



# Managing transfers in pharmacy ownership

Report 4: 2018–19

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Your ref:  
Our ref:

28 September 2018

The Honourable C Pitt MP  
Speaker of the Legislative Assembly  
Parliament House  
BRISBANE QLD 4000

Dear Speaker

Report to parliament

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled Managing transfers of pharmacy ownership (Report 4: 2018-19).

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brendan Worrall".

Brendan Worrall  
Auditor-General

# Contents

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<b>Audit objective and scope</b>	<b>1</b>
<b>Key facts</b>	<b>3</b>
<b>Introduction</b>	<b>4</b>
Queensland's Pharmacy Business Ownership Act 2001	4
Pharmacy regulatory environment	6
<b>Summary of findings</b>	<b>7</b>
Designing and implementing	7
Assessing the notifications	8
Monitoring compliance	10
<b>Audit conclusions</b>	<b>11</b>
<b>Recommendations</b>	<b>12</b>
<b>1. Pharmacy ownership</b>	<b>14</b>
Introduction	14
Designing and implementing internal controls	15
Assessing the transfer notifications	15
Monitoring compliance with the Act	19
<b>Appendices</b>	<b>20</b>
A. Independent assurance practitioner report	21
B. Full responses from agencies	23
C. Audit objectives and methods	30
D. Extract of the Pharmacy Business Ownership Act	32
E. Notification of changes to pharmacy ownership	34
F. Legislation comparison	35
G. Testing population	37
H. Example of pharmacy interest analysis	38

# Audit objective and scope

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On 3 May 2018, the Legislative Assembly of Queensland referred an inquiry to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the committee). The terms of reference were:

That the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee inquire into and report to the Legislative Assembly, by 30 September 2018, on:

- the establishment of a pharmacy council, and
- all transfers of pharmacy ownership in Queensland over the past two years to ensure compliance with existing legislation.

The chair of the committee wrote to the Auditor-General on 14 May 2018 to request an audit of how the Department of Health assessed transfers of pharmacy ownership from 1 January 2016.

The Auditor-General agreed to conduct a reasonable assurance audit as per the Australian Auditing and Assurance Standards.

The objective of the audit was to assess whether the Department of Health (the department) ensured the transfers complied with the requirements of the *Pharmacy Business Ownership Act 2001* (the Act). Refer to Appendix D for an extract of the Act.

We assessed:

- the effectiveness of the current systems and processes in regulating pharmacy business ownership in Queensland
- compliance with the Act for a sample of transfers of pharmacy ownership.

## Scope exclusions

We have not, as part of this audit:

- commented on the merits of the Act
- tested compliance for changes in business particulars (section 141B of the Act)
- assessed whether non-compliance with the Act can lead to adverse health outcomes
- provided advice on appropriate entity structures to comply with the Act
- tested compliance with any other legislation regulating the pharmacy industry.

Our scope was limited to how effectively the Act is being administered in regulating pharmacy ownership.

## Entities subject to this audit

The Department of Health.



## Audit approach

We conducted the audit between May and August 2018. We:

- assessed the department's processes and procedures for transfer of pharmacy ownerships
- interviewed Department of Health staff
- consulted with relevant stakeholders
- analysed data and documentation over the period 1 January 2016 to 31 July 2018 to provide reasonable assurance that transfers of pharmacy ownership complied with the Act
- gathered evidence to support the audit conclusion.

## Reference to comments

In accordance with section 64 of the *Auditor-General Act 2009*, we provided a copy of this report to the Department of Health and the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. In reaching our conclusions, we have considered their views and represented them to the extent we deemed relevant and warranted. Any formal responses from the entities are at Appendix B.



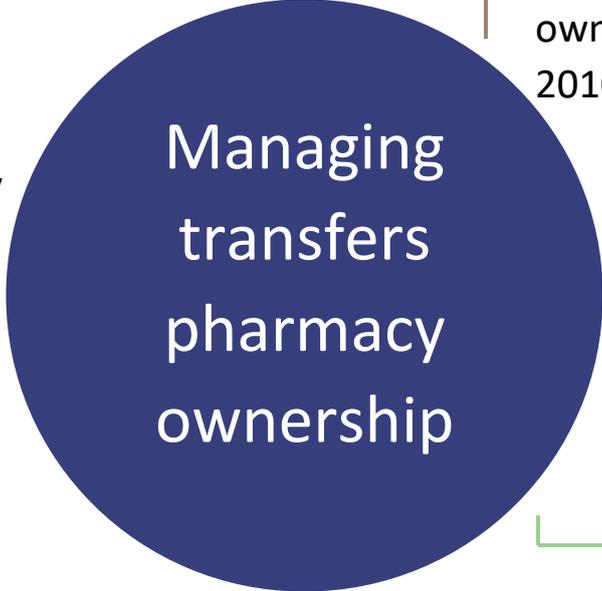
# Key facts

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The ownership of pharmacy businesses in Queensland is regulated under the *Pharmacy Business Ownership Act 2001* (the Act).

The Department of Health has administered the regulatory function for pharmacy business ownership since July 2010.

316 pharmacies\* changed ownership between 1 January 2016 and 31 July 2018.



As at 31 December 2017, community pharmacies provide services to over 4.9 million people in Queensland.

Queensland pharmacies dispensed over 39.3 million medicine items under the Pharmaceutical Benefits Scheme\*\* in the 2017–18 financial year.

\* The department received 816 change of pharmacy ownership notification forms relating to 316 pharmacies between 1 January 2016 and 31 July 2018.

\*\* The Pharmaceutical Benefits Scheme allows patients to obtain medicines at a government-subsidised price.



# Introduction

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In Queensland, only a pharmacist or an entity owned by a pharmacist can own a pharmacy business. This aligns with the requirements of other Australian jurisdictions.

The government regulates this by limiting:

- ownership of pharmacies to pharmacists or a combination of pharmacists and their relatives only
- the number of pharmacies each pharmacist or entity can own
- the control of pharmacies to pharmacists only.

The *Pharmacy Business Ownership Act 2001* (the Act) refers to ownership by a corporation (section 139B). We acknowledge other legal entities such as family trusts may also own a pharmacy. For this reason, we use the term ‘entity’ in this report.

The intent of the Act is to promote the professional, safe and competent provision of pharmacy services, and to maintain public confidence in the pharmacy profession. The legislation in other jurisdictions such as New South Wales, Western Australia and Victoria is similar to that of Queensland. In all four states, the intent is to limit ownership of pharmacies to pharmacists and to limit the number of pharmacies each pharmacist can own.

In addition, in Queensland, New South Wales and Victoria, the legislation ensures only pharmacists can have control over pharmacies. For example, before approving a licence for a new or changed pharmacy to operate, the Victoria Pharmacy Authority assesses the commercial arrangements in place to determine if there is undue influence on a pharmacy owner. (Undue influence is when someone requires the owner to act in a certain way, for example, by having a clause that dictates where the owner gets their pharmacy goods from.)

Queensland does not issue licences or approvals for registration of pharmacies. However, the Australian Department of Human Services will only approve a pharmacy to dispense medicines in Queensland under the Pharmaceutical Benefits Scheme when the Department of Health confirms with them that the requirements of the Act have been fulfilled.

## Queensland’s Pharmacy Business Ownership Act 2001

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The Department of Health (the department) is responsible for administering the Act.

The department has a process for assessing notifications of changes in pharmacy ownership against the requirements of the Act. It requires the pharmacy owner to complete a transfer of ownership form (a notification) and provide a small number of documents to support it. The department then assesses whether the notification complies with the requirements of the Act.



## Objects (purposes) of Act

The purposes of the Act are to:

- promote the professional, safe and competent provision of pharmacy services
- maintain public confidence in the pharmacy profession.

This is to be achieved mainly by:

- limiting who may own a pharmacy business
- limiting the number of pharmacy businesses that may be owned by a person
- providing for compliance with the Act to be monitored and enforced.

## 139A—definitions

Under the Act, ‘owning’ a pharmacy business includes having a proprietary interest (full or part ownership entitling the owner to a share of the profits). It does not include having an interest in a pharmacy business because of ‘... a bill of sale, mortgage, or other form of security, for the pharmacy business’.

The term ‘relative’ refers to the spouse of the pharmacist or a child of the pharmacist who is at least 18 years of age.

## Administration of the Act

Figure A shows the key events relating to administration of pharmacy ownership regulation in Queensland from 2010 to 2018.

**Figure A**  
**Key events relating to regulation of pharmacy ownership**

Month and year	Event
Prior to 2010	The Pharmacist Board of Queensland administered the <i>Pharmacy Business Ownership Act 2001</i> (the Act).
July 2010	The department assumed the regulatory functions for pharmacy ownership.
2012	<p>The department’s Medicines Regulations and Quality team (the team) took on the responsibility of administering the Act. Four officers administer the notification function.</p> <p>The team’s main function is to administer the <i>Health (Drugs and Poisons) Regulation Act 1996</i>, which prescribes controls over the manufacturing, distribution, sale, handling, storage, packaging, labelling, dispensing, prescribing, supply and use of scheduled medicines and poisons.</p> <p>To accommodate the additional responsibility of regulating pharmacy ownership, the team modified the department’s Monitoring of Drugs of Dependence System (MODDS) database and added an ownership table to capture information relating to transfers of ownership.</p>



Month and year	Event
September 2016	<p>The department introduced a checklist to manage the notification process. It is an internal control document that records a notification and verifies the team has completed the required checks to determine compliance with the Act.</p> <p>It also serves as a form of quality control, as a second person (the verifying officer) is required to sign off once a review of the file has been completed.</p>
May 2018	<p>The department developed a document called <i>Pharmacy Ownership Business Rules</i>. This is an internal document that provides information about the notification process. It covers the requirements of the notification form, compliance checkpoints and reporting requirements.</p>

Source: Queensland Audit Office

## Pharmacy regulatory environment

In addition to the *Pharmacy Business Ownership Act 2001* there are other acts and regulatory bodies which regulate the pharmacy industry. For example:

- The Australian Government regulates the location of pharmacies which have been approved to dispense subsidised medicines under the Pharmaceutical Benefits Scheme (PBS).
- The Pharmacy Board of Australia is the national body responsible for the regulation of pharmacists under the umbrella of the Australian Health Practitioners Agency. The Pharmacy Board of Australia registers pharmacists; develops standards, codes and guidelines for the pharmacy profession; handles notifications and disciplinary hearings; and approves accreditation standards and accredited courses of study.
- The *Health (Drugs and Poisons) Regulation 1996* prescribes the handling of medications in Queensland throughout their lifecycle. The regulation also controls the manufacturing of medicines, the advertising and labelling of substances and devices that are used or connected with a therapeutic purpose and the dispensing of medicines and poisons at a pharmacy.
- The Therapeutic Goods Administration regulates national scheduling of medicines, the manufacture of medicines (with some exceptions) and aspects of wholesale practice. Use of prescribed medicines is also influenced by the *National Health Act 1953* and the national health system because the price of many medicines is subsidised under the Pharmaceutical Benefits Scheme.

Compliance with, or the impact of, these other regulatory bodies and pieces of legislation was not within the scope of this audit.



# Summary of findings

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The Department of Health (the department) has not taken all reasonable steps to ensure the objects (purposes) of the *Pharmacy Business Ownership Act 2001* (the Act) are being met. Gaps in the department's processes and systems have resulted in it not having sufficient appropriate information about pharmacy ownership transfers. This means we have been unable to completely assess its compliance with the Act in administering the transfers over the last two years.

## Designing and implementing

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Although the department has been responsible for administering the Act since 2010, it has not fully documented the process it undertakes to assess pharmacy ownership notifications.

It introduced a control checklist in 2016 to strengthen the review and approval of notifications. This was in response to an internal improvement review of its business processes. However, we found that this checklist does not address all aspects of the legislation. We also found that the checklist had not been used in some of the files we examined.

Officers at the department are not required to keep evidence of the checks they complete. For example, they do not keep screen shots of the pharmacist's valid registration as recorded on the Australian Health Practitioners Regulation Agency (AHPRA) website or the list of shareholdings in entities that are linked to the pharmacy.

The department does not request enough documentation from pharmacy owners to assess compliance with the 'right to control' elements of the Act. For example, the department does not routinely request the following types of documents as evidence:

- lease documents
- partnership agreement
- any agreement for the provision of management services to the pharmacy business
- guarantee documentation
- franchise agreement.

These types of documents may be needed to assess ownership and control, but the department has only requested them when they have received a complaint about changes in pharmacy ownership.

The department searches its Monitoring of Drugs of Dependence System (MODDS) database (containing pharmacy ownership details) to assist in determining whether a person owns more pharmacies than the Act allows (five). It does not, however, show how many pharmacies an entity (rather than an individual) has.



The database is not fit-for-purpose, as it does not allow officers to enter all the details required for ensuring the notifications comply with the Act. It also requires the officer to enter a pharmacist registration number for non-pharmacists for cases when a relative of a pharmacist is part of a corporation that owns a pharmacy. As a workaround, officers enter dummy registration numbers. This leads to invalid data in the database. Even though the invalid data has no impact on the actual pharmacy ownership transfers, it further demonstrates the database is not fit-for-purpose.

## Assessing the notifications

Between 1 January 2016 and 31 July 2018, the department received 816 notification forms about changes in pharmacy ownership. (One pharmacy transfer can have multiple notification forms.) Of the 816 notification forms:

- 299 involved selling or buying as a pharmacist
- 517 involved selling or buying as an entity.

In undertaking our assessment, we considered whether a pharmacy belongs to a franchise group, because the department would need to conduct additional checks for these pharmacies to determine if they comply with the Act. We identified the pharmacies by considering well-known pharmacy franchise group names, because the department does not require the pharmacy owner to provide this information for the notification process. We found 464 notification forms had a pharmacy name that contained the name of a franchise group. Of those:

- 92 notification forms were from individual owners
- 372 notification forms were from entities.

Figure B shows our findings in terms of how well the department is assuring that changes in pharmacy ownership meet legislative requirements. It also shows the sections of the Act we used in testing this.

**Figure B**  
**Results of our compliance testing**

Section of the <i>Pharmacy Business Ownership Act 2001</i>	Number of notification forms we tested	Findings
139B Restriction on who may own a pharmacy business	333*	<p>We did not find any instances of non-compliance in our sample of pharmacies in the non-franchise group. All pharmacy owners were registered pharmacists.</p> <p>However, s.139A of the Act defines 'own' to include proprietary interest (full or part interest that entitles the owner to a share in the profits). We were unable to determine whether franchise groups had a proprietary interest in those pharmacies because there were insufficient documents in the department's files.</p>

Section of the <i>Pharmacy Business Ownership Act 2001</i>	Number of notification forms we tested	Findings
<p>139H Restriction on number of pharmacy businesses in which a person may have beneficial interest (that is, they benefit from the pharmacy's profitability)</p>	<p>816 (for 316 changes in pharmacy ownership)</p>	<p>We did not find any individual pharmacists listed in the department's Monitoring of Drugs of Dependence System (MODDS) database owning more than five pharmacies in Queensland. But we identified the potential for non-compliance with the ownership rules, specifically, the potential for some pharmacists to have undeclared beneficial interests in more than five pharmacies.</p> <p>The department has not thoroughly tested whether pharmacists have ownership interests in more pharmacies than the Act allows through corporate structures. According to s.139H(2), a pharmacy owner may have a beneficial interest in a pharmacy if they are a director of or shareholder in a corporation that owns a pharmacy.</p> <p>The department does not record sufficient information in its database about entities or individuals such as Australian Company Numbers (ACN) and Australian Business Numbers (ABN) and individuals' dates of birth. This limits the department's ability to detect if pharmacists have ownership interests through corporations.</p>
<p>139I Certain arrangements about control of pharmacy business void (circumstances under which commercial arrangements are not legally binding)</p>	<p>374**</p>	<p>We found 70 instances where a pharmacy file either:</p> <ul style="list-style-type: none"> <li>• did not contain the required corporate documents (Australian Securities &amp; Investment Commission extract, certification of corporation, the corporate's constitution), or</li> <li>• the documents were not certified, or</li> <li>• some documents were missing, and some were not certified.</li> </ul> <p>We were unable to determine whether the franchise pharmacy transfers complied with section 139I because there were insufficient documents (such as franchise agreements) in the department's pharmacy file to confirm whether controls by a non-pharmacist exist in the franchise business.</p>

Notes:

\* This is the number of notification forms we tested (on a sample basis) in the categories of buying as a pharmacist, buying as an entity and opening a new pharmacy. There were 418 notification forms in these groups during the audit period 1 January 2016 to 31 July 2018.

\*\* This is the number of notification forms we tested (mostly all) in the categories of buying as an entity and opening a new pharmacy (where the pharmacy is an entity). We tested all notification forms in these groups. There were 394 notification forms in these groups during the audit period 1 January 2016 to 31 July 2018.

Source: Queensland Audit Office



## Monitoring compliance

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The department is taking a reactive approach to administering Part 3 of the Act (which addresses monitoring and enforcement), by responding to complaints when and if they are made. This means there is a risk that pharmacies can continue to operate even if they are in breach of the Act. Examples include cases where, after a pharmacy owner notifies the department of an ownership transfer, the business structure or operating practices are changed to a model that does not comply with the legislation.

Officers we interviewed at the department did not feel they were required or had the legislative authority to monitor and enforce compliance. However, the Act provides a clear statement that its intent is to be achieved by ‘... providing for compliance with this Act to be monitored and enforced’. The Act also provides for the chief executive to appoint an inspector(s) who ‘... has the function for conducting investigations and inspections to enforce compliance with this Act’. The department has never appointed any inspectors.

Appendix F provides details of other jurisdictions’ compliance frameworks.



# Audit conclusions

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The Department of Health (the department) has not designed processes and controls to ensure transfers in pharmacy ownership comply with all the requirements of the Act. It has some controls in place to address the requirements regarding limiting ownership to pharmacists and limiting pharmacy numbers, but it does not always apply them consistently or thoroughly.

The department does not obtain enough information to conduct the tests thoroughly on more complex ownership arrangements such as franchisees. These accounted for approximately sixty per cent of the transfer notifications in the last two years. It also does not request enough personal information from pharmacy owners (such as dates of birth) so it can check if they have any undeclared ownership interests through corporate structures.

In addition, it does not routinely request enough information to conduct tests of compliance with section 139I, which refers to control of a pharmacy business. This means there is a risk that pharmacies may be operating with elements of their commercial arrangements being void (not legally binding) under the Act.

The department has taken appropriate actions by requesting additional information to address concerns about ownership of pharmacies when they receive complaints. However, this reactive approach means it is not effectively identifying potential non-compliance.

It does not monitor if pharmacies make any changes to their structure or commercial arrangements after notifying the department of ownership changes. It can mitigate this risk by actively monitoring or annually reviewing pharmacy ownerships.

The department has not been effectively administering the Act, as it has not adapted its processes to the more complex business structures and commercial arrangements pharmacy businesses now use. Its processes do not adequately address the objects (purposes) of the Act, which are to promote and maintain public confidence in the pharmacy profession by limiting pharmacy ownership and monitoring and enforcing compliance with the Act.

## Assurance opinion

Because there was insufficient documentation to completely test compliance with the Act, we have been unable to form an opinion on areas such as:

- the number of pharmacies a person has a beneficial interest in or a corporation owns
- franchise groups having proprietary interests in pharmacies
- commercial arrangements allowing non-pharmacists to control a pharmacy.

Refer to the independent assurance practitioner report at Appendix A for more details.



# Recommendations

## Department of Health

We recommend that the Department of Health (the department):

1. clarifies its role and obligations in the administration of the *Pharmacy Business Ownership Act 2001* (the Act) and the skills and resources it needs to fulfil its functions effectively
2. re-designs its internal controls so it can effectively administer the Act

This should include:

- revising the *Pharmacy Ownership Business Rules* document and the notification checklist to include all relevant information relating to the notification process
- determining whether decision support tools such as the Monitoring of Drugs of Dependence System (MODDS) database can be modified to better support its notification process or if new tools are required
- defining checks to detect whether pharmacists have undeclared ownership interests in a pharmacy through a corporation.

3. better defines the type of documents pharmacy owners need to provide to support the notification process

This should include:

- requiring owners to provide documents that allow the department to thoroughly test all ownership requirements of the Act, including circumstances under which ownership of pharmacies can be made not legally binding due to control issues (139I)
- requesting all relevant documentation at the time of the notification submission, including information to validate an individual's identity such as date of birth
- keeping sufficient records to enable process validation.

4. implements a process to monitor pharmacies' ongoing compliance with the Act

This should include establishing a monitoring and compliance program to review pharmacy ownership at regular intervals, for example, conducting random inspections of pharmacies at the department's discretion.

5. develops and implements a risk-based strategy for testing that existing commercial arrangements comply with sections 139B, 139H and 139I of the Act.

Note: These recommendations assume the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's inquiry does not result in any changes to the legislation or governance arrangements. If changes are made, the accountable parties will need to revisit these recommendations.



## The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

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We recommend that the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the committee):

6. recommends to the Minister for Health to seek amendments to the Act to enable the department to more effectively manage the pharmacy ownership notification process.

This should include defining the legal implication if a commercial arrangement does not meet section 139I of the Act (Certain arrangements about control of pharmacy business void).



# 1. Pharmacy ownership

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## Introduction

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The Department of Health (the department) administers the *Pharmacy Business Ownership Act 2001* (the Act), which regulates ownership of pharmacies in Queensland. At the request of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, we examined whether the department has effective systems and processes in place to assess whether transfers in pharmacy ownership comply with the Act.

The department has implemented the following controls to manage the notification process:

- 1) A pharmacist or an entity submits a notification form to the department when changes to the pharmacy ownership occur. It is a nine-part document that all parties involved in the change are required to complete and submit to the department. It provides a link to the legislation, outlines how the department assesses the notification and gives instructions on how to complete the form.
- 2) The department's pharmacy notification team (the team) uses a database to determine how many pharmacies a pharmacist has.
- 3) The team uses a checklist to record and review the checks it conducts when it receives a notification form.

Appendix E provides a flow chart showing the steps the department takes in managing transfers in pharmacy ownership.

We assessed whether:

- the design of the department's internal controls ensures transfers of pharmacy ownership comply with the *Pharmacy Business Ownership Act 2001*
- the department implements the controls effectively.

We selected a sample of the notification forms between 1 January 2016 and 31 July 2018 and tested whether the department:

- used its checklist (since introducing it in September 2016)
- ensured pharmacy owners submitted sufficient documents to support notifications
- assessed whether the pharmacy ownership transfers complied with the Act.



## Designing and implementing internal controls

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The department has not adequately designed and implemented controls to mitigate the risk that ownership transfers are occurring that do not satisfy the requirements of the Act.

We identified that the department has not:

- fully documented its process to guide staff in effectively assessing the transfers. It has only partly documented the process in its *Pharmacy Ownership Business Rules* document
- updated the process to accommodate the complexity of structures for pharmacy owners (beyond individual owners)
- conducted a thorough assessment of corporate structures or ownership interests through entities (for example, franchise groups)
- retained sufficient documentation on the checks its officers perform when the department receives notifications of transfers of pharmacy ownership (for example, pharmacist registration and the shareholdings checks)
- requested sufficient documentation from entities to support notification forms
- implemented a fit-for-purpose database to support the notification process.

We tested all ownership transfers from September 2016 to July 2018 (612 notification forms) and found that about 2.6 per cent did not have the department's checklist for managing pharmacy business notifications. Of the ones that had the checklist, about 1.6 per cent were not validated by another officer. The majority of these (80 per cent) related to notifications involving franchise groups.

## Assessing the transfer notifications

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### What we examined

We focused on three main sections of the Act:

- the restrictions on who may own a pharmacy (section 139B)
- the restrictions on number of pharmacy businesses in which a pharmacist may have a beneficial interest (section 139H)
- whether a person, other than the owner, has control over a pharmacy through certain business arrangements (section 139I).

We conducted the testing by:

- checking the pharmacist's registration status online
- reviewing the pharmacy file for relevant documentation
- using the Monitoring of Drugs of Dependence System (MODDS) database to check the number of pharmacies a person owns (but not how many an entity owns, because MODDS doesn't link the ownership information to an entity).

The department uses the following tools to record notifications:

1. a SharePoint tracking spreadsheet. This records the date of relevant milestones such as issuing of notification letters and updating of ownership details
2. the MODDS database. This records the number of pharmacies a person owns and the pharmacist's registration number.



The department does not record all data for each ownership notification it receives, such as the type of notifications. (Pharmacy files also include notification of changes in business particulars like a change of name or location of a pharmacy.) We had to create our own dataset of the ownership transfers that have occurred since January 2016 by physically going through each of the pharmacy files and identifying the transfers that related to a change in pharmacy ownership.

We provided the department with a copy of the dataset we created. The data we collated shows that between 1 January 2016 and 31 July 2018, the department received 816 notification forms for pharmacy ownership transfers. (Refer to Appendix G for details of the population we tested.)

We identified ‘high risk’ transactions to test against sections 139B, 139H and 139I. These were notifications with a higher risk that the transfer was not compliant with the Act due to the complexity of the ownership transfer. They included:

- transfers between a pharmacist and an entity where the pharmacy business has a franchise arrangement
- transfers from an entity to another entity where the pharmacy business has a franchise arrangement
- new pharmacies where the business has a franchise arrangement.

## What we found

We assessed a sample of the notification forms between 1 January 2016 and 31 July 2018 and found the department had not requested sufficient documents to determine if:

- franchise groups have a proprietary interest in individual pharmacies. This means the franchise group has a complete or partial ownership in the pharmacy business.
- undeclared pharmacy ownership exists. For example, people may own multiple pharmacies through different business structures such as having a share in an entity that owns pharmacies.

We also found instances where corporate documents (such as certification of incorporation) were missing, and the department’s pharmacy files contained non-certified corporate documents.

For the high risk transfers (464 notifications) and a sample of 59 notification forms from the non-high risk transfers, we conducted additional testing to determine if the department ensured the notifications complied with the Act in relation to:

- the applicant’s eligibility to own a pharmacy
- the control of pharmacies to pharmacists only.

We found the department:

- did not have the required documents for 65 of the 523 notification forms we tested (including notifications for 464 high risk transfers and 59 non-high risk transfers).
- did not request sufficient documents to determine compliance with ‘the right to control’ element of the Act
- did not identify if pharmacists have an ownership interest in more pharmacies than the Act allows through a corporate structure.



## Section 139B—Restriction on who may own pharmacy business

Section 139B of the Act contains a specific list of who may own a pharmacy. We did not find any evidence of non-compliance with section 139B of the Act. All pharmacy owners were registered pharmacists. However, the department did not obtain sufficient records to test whether franchise groups had a proprietary interest in pharmacy businesses.

The department, based on its understanding of section 139B of the Act, determines the type of documents a pharmacy owner needs to submit to demonstrate eligibility to own a pharmacy.

We also assessed whether the pharmacy files contained enough corporate documents to show the transfers complied with the Act. The notification form requires the registrant of a corporation to provide certified copies of a certificate of incorporation, a current Australian Securities & Investments Commission (ASIC) historical extract and the corporation's current constitution.

Of the 464 notification forms we assessed as high risk transactions and a sample of 59 non-high risk transactions, we found 65 instances where the corporate documents to support the notification of ownership transfer either did not exist in the department's records or were not certified. Specifically, we found:

- six instances where the pharmacy file did not contain the corporate documents
- 20 instances where the pharmacy file contained the corporate documents, but they were not marked as certified copies (The department requires pharmacy owners to submit certified copies of these documents.)
- 39 instances where the pharmacy file had a combination of the above.

The department has not consistently checked the documents to ensure the notifications comply with the Act.

## Section 139H—Restrictions on number of pharmacies a person can have a beneficial interest in

The department provided an extract of pharmacist and pharmacy registration data for two dates (as at 22 February 2017 and 9 July 2018) from the MODDS database. Using this data, we conducted analysis of pharmacist ownership interests in pharmacies and of any relatives who might be associated with these pharmacists.

We tested all 816 notification forms between 1 January 2016 and 31 July 2018. We did not find any individual pharmacists owning more than five pharmacies in Queensland.

However, the MODDS database does not make any linkages between pharmacists and entities. This means the database in use by the department does not enable it to test if a pharmacist has ownership interests through entities. The department relies on pharmacy owners to provide ownership information through the notification process, for example, by requesting them to provide the details of all shareholders (including percentage ownership) and directors of the company that will own the pharmacy. It does not request or check with an external data source what other entities the pharmacy owner has an ownership interest in.



Through matching data in the MODDS database to the Australian Business Register and ASIC data, we identified some potential non-compliance with the ownership rules. Specifically, we identified the potential for pharmacists to have undeclared beneficial interests in more than five pharmacies through entities like a company. The department needs to analyse these examples further. In some cases, as the department does not routinely record key data points like dates of birth and Australian Company Numbers in the database, the analysis cannot be completed thoroughly without reviewing physical documents in the pharmacy files and requesting additional data from pharmacy owners.

Appendix H shows an example of one of the scenarios we tested where there was the potential for an undeclared ownership interest.

### Section 139I—Certain arrangements about control of pharmacy business void

Section 139I of the Act states that a commercial arrangement for a pharmacy business (such as a franchise agreement or other commercial arrangement) is void (legally invalid) if it:

- gives a person, other than the owner of the business, the right to control the business or receive any consideration that varies according to the profits or takings of the business, or
- controls where the owner can obtain goods or services from.

We were unable to find documents that demonstrated the department assesses whether commercial arrangements for pharmacy businesses are void (section 139I). We understand the department did not request these documents because the Act does not clearly define the term 'control'. Its officers are unclear about how to determine whether a person other than the owner of the business has the right to control the pharmacy business (which would make a commercial arrangement void under the Act).

Although section 139I and the definition of control is open to a level of interpretation, the fact the department is not even asking for the documents to assess this section means it is not addressing the Act's overall objective.

There are many subtle ways in which pharmacy businesses may be set up to circumvent the objective of the ownership provisions. For example, they could have agreements and arrangements in place that give non-pharmacists a proprietary interest in a pharmacy and some degree of control over how the pharmacy operates and how the pharmacist practises. Examples are franchise agreements and franchise disclosure statements where clauses:

- determine the goods and services the franchisee must use
- oblige the pharmacist to ensure the day-to-day running of the business operates within the franchisor's established boundaries or subject to its direction.

The department has only asked for additional documents (such as franchise agreements) when pharmacists (or their representatives) complain about a pharmacy structure for specific instances of ownership transfers.

Unlike sections 139B and 139H, there is no legal requirement to make changes if a commercial arrangement doesn't meet the requirement of section 139I. Even though there is no offence under section 139I, the overall objective of the Act is to limit pharmacy ownership. The department has not conducted sufficient checks to ensure this objective is achieved.



The lack of evidence means there is a risk that certain agreements do not satisfy the legislative requirements. For example, there may be risks associated with:

- commercial arrangements that allow franchise groups to have control over the pharmacy business
- franchise groups having proprietary interests in a pharmacy.

We requested examples of franchise and commercial agreements for comparison purposes and to test whether the agreements would render any commercial arrangements void under section 139I. The department provided us with a service agreement and an occupancy licence agreement from an unbranded pharmacy (that is, a pharmacy that did not belong to a franchise business). It also provided us with franchise agreements from three other franchise groups and a management agreement from a pharmacy group. We found these agreements contained terms that may be void under section 139I of the Act.

Without assessing franchise agreements from all the franchise groups, the department cannot effectively meet the intent of the Act.

## Monitoring compliance with the Act

---

The Act allows the department to appoint authorised inspectors to undertake enforcement action. The department has not done so.

It has also not actively monitored whether pharmacy owners continue to comply with the Act's requirements after they have notified the department of a transfer in ownership. The departmental officers we interviewed did not feel they were required or had the legislative authority to monitor and enforce compliance. But the Act provides:

- a clear statement that compliance with the Act is to be monitored and enforced
- for the chief executive to appoint an inspector(s) who '... has the function for conducting investigations and inspections to enforce compliance with this Act'.

There is a risk that pharmacies could be operating in breach of the Act. The department does not monitor whether the business structures and commercial arrangements (terms of agreements) pharmacies use after they notify the department of an ownership transfer comply with the Act.

The departmental team that manages pharmacy ownership transfers does not have the capacity to effectively monitor compliance. Only four people are involved in the management of the notification process and they are also responsible for ensuring the administration of scheduled medicines complies with the state legislation.

Also, the department requires legal assistance to thoroughly assess commercial arrangements such as franchise agreements and guarantee documentation to determine that tests of control are not being breached. It currently seeks legal assistance on an as-needed basis when it receives a complaint.

Appendix F shows a comparison of compliance approaches across other jurisdictions.



# Appendices

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<b>A.</b>	<b>Independent assurance practitioner report</b>	<b>21</b>
	Respective responsibilities	21
	Use of report	21
	Inherent limitations	21
	Basis for disclaimer of opinion	21
	Assurance opinion	22
<b>B.</b>	<b>Full responses from agencies</b>	<b>23</b>
	Comments received from Director-General, Department of Health	24
	Comments received from Chair, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee	29
<b>C.</b>	<b>Audit objectives and methods</b>	<b>30</b>
	Audit objective, scope and criteria	30
<b>D.</b>	<b>Extract of the Pharmacy Business Ownership Act</b>	<b>32</b>
<b>E.</b>	<b>Notification of changes to pharmacy ownership</b>	<b>34</b>
<b>F.</b>	<b>Legislation comparison</b>	<b>35</b>
<b>G.</b>	<b>Testing population</b>	<b>37</b>
<b>H.</b>	<b>Example of pharmacy interest analysis</b>	<b>38</b>



# A. Independent assurance practitioner report

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We have audited whether the Department of Health (the department) ensured transfers of pharmacy ownership (for the period from 1 January 2016 to 31 July 2018) complied with the requirements of the *Pharmacy Business Ownership Act 2001* (the Act), as measured by the audit criteria (see Appendix C).

## Respective responsibilities

---

The department is responsible for ensuring transfers in pharmacy ownerships comply with the requirements of the Act.

The responsibility of the Queensland Audit Office is to provide reasonable assurance that the department has complied with the Act, as measured by the audit criteria, for the period from 1 January 2016 to 31 July 2018. We have conducted the audit in accordance with applicable Standards on Assurance Engagements (ASAE 3100 Compliance Engagements). Our audit included assessing the department's processes and procedures and re-performing its pharmacy ownership notification process.

## Use of report

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This compliance audit report has been prepared for the members of the Queensland Parliamentary Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee and the department, in accordance with the audit criteria. We disclaim any assumption of responsibility for any reliance on this report to any people other than these, or for any purpose other than that for which it was prepared.

## Inherent limitations

---

Due to the lack of evidence and some limitations in the department's internal control framework, it is possible that we may not have been able to detect all non-compliance with the Act. The audit procedures we performed were undertaken on a test basis rather than being performed continuously throughout the audit period. The audit conclusion expressed in this report has been formed on this basis.

## Basis for disclaimer of opinion

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Due to the lack of sufficient appropriate evidence to support the department's notification process, we were unable to test compliance activities relevant to the assessment of certain requirements of the Act, including sections 139B, 139H and 139I.



## Assurance opinion

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Because of the matter described in the previous paragraph, we were unable to obtain enough appropriate evidence to provide a basis for a reasonable assurance opinion on the department's compliance with the Act, as evaluated against the audit criteria.



## B. Full responses from agencies

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As mandated in section 64 of the *Auditor-General Act 2009*, the Queensland Audit Office gave a copy of this report with a request for comments to the Department of Health and the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

This appendix contains the detailed responses to our audit recommendations.



## Comments received from Director-General, Department of Health

---



Enquiries to: Dorothy Vicenzino  
Executive Director  
Chief Medical Officer and  
Healthcare Regulation Branch  
Telephone: (07) 3708 5245  
File Ref: G-ECTF-18/8189

19 September 2018

Mr Brendan Worrall  
Auditor-General  
Queensland Audit Office  
PO Box 15396  
CITY EAST QLD 4002

Dear Mr Worrall

Thank you for your letter dated 5 September 2018, regarding the recent audit on managing transfers in pharmacy ownership, and the proposed report to parliament that you provided for our information and comment.

The Department of Health previously commented on the preliminary draft report. My response provided an overview of the highly regulated environment in which pharmacies operate and pharmacists practise, and the suite of both federal and state legislation that governs the supply, storage, handling, dispensing, prescribing and use of medicines in Australia, and Queensland in particular. This highly regulated environment has been effective in minimising the risk of harm to Queensland consumers for many years.

The department acknowledges the findings of the report and accepts that implementation of the recommendations of the proposed report will result in a more thorough administration of the Act. The department is committed to implementing the recommendations and will establish a project to undertake this work and support impacted stakeholder to transition to a more robust review of both transfers of pharmacy ownership and the business models pharmacy business owners are adopting in Queensland. I have enclosed the department's formal response to the report and draw your attention to the assumptions underlying the response.

As you are aware, the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee is currently conducting an inquiry into the establishment of a pharmacy council and transfers of pharmacy ownership in Queensland. The department's response to the report assumes that the Committee supports the recommendations contained in the report, there is no change to current legislation and the department retains responsibility for administering the Act. If there are changes to any of these assumptions, the actions, deliverables, timelines and the program of work to implement, the recommendations would need to be reviewed.

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Should you require further information, the Department of Health's contact is Ms Dorothy Vicenzino, Executive Director, Chief Medical Officer and Healthcare Regulation Branch, on telephone 3708 5245.

Yours sincerely



**Michael Walsh**  
Director-General  
Queensland Health



## Responses to recommendations

### Response to Queensland Audit Office's proposed audit report on Managing transfers of pharmacy ownership.

#### Summary response

The core business of the health system is to deliver healthcare and improve equitable access to quality and safe healthcare in its different forms and settings. In administering the Pharmacy Business Ownership Act 2001, the department has focused its efforts on ensuring compliance with the restriction on who may own pharmacy business (Section 139B), and the restriction on number of pharmacy businesses in which a person may have beneficial interest (Section 139H). No non-compliance with these sections was identified by the audit and the department is confident that, due to the nature of the checks undertaken during the notification process, the likelihood of non-compliance is close to zero.

#### Current state

The department seeks to achieve balance in regulation, weighing up the needs of small business, the benefit to the community and the cost of compliance activities. The pharmacy industry and the pharmacy profession are highly regulated – even without the *Pharmacy Business Ownership Act 2001* – giving the department a level of comfort that the handling and dispensing of medications and consumer safety concerns in relation to medicines is well covered by other regulatory and compliance activities. The current legislative framework places the onus for safe, compliant handling and dispensing of medicines on the pharmacist on duty and not on the owner of the business. In the near future, the department is progressing to consultation on the draft *Medicines and Poisons Act* and Regulation, which will replace the current Health (Drugs and Poisons) Regulation 1996. The new draft legislation proposes to place the onus for safety and compliance on both the pharmacist on duty and the owner(s) of the pharmacy business.

The administration of the *Pharmacy Business Ownership Act 2001* is undertaken by non-frontline staff and is a light touch administration that imposes very low costs to the public. Pharmacists are well-respected and are a trusted profession in Queensland. The department has significant confidence that pharmacists honestly and openly declare their pharmacy interests as required by the notification process. In addition, most transfers of pharmacy ownership are facilitated by legal professionals who are obligated to ensure that declarations by the pharmacist are fully compliant with the requirement of the law. Currently, the department reactively monitors Section 139I of the Act which deals with certain arrangements about control of pharmacy business void. The department has had no reason to believe that pharmacy owners were entering into agreements that would breach Section 139I of the Act, and has demonstrated a willingness to conduct a thorough investigation when a complaint is made.

#### Response to findings

The department accepts the findings of the Queensland Audit Office.



### Response to Recommendations

The department accepts the recommendations of the Queensland Audit Office. The administration of the Pharmacy Business Ownership Act 2001 is currently the subject of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee's parliamentary inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership in Queensland. The department's ongoing responsibility for administration of the Act is dependent on the outcomes of the inquiry. Further, the inquiry may recommend a review of the Act to identify and address limitations to definitions and powers of enforcement.

Many of the recommendations from the report are related. As a result, the actions outlined in the following table are related and/or interdependent and, actions will be undertaken concurrently.

The following table outlines actions proposed by the department to address the recommendations. These actions are subject to the following assumptions:

- The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee supports the recommendations contained in the audit report
- The department retains responsibility for administering the *Pharmacy Business Ownership Act 2001*
- There is no change to existing legislation
- Should these assumptions change, the actions, deliverables, timeframes and the program of work will need to be reviewed.



Table 1: Departmental actions in response to recommendations

ID	Action	Deliverable	Expected Duration
<b>Recommendation 1:</b> That the Department of Health (the department) clarifies its role and obligations in the administration of the <i>Pharmacy Business Ownership Act 2001</i> (the Act) and the skills and resources it needs to fulfil its functions effectively.			
1.1	Establish a temporary project team for 24 months to implement the recommendations.	Project team established	3 months
1.2	Establish a Steering committee to oversee the implementation of the recommendations	Steering Committee established	4 months
1.3	Develop a policy document clarifying the role and obligations of the department	Published policy document	6 months
<b>Recommendation 2:</b> That the department re-designs its internal controls so it can effectively administer the Act. This should include: <ul style="list-style-type: none"> <li>revising the Pharmacy Ownership Business Rules and the notification checklist to include all relevant information relating to the notification process</li> <li>determining whether decision support tools such as the Monitoring of Drugs of Dependence System (MODDS) database can be modified to better support its notification process or if new tools are required</li> <li>defining checks to detect whether pharmacists have undeclared ownership interests in a pharmacy through a corporation.</li> </ul>			
2.1	Re-design internal controls to effectively administer the Act based on the roles and obligations under the Act	Internal controls mapped and documented	12 months
2.2	Develop Pharmacy Ownership Business Rules (work instructions) to support policy and business processes.	Document finalised	18 months
2.3	Business requirements and gap analysis undertaken to ascertain specifications for decision support tools finalised.	Specifications finalised	18 months
2.4	Establish a permanent team to administer the Act (ongoing)	Permanent team established	24 months
2.5	Commence the development and implementation of decision support tool	System commenced to be implemented	24 months

3

<b>Recommendation 3:</b> That the department better defines the type of documents pharmacy owners need to provide to support the notification process. This should include: <ul style="list-style-type: none"> <li>requiring owners to provide documents that allow the department to thoroughly test all ownership requirements of the Act, including circumstances under which ownership of pharmacies can be made not legally binding due to control issues (139I)</li> <li>requesting all relevant documentation at the time of the notification submission, including information to validate an individual's identity such as date of birth</li> <li>keeping sufficient records to enable process validation.</li> </ul>			
3.1	Develop and implement a communication plan to communicate and consult on the implementation of the recommendations	Communication Strategy developed	12 months
3.2	Develop guidelines to support pharmacy owners and their agents through the notification process	Pharmacy Business Transfer Notification Guidelines finalised	18 months
3.3	Review and amend notification forms to align with the new assessment process	Revised notification form/s approved and published	18 months
<b>Recommendation 4:</b> That the department implements a process to monitor pharmacies' ongoing compliance with the Act. This should include establishing a monitoring and compliance program to review pharmacy ownership at regular intervals, for example, conducting random inspections of pharmacies at the department's discretion.			
4.1	Develop and implement ongoing compliance monitoring plan to support the monitoring of compliance with the Act.	Compliance monitoring plan implemented	24 months
<b>Recommendation 5:</b> That the department develops and implements a risk-based strategy for testing that existing commercial arrangements comply with sections 139B, 139H and 139I of the Act.			
5.1	Develop a plan for reviewing existing commercial arrangements for compliance against 139B, 139H and 139I.	Compliance review plan developed	12 months
5.2	Implement risk management plans with business owners to assess existing commercial arrangements against the compliance requirements of 139B, 139H and 139I as per the compliance plan.	Risk management plan for review of existing commercial arrangements implemented	24 months

4

# Comments received from Chair, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee



## Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

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Your Ref: 9180P Our Ref: A367245

20 September 2018

Mr Brendan Worrall  
Auditor-General  
Queensland Audit Office  
PO Box 15396  
CITY EAST QLD 4002

By email: [gao@gao.qld.gov.au](mailto:gao@gao.qld.gov.au)

Dear Mr Worrall

### Response to proposed audit report

I write on behalf of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee and refer to correspondence from your office dated 5 September 2018 enclosing a copy of the proposed report, *Managing transfers in pharmacy ownership*, and requesting the committee's comments.

We note that your recommendation 6 in the report recommends that the committee:

*Recommends to the Minister for Health to seek amendments to the Act to enable the department to more effectively manage the pharmacy ownership notification process.*

*This should include defining the legal implications if a commercial arrangement does not meet section 139I of the Act (certain arrangements about control of pharmacy business void).*

The committee welcomes the proposed report, and will consider your recommendation 6 when framing our report and recommendations to Parliament.

Any questions should be directed to the Committee's Secretary, Mr Rob Hansen on 3553 6632 and [health@parliament.qld.gov.au](mailto:health@parliament.qld.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Aaron Harper'.

Aaron Harper MP  
Chair



# C. Audit objectives and methods

## Audit objective, scope and criteria

The objective of the audit is to assess whether the Department of Health ensures transfers in pharmacy ownerships comply with the requirements of the *Pharmacy Business Ownership Act 2001*.

The audit has addressed this objective through the following line of inquiry and audit criteria.

**Figure C1**  
**Audit criteria**

Line of inquiry		Criteria	
1.1	The Department of Health ensures transfers of pharmacy ownership comply with the <i>Pharmacy Business Ownership Act 2001</i> (the Act) when it notes* the notification of ownership transfers.	1.1.1	The Department of Health has effective systems and processes to assess whether transfers in pharmacy ownership comply with the Act.
		1.1.2	The Department of Health's decisions about compliance with the Act since 1 January 2016 are supported by evidence, including checks against: <ul style="list-style-type: none"> <li>• section 139B of the Act, which restricts who may own pharmacy businesses</li> <li>• section 139H, which restricts the number of pharmacy businesses a person may have a beneficial interest in.</li> </ul>

Note:

\* The Department of Health currently notes the pharmacy ownership transfers only. It does not approve the notifications.

Source: Queensland Audit Office

We developed audit test procedures to evaluate the department's design and implementation of the control activities and their operating effectiveness.



We conducted the assessment by:

- interviewing key personnel
- performing walkthroughs, that is, from the pharmacy owner's initial notification of ownership changes to the department's letter of acknowledgement
- re-performing the department's process for managing the ownership transfer for a sample of notifications
- conducting audit analytics for data relating to transfer of pharmacy ownerships. This was to confirm that no pharmacist owns more than five pharmacies (as per section 139H of the Act).



## D. Extract of the Pharmacy Business Ownership Act

---

The following sections of the *Pharmacy Business Ownership Act 2001* are key to the audit.

### 139A Definitions

In this part—

**own**, a pharmacy business, includes having a proprietary interest in the pharmacy business, but does not include having an interest in the pharmacy business arising under a bill of sale, mortgage, or other form of security, for the pharmacy business.

**relative**, of a pharmacist, means—

- (a) the pharmacist's spouse; or
- (b) a child of the pharmacist who is at least 18 years of age.

### 139B Restriction on who may own pharmacy business

A person must not own a pharmacy business unless the person is—

- (a) a pharmacist; or
- (b) a corporation whose directors and shareholders are all pharmacists; or

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 197, to have also committed the offence.

- (ba) a corporation—
  - (i) whose directors and shareholders are a combination of pharmacists and relatives of the pharmacists; and
  - (ii) in which the majority of shares are held by pharmacists; and
  - (iii) in which only pharmacists hold voting shares; or
- (c) a friendly society that, at the commencement of this section, operates a pharmacy business in the State or another State; or
- (d) a friendly society that is an amalgamation of 2 or more friendly societies mentioned in paragraph (c); or
- (e) Mater Misericordiae Health Services Brisbane Limited ACN 096 708 922.

Maximum penalty—200 penalty units.



## 139H Restriction on number of pharmacy businesses in which a person may have beneficial interest

- (1) A pharmacist must not have a beneficial interest in more than 5 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

- (2) For subsection (1), a pharmacist has a beneficial interest in a pharmacy business if the pharmacist—
- (a) owns the pharmacy business; or
  - (b) is a director of, or shareholder in, a corporation that owns the pharmacy business.

- (3) A corporation must not own more than 5 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

Note— If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 197, to have also committed the offence.

- (4) A friendly society must not own more than 6 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

Note— If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 197, to have also committed the offence.

- (5) Mater Misericordiae Health Services Brisbane Limited ACN 096 708 922 must not own more than 6 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

Note— If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 197, to have also committed the offence.

## 139I Certain arrangements about control of pharmacy business void

- (1) A bill of sale, mortgage, lease, franchise, agency or other service or commercial arrangement for a pharmacy business is void to the extent it—

- (a) gives to a person, other than the owner of the business—

- (i) the right to control in whole or part the way in which the business is carried on; or
- (ii) the right to receive any consideration that varies according to the profits or takings of the business;

or

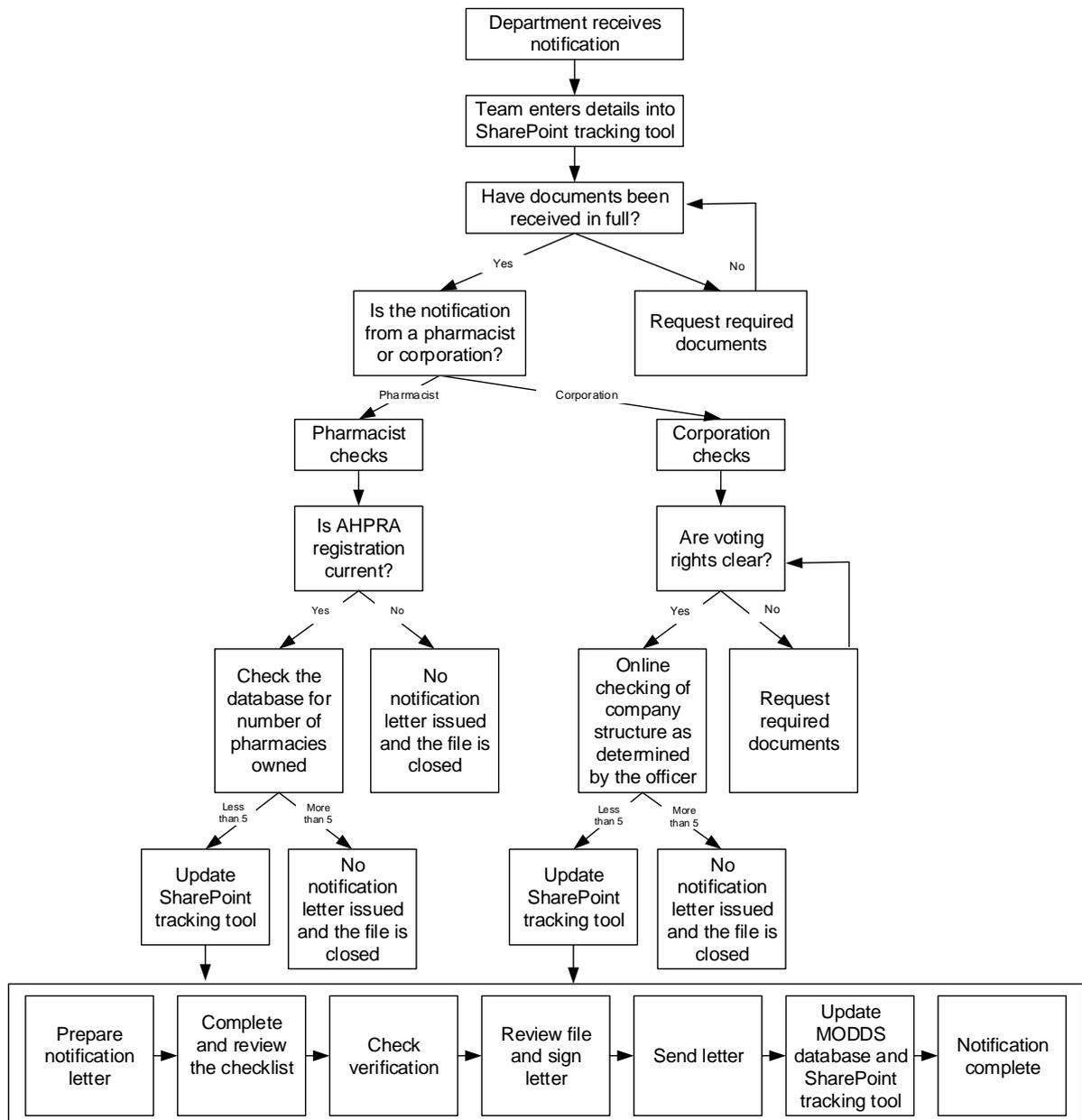
- (b) requires goods or services for the business to be obtained from a stated person or body.



# E. Notification of changes to pharmacy ownership

Figure E1 summarises the steps the department takes in managing the notifications of changes to pharmacy ownership.

**Figure E1**  
**Notification process**



Source: Queensland Audit Office following discussions with the departmental staff

Note: AHPRA—Australian Health Practitioner Regulation Agency



## F. Legislation comparison

Figure F1 shows a comparison of compliance approaches across states and territories in Australia.

**Figure F1**  
**Compliance and enforcement of ownership of pharmacy businesses—jurisdictional comparison**

State/territory	Relevant legislation	Administering body	Comments on compliance approach
Queensland	<i>Pharmacy Business Ownership Act 2001</i>	Department of Health	The website includes guidance on how pharmacy ownership structures will be assessed but no information about compliance or enforcement.
New South Wales	Health Practitioner Regulation National Law Health Practitioner Regulation (New South Wales) Regulation 2016	Pharmacy Council of NSW	NSW has a document called 'The Guide', which is not a compliance/enforcement strategy as such. It does, however, include Guide Notes 21 and 24, which provide some information about inspections and contraventions and offences.
Victoria	<i>Pharmacy Regulation Act 2010</i>	Victorian Pharmacy Authority	Victoria has a risk-based approach to regulation that includes how inspections are scheduled and undertaken and some information about investigations.  Victoria also has a performance measurement framework with quarterly reporting.
South Australia	<i>Health Practitioner Regulation National Law (South Australia) Act 2010</i>	Pharmacy Regulation Authority SA	South Australia has procedures for complaint handling. These state that investigations will be undertaken when complaints are received.
Western Australia	<i>Pharmacy Act 2010</i> Pharmacy Act 2010—Regulations	Pharmacy Registration Board of Western Australia	There is no publicly available information on their website.



State/territory	Relevant legislation	Administering body	Comments on compliance approach
Northern Territory	Schedule 7 of the <i>Health Practitioners Act</i>	Department of Health—Pharmacy Premises Committee	There is no publicly available information on their website.
Australian Capital Territory	<i>Public Health Act 1997</i>	ACT Health	The website states: Routine pharmacy inspections are performed by the Health Protection Service. A pharmacy inspector may inspect a pharmacy business at any reasonable time without prior notice. Pharmacy staff are entitled to ask any inspecting officer to produce their identify card and ask questions relating to the inspection or pharmacy regulation.

Source: Queensland Audit Office

## G. Testing population

During the period 1 January 2016 to 31 July 2018, the Queensland Department of Health received 816 notification forms relating to 316 pharmacies. Figure G1 shows the number of notification forms in each of the ownership transfer categories.

**Figure G1**  
**Ownership transfers**

Ownership notification form category*	Ownership transfer type as per the notification form (% of ownership share)	Number of notification forms from franchises	Number of notification forms from non-franchises	Total
A	I am selling my current pharmacist % to a pharmacist	0	16	16
B	I am selling my current pharmacist % to a company	100	66	166
C	I am selling my current company % to a pharmacist	8	6	14
D	I am selling my current company % to a company	126	67	193
E	I am buying a % as a pharmacist	1	23	24
F	I am buying a % as a company	202	131	333
G	I am amending my current % from myself to a company in which I own a share	4	5	9
I	I am opening a new pharmacy	23	38	61
Total population**		464 (consists of 92 individuals and 372 companies)	352 (consists of 207 individuals and 145 companies)	816*** (consists of 299 individuals and 517 companies)

Note: \* Categories that relate to transfers of pharmacy ownerships

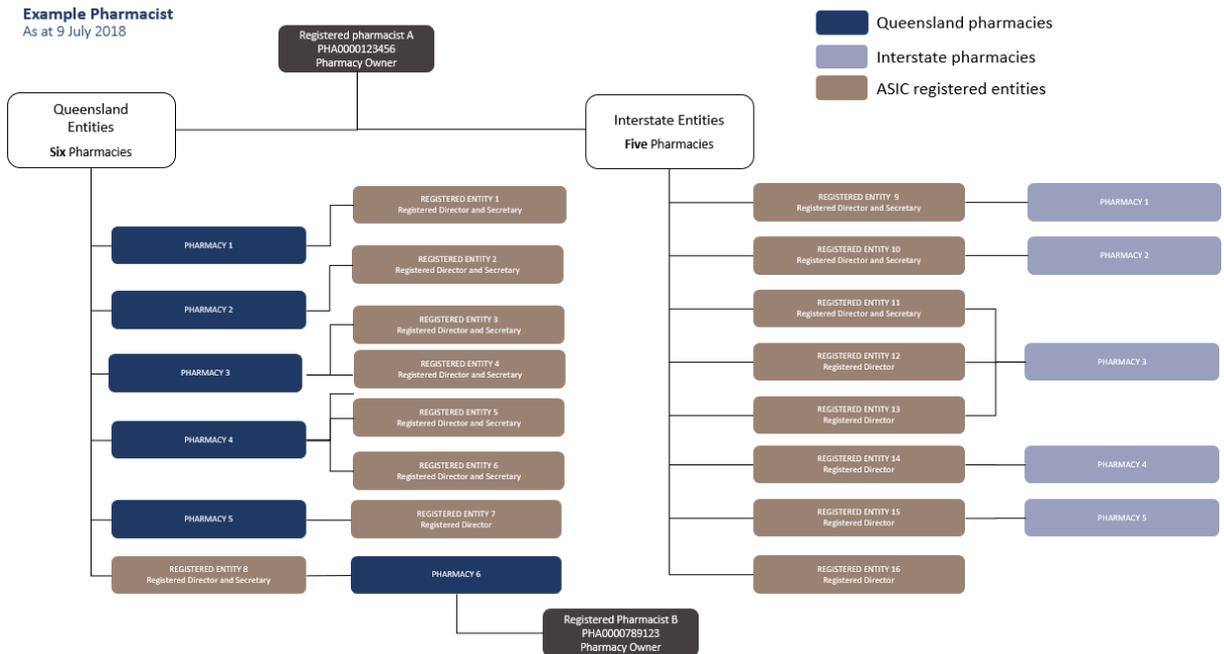
\*\* Total population = A+B+C+D+E+F+G+I

\*\*\* One transfer can have multiple notification forms. The 816 notification forms came from 316 pharmacies.

Source: Queensland Audit Office



# H. Example of pharmacy interest analysis



We validated the case with the department and found the department had not updated the registered entity in its database. Through manual interventions, the department confirmed the registered entity under Pharmacist A sold the pharmacy to Pharmacist B in 2014 but it did not remove the registered entity from the pharmacy record.

The current process requires the department to undertake a manually intensive process to assess potential undeclared ownership interests. It also highlights the risk of not keeping up-to-date records in its database.



# Auditor-General reports to parliament

## Reports tabled in 2018–19

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- |    |  |                |
|----|--|----------------|
| 1. | Monitoring and managing ICT projects   | July 2018      |
| 2. | Access to the National Disability Insurance Scheme for people with impaired decision-making capacity | September 2018 |
| 3. | Delivering shared corporate services in Queensland   | September 2018 |
| 4. | Managing transfers in pharmacy ownership   | September 2018 |



## Audit and report cost

This audit and report cost \$205 000 to produce.

## Copyright



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