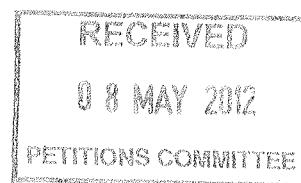




631-1035

The Hon Tanya Plibersek MP
Minister for Health

The Hon John Murphy MP
Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600



Dear Mr Murphy

Thank you for your letter of 19 March 2012 regarding a petition recently submitted for the consideration of the Standing Committee on Petitions requesting the approval of a pharmacy in Hackett, Australian Capital Territory, under subsection 90A(2) of the *National Health Act 1953* (the Act).

Before a pharmacist can be approved to supply Pharmaceutical Benefits Scheme (PBS) medicines at particular pharmacy premises, certain criteria must be met under the Pharmacy Location Rules. These criteria are detailed in the Rules which aim to ensure access for all Australians to a well distributed network of community pharmacies, including in rural and remote areas.

The Rules are intended to promote community access to PBS medicines by ensuring that a viable and appropriately located pharmacy network is in place. They do this through location based criteria that encourage an appropriate geographical spread of pharmacies, whilst ensuring that pharmacies do not become too closely clustered together, which could lead to some pharmacies having insufficient volume of work to allow efficient and viable operation.

The Australian Community Pharmacy Authority considers applications against the relevant criteria in the Rules and is unable to consider other issues outside the Rules. If the Authority finds that an application satisfies the requirements of the Rules, it must recommend that the application be approved. The Authority can not recommend approval if the requirements of the Rules are not met.

If the Authority does not recommend a pharmacist to be approved and the Secretary's delegate rejects an application, the pharmacist may request that I exercise my discretionary power under the Act to approve the pharmacist to supply PBS medicines. Such a request must be made within 30 days of receipt of advice that an application has been rejected.

The aim of the Ministerial Discretion provision of the Act is to address exceptional circumstances where there are unintended consequences of the Rules. There is a two stage process for me to exercise my discretionary power. Under the Act, I have three months from the date the request is received in which to decide whether or not to consider the request. If I decide to consider a request, I then have a further three months to decide whether or not to exercise my discretionary power.

I can only exercise my powers if I am satisfied that:

- a decision not to approve an application will result in a community being left without reasonable access to PBS medicines supplied by an approved pharmacist; and
- it is in the public interest to approve the pharmacy.

In deciding whether the Hackett community has reasonable access to the supply of pharmaceutical benefits I will examine a range of factors including why the pharmacist's application did not satisfy the requirements of the Rules, the characteristics and demographics of the local area, the community's current level of access to the supply of pharmaceutical benefits, and any other factors that are relevant to this matter.

Once again, thank you for bringing this matter to my attention.

Yours sincerely

Tanya Plibersek

30.4.12