerns to The Australian Government Provider Benefits Integrity Hotline by calling 1800 314 808 or filling out the 'Health Provider Tip-off' form at <https://www1.health.gov.au/internet/main/publishing.nsf/Content/health-provider-tip-off>.

Related Statements

Nil

Authority

Endorsed

National Council] – August 2022
National Council – March 2015
National Council – November 2011
National Council – November 1997

Reviewed

August 2022 – Policy and Regulation Sub-Committee
January 2015 – Policy and Regulation Sub-Committee
October 2011 – Government Relations & Policy Committee
October 2011 – Health Economics Committee
October 2003 – Health Economics Division

References

¹ <https://www.health.gov.au/resources/publications/unapproved-pharmacies>

² <https://www.pharmacyboard.gov.au/documents/default.aspx?record=WD15%2f17691&dbid=AP&chksum=38U9CgE45JL%2bBPCUEpSjWw%3d%3d>