

BILL NO. 32 OF 2020

A BILL

FOR AN ACT TO AMEND THE PHARMACY PROFESSION ACT 2011

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Pharmacy Profession (Amendment) Act 2020.
- (2) This Act comes into force on the date of publication in the Gazette.
- (3) In this Act, the Pharmacy Profession Act 2011 is referred to as the “Principal Act”.

Section 45 amended

2. Section 45 of the Principal Act is amended by—
 - (a) in subsection (2), deleting “this subsection” and substituting “subsection (1);
 - (b) in subsection (5) after “comply”, inserting “with subsection (4)”; and
 - (c) after subsection (6), inserting the following new subsection—

“(6A) An authorisation issued under this section is valid for a period of 12 months and may be renewed annually.”.

Section 45A amended

3. Section 45A of the Principal Act is amended after subsection (3) by inserting the following new subsections—

“(3A) Subject to subsection (3), an authorisation issued to a licensee of a private hospital is valid for a period of 12 months from the date of issue and may be renewed annually.

(3B) An authorisation issued to a licensee of a private hospital must be revoked by the Minister for breach of any condition of the authorisation.”.

Section 45B inserted

4. The Principal Act is amended after section 45A by inserting the following new section—

“Transition for change in authorisation period

45B.—(1) Any person issued an authorisation under section 45 on or before the commencement of the Pharmacy Profession (Amendment) Act 2020 that exceeds 12 months must apply to the Board before 31 December 2020 for an authorisation to own or have a proprietary interest in a pharmacy business in accordance with section 45.

(2) A licensee of a private hospital that owns or has a proprietary interest in a pharmacy business on or before the commencement of the Pharmacy Profession (Amendment) Act 2020 must apply to the Minister before 31 December 2020 for an authorisation to own or have a proprietary interest in the pharmacy business in accordance with section 45A.

(3) Any authorisation issued to a licensee of a private hospital to own or have a proprietary interest in a pharmacy business is revoked if the licensee fails to apply to the Minister before 31 December 2020 for an authorisation to own or have a proprietary interest in the pharmacy business in accordance with section 45A.”.

August 2020

PHARMACY PROFESSION (AMENDMENT) BILL 2020

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Pharmacy Profession Act 2011 ('Act') provides *inter alia* for the practice of pharmacy by regulating the registration and conduct of pharmacists, pharmacy chemists and pharmacy technicians. The Act also regulates the operation of pharmacies, pharmacy businesses and the provision of pharmacy services in Fiji.
- 1.2 Under section 45 of the Act, the following persons are authorised to own or have a proprietary interest in a pharmacy business:
- (i) a registered pharmacist;
 - (ii) a company registered under the Companies Act 2015 where all directors are registered pharmacists who hold all shares and beneficial interest in those shares;
 - (iii) a lawful partnership whose partners are all registered pharmacists;
 - (iv) a registered pharmacist, or other person approved by the Board subject to specific conditions;
 - (v) a licensee of a private hospital (private hospital).
- 1.3 Under section 45A of the Act, an authorisation may be issued to a private hospital provided that *inter alia* pharmacy services are provided by persons who are registered pharmacists licensed under the Act.
- 1.4 However under both sections 45 and 45A of the Act, the authorisation period for an authorisation issued to own or have a proprietary interest is not provided for, leaving interpretation to be open to no expiry date unless specified in the authorisation. This, however, is open to mismanagement in relation to the operation of the pharmacy business and may be an avenue for corrupt practices to thrive.

- 1.5 The Bill therefore seeks to amend sections 45 and 45A of the Act to ensure that all authorisations issued under the Act to operate a pharmacy business are issued for a period of 12 months which may be renewed annually, irrespective of ownership.
- 1.6 The proposed amendments seek to provide for accountability, transparency and avoid any conflicts of interest which may arise during the running of a pharmacy business in Fiji.
- 1.7 Furthermore, under section 45A of the Act there is no provision which provides for the revocation of an authorisation for a private hospital to operate a pharmacy business. Accordingly, the Bill seeks to allow the Minister to revoke any such authorisation for breach of any condition of the authorisation.
- 1.8 Moreover, the Bill also seeks to amend the Act to insert a new section 45B to provide a transitional provision to cater for the proposed amendments to sections 45 and 45A of the Act respectively.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on the date of publication in the Gazette.
- 2.2 Clause 2 of the Bill amends section 45 of the Act to provide for the authorisation period for the operation of a pharmacy business, which is to be 12 months and may be renewed annually.
- 2.3 Clause 3 of the Bill amends section 45A of the Act to provide for authorisations to licensees of a private hospital to own or have a proprietary interest in a pharmacy business for a period of 12 months and the authorisation may be renewed annually.
- 2.4 Clause 3 of the Bill also amends section 45A to allow the Minister to revoke an authorisation at any time for breach of any conditions of the authorisation.
- 2.5 Clause 4 of the Bill amends the Act by inserting a new section 45B to provide for the transitional provision which requires a person issued an authorisation under section 45 which exceeds 12 months to apply to the Board before 31 December 2020 for the issuance of an authorisation in accordance with the proposed amendments to section 45.
- 2.6 Clause 4 of the Bill also requires a licensee of a private hospital to apply to the Minister before 31 December 2020 for an authorisation to own or have a proprietary interest in the pharmacy business in accordance with the proposed amendments to section 45A.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for health and medical services.

A. SAYED-KHAIYUM
Attorney-General