

Bill 41 Regulations – Issue and Options Analysis

Issue # 1: Pharmacy Manager Qualifications



September 8, 2009 (revised)

Introduction and Background

PricewaterhouseCoopers LLP (“PwC”) has been engaged to work with the Manitoba Pharmaceutical Association (“MPhA”) and the Manitoba Society of Pharmacists (“MSP”) to assist with building consensus around thirteen issues identified by the Steering Committee (see Appendix A) with respect to the Bill 41 regulations, thereby facilitating progress towards approval of the regulations.

On March 5, PwC facilitated a Stakeholder Mapping Workshop that was attended by members of the Steering Committee and a representative of Manitoba Health and Healthy Living. This workshop resulted in validation of the key stakeholders and a documented understanding of which stakeholder organizations/groups were perceived to be most interested in being engaged in consultations regarding each of the thirteen issues.

On April 7, 2009, PwC facilitated a full-day retreat (“Retreat”) involving several representatives of MPhA and MSP, and a representative of MHHL. During the retreat, PwC facilitated a series of discussions regarding twelve of the thirteen identified issues; the “Distance Care” issue was not addressed during the retreat because it was deemed too complex for productive discussion within the time available. During the Retreat, MSP and MPhA agreed upon specific action plans for seven of the twelve issues that were discussed; MSP and MPhA also agreed that further facilitated consultation was merited in relation to the other five issues discussed at the Retreat.

The five issues that will be discussed in a series of Focus Groups are the following:

- Tele-pharmacy;
- Pharmacy Technicians;
- Pharmacists Prescribing, which will be discussed in combination with Extended Practice Pharmacists & Specialty Care Practice; and
- Inducements.

The seven issues for which an action plan was agreed at the Retreat are as follows:

- Central Fill Component;
- Personal Health Information Number (“PHIN”);
- Practice Directions / Standards of Practice;
- Professional Liability Insurance;
- Record Keeping;
- Pharmacy Manager Qualifications; and
- Pharmacist Profiles.

With the agreement of the Steering Committee, the information presented herein will be used to develop an implementation plan that could ready the issue for a member vote.

Overview of Issue

The December 2007 Draft Regulations require that a pharmacist meet certain requirements (i.e., number of practice hours or successful completion of approved training) before becoming a Pharmacy Manager. Stakeholder reactions to the Draft Pharmacy Manager Regulation have varied widely. There is no consensus amongst stakeholders as to whether there should be any specific criteria for a Pharmacy Manager (other than being a licensed pharmacist) and there is no consensus as to what the criteria should be, if implemented. The degree of disparity in pharmacist’s views on this subject was evident in the range of responses that were provided by respondents to a membership survey conducted on this matter by the Manitoba Society of Pharmacists.

There are no specific requirements, beyond being a licensed pharmacist, to become a Pharmacy Manger, in most Canadian provinces.

Options Paper

The remainder of this document provides information and background related to this issue. Specifically, the following information has been provided:

- **Suggested Course of Action:** A summary of the course of action which has been agreed to by the MPhA Council and the MSP Board;
- **Summary of Positions:** A summary of the positions of MPhA, MSP, and the Government of Manitoba has been provided. This summary identifies each stakeholder's high-level concerns and/or opinions following a Retreat held with the MPhA Council, the MSP Board, and a representative of MHHL in April 2009;
- **Jurisdictional Comparison:** A high-level summary of how other jurisdictions in Canada have addressed and/or are addressing the issue; and
- **Background:** The background document provides additional detail regarding the issue, including pertinent sections of the proposed draft regulations, detailed information on stakeholder concerns and/or positions; and a more detailed summary of how other Canadian jurisdictions address the issue.

Suggested Course of Action

At the April Retreat, MSP and MPhA agreed upon the following Action Plan.

Proposed Action Plan:

Draft Regulations will stipulate that a Pharmacist cannot be a Pharmacy Manager unless the Pharmacist has accrued 2,000 practice hours **or** has successfully completed a training program approved by Council (based upon mutually acceptable principles established by MPhA and MSP).

The above Action Plan does not require any changes to the Draft Regulations; however, it does require that MPhA Council and the MSP Board agree to mutually acceptable principles for the training program before the regulations are ratified. The Pharmacy Manager training program does not need to be defined within the Regulations.

It is noteworthy that the agreed action plan is out of alignment with most Canadian jurisdictions and the recommendations of the MPhA Pharmacy Manager Qualifications sub-committee. Accordingly, in PwC's view, it is incumbent upon MPhA Council to clearly communicate to its members the Council's rationale for proceeding with an approach that is out of alignment with most other jurisdictions and the recommendations of its own sub-committee.

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Summary of Positions

MPhA Council	MSP Board	MHHL
<ul style="list-style-type: none"> The new Pharmaceutical Act and regulations impose a heightened responsibility and authority for a pharmacy manager. There is an “or” in the requirements in the regulations to qualify as a Pharmacy manager: training or hours of practice. MPhA responded to the concerns expressed by the members during the consultation process with the members and has reduced the required experience hours from 4,000 to 2,000 in the draft. 	<ul style="list-style-type: none"> MSP feels it is important that the Faculty of Pharmacy train Pharmacy students to prepare them to become managers immediately upon graduation. MSP prefers a mandatory pharmacy manager training program versus a requirement for minimum number of accrued hours in practice as a criteria/requirement for becoming a pharmacy manager. ▪ 	<ul style="list-style-type: none"> Regulations should specify non-ambiguously what qualifications are required to become a pharmacy manager. Public safety should not be sacrificed because qualified managers are not available (this is a business/operational challenge). Feels there are three areas of concern: patient care, business management, and accountability. Public have legal recourse, so members need to be place careful consideration around this regulation.

Jurisdictional Comparison

None of the jurisdictions reviewed by PwC currently have any requirements to become a Pharmacy Manager, other than being a licensed pharmacist.

Background

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Draft Pharmaceutical Regulations: Policy Document, December 3, 2007	
Pharmacy manager qualifications	<p>39(1) In addition to the requirements of s.64(3) of the Act, a pharmacy manager must:</p> <ul style="list-style-type: none"> (a) be a member; (b) have received training or completed a professional development program that meets the learning objectives established by Council or, in the alternative, have at least 2,000 practice hours as a pharmacist in a similar practice in any Canadian jurisdiction; (c) not be a pharmacy manager at more than one pharmacy, unless approved by council; and (d) demonstrate to the satisfaction of the registrar that he or she will personally and adequately supervise the operation of the pharmacy.
Previous Version (April 2007)	<p>39 (1) In addition to the requirements of s.64(3) of the Act, a pharmacy manager must:</p> <ul style="list-style-type: none"> (a) hold a license under section 12 ; (b) have at least 4,000 hours of experience as a pharmacist, in any Canadian jurisdiction, in a similar practice setting, or equivalent training or experience satisfactory to council ; (c) not be a pharmacy manager at more than one pharmacy, unless approved by council; and (d) demonstrate to the satisfaction of the registrar that he or she will personally and adequately supervise the operation of the pharmacy.
MPhA Explanation document sent to members February 2008	<p>Section 39 - Pharmacy Manager Qualifications:</p> <p>Council recommends keeping this section requiring a training program or experience for a pharmacy manager as it is in the best interest of the public. Council suggests a decrease in the number of practice hours, as an indicator of ability, from 4000 to 2000 hours in the second Regulations Discussion Document. Under the new Act and regulations, pharmacy managers</p>

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	will have enhanced responsibility to ensure compliance with the statutes at the pharmacy they manage. As a reminder, this section has some flexibility that a pharmacist could receive training, in lieu of the practice hours.
Positions	
MPhA Council Position / Comments	<p>Meetings: Retreat April 7, 2009</p> <ul style="list-style-type: none"> ▪ The new Pharmaceutical Act and regulations impose a heightened responsibility and authority for a pharmacy manager. There is an “or” in the requirements in the regulations to qualify as a Pharmacy manager: training or hours of practice. ▪ MPhA responded to the concerns expressed by the members during the consultation process with the members and has reduced the required experience hours from 4,000 to 2,000 in the draft.
MSP Board Positions / Comments	<p>Meetings: Retreat April 7, 2009</p> <ul style="list-style-type: none"> • MSP feels it is important that the Faculty of Pharmacy train Pharmacy students to prepare them to become managers immediately upon graduation. • MSP prefers a mandatory pharmacy manager training program versus a requirement for minimum number of accrued hours in practice as a criteria/requirement for becoming a pharmacy manager. <p>Document: MSP Position Statement (February 27, 2009)</p> <p>The recommendations as presented by the MPhA Pharmacy Manager Qualifications Subcommittee are supported.</p> <p>There is a lack of evidence to establish that pharmacists with less than 2,000 hours of experience as a pharmacist are not qualified or are less qualified to assume the role of a pharmacy manager.</p> <p>Other Provincial Pharmacy Regulatory Authorities have not enacted similar provisions, and the proposed requirements may put Manitoba pharmacies at a disadvantage in recruiting new graduates and foreign trained pharmacists.</p>
MHHL	<p>Meetings: Retreat April 7, 2009</p> <ul style="list-style-type: none"> • Regulations should specify non-ambiguously

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	<p>what qualifications are required to become a pharmacy manager.</p> <ul style="list-style-type: none"> • Public safety should not be sacrificed because qualified managers are not available (this is a business/operational challenge). • Feels there are three areas of concern: patient care, business management, and accountability. ▪ Public have legal recourse, so members need to be place careful consideration around this regulation.
Surveys	<p>Document: Questionnaire 1 – Pharmacy Manager Qualifications</p> <ul style="list-style-type: none"> ▪ 65 percent of respondents did not agree that to be a Pharmacy Manager, a person should require 4,000 hours of service in a Pharmacy. ▪ 63 percent agreed that a minimum number of hours should be required in pharmacy practice. Of these, the average number of hours suggested was approximately 2,000. <p>MPhA Regulations Discussion Document April 2007:¹</p> <ul style="list-style-type: none"> • Section 39(1) received 52% approval by the responding members <p>MPhA Regulations Discussion Document July 2007:¹</p> <ul style="list-style-type: none"> ▪ Section 29(1) received 68% approval by the responding members
MPhA Subcommittee – Pharmacy Manager Qualifications	<p>Document: MSP Position Statement (February 27, 2009)</p> <p>The MPhA Pharmacy Manager Qualifications Sub-committee Report of August 14, 2008 made a number of recommendations including not supporting a minimum number of hours to qualify as a pharmacy manager.</p> <p>The Sub-committee also agreed that a pharmacy manager should not manage more than one pharmacy unless approved by Council.</p>
Other - MSP Legal Opinion - Robert Dawson, Dawson Law Chambers, May 8th, 2007	<p>Document: MSP Position Statement (February 27, 2009)</p> <p>The legal opinion provided was in reference to</p>

¹ It is noteworthy that the surveys conducted by MPhA asked members whether they were in favor of the *intent* of the referenced section.

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	<p>the Discussion Document of April 16th, 2007. Nevertheless the opinion remains relevant.</p> <p>Section 39(b) of the regulations prescribes "at least 4,000 hours of experience as a pharmacist, in any Canadian jurisdiction, in a similar practice setting" as one of the qualifications for a pharmacy manager. Although the minimum hours are offset by an alternate "equivalent training or experience satisfactory to council", the use of rigid minimum qualifications can be problematic. The number of hours set as the minimum is necessarily arbitrary.</p> <p>The alternate process of proving equivalent training or experience is referred to Council but without any indication of the procedure or the standard by which Council would assess such applications. Given that the issuance of a professional license is at stake, an unsuccessful candidate may choose to attack the process as a breach of administrative law principles known as the rules of natural justice. Noting that current practices exist by which to approve the application of a pharmacy manager, the introduction of minimum hours arguably introduces unnecessary complications and encourages unwanted scrutiny of the approval process."</p>
Pharmacy Manager Qualifications in Other Jurisdictions	
Ontario	<i>No data found.</i>
Saskatchewan	<i>No data found.</i>
Alberta	<i>No data found.</i>
British Columbia	<i>No data found.</i>