MINISTRY OF HEALTH Government of the Republic of Trinidad and Tobago

MINISTRY OF HEALTH'S WRITTEN SUBMISSION TO THE JOINT SELECT COMMITTE ON LOCAL AUTHORITIES, SERVICE COMMISIISIONS & STATUTORY AUTHORITIES (INCLUDING THE THA)

4TH REPORT ON AN INQUIRY INTO THE REGULATION & LICENSING OF MEDICAL DOCTORS BY THE MEDICAL BOARD OF TRINIDAD & TOBAGO

MINISTRY OF HEALTH

28/09/2017

JOINT SELECT COMMITTEE ON LOCAL AUTHORITIES, SERVICE COMMISSIONS & STATUTORY AUTHORITIES (INCLUDING THE THA)

4th Report on an Inquiry into the Regulation and Licensing of Medical Doctors by the Medical Board of Trinidad and Tobago

OBJECTIVE 1: TO UNDERSTAND THE SYSTEMS AND PROCEDURES EMPLOYED BY THE MEDICAL BOARD AND ITS COUNCIL TO EXECUTE ITS MANDATE.

3.1.15

A. We recommend the immediate implementation of the Specialist Register outlining the respective doctor's qualification which should also be made publicized on the websites of the MBTT and MoH. This register should be adequately maintained and updated as is necessary.

Draft guidelines were submitted to the Ministry of Health on the implementation of the Regulations. The Legal Department opined that same were ultra vires the Regulations. The draft guidelines were sent to the Office of the Solicitor General for a legal opinion. The Ministry is awaiting a response. See the attached proposed amendments in Appendix 1.

B. We recommend that the list of registered doctors (full, temporary or provisional) should be made accessible to the public via the website of the Medical Board and the Ministry of Health. This will encourage greater transparency in the medical profession.

The registered list of doctors has been posted on the Medical Board of Trinidad and Tobago's website and a link will be established on the Ministry of Health's website.

C. Pursuant to 20 (1)(d) of the Act, we recommend that regulations be made to:

i. **provide for an annual fee to be paid by members of the MBTT; and**
ii. **prescribe penalties for failure to pay such fees.**

According to the Medical Board Act (1960), Subsidiary Legislation 2.(1) (page 21) provides for an approved fee structure. However, there is no consequence for failure to pay Annual Retention Fee (ARF). Therefore, an amendment to the Act is currently being considered to make failure to pay fees a condition for erasure. See the attached proposed amendments in Appendix 1.

D. To encourage greater compliance with the proposal made at (C) above, the MBTT should consider publishing a list of doctors who have failed to pay their annual fees. This list can be published once per year on the Board's website and in at least 2 daily newspapers.

The MBTT's administrative staff can publicize a list of doctors who have failed to pay ARF via its website and in the newspapers.

E. Due consideration should be given to the costs and benefits of adopting the British model that focuses on a license retention fee as opposed to a license application fee.

The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960).

F. The Committee endorses the following recommendation proposed by the Trinidad and Tobago Medical Association (T&TMA): "that mandatory registration with the Board needs to be regularized and medical doctors should be held accountable for practicing without a valid registration with the MBTT. Accordingly, sanctions or penalties should be provided for in the Act".

The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960). See the attached proposed amendments in Appendix 1.

G. To protect the public against unfair pricing, we recommend that the Specialist Register include a prescribed fee structure that must be adhered to by the specialists.

The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960). See the attached proposed amendments in Appendix 1.

H. Further, we recommend that the Parliament be provided with an update on the policy guidelines for the implementation of the Medical Board (Specialist Registration) Regulations 2014 within 60 days of the presentation of the report.

There are no policy guidelines. The Medical Board submitted Guidelines on the implementation of the Specialist Register Regulations which the Legal Department opined were ultra vires the Regulations. A formal opinion was sought from the Solicitor General.

3.1.16

I. We recommend the thorough review of the Medical Board Act by the Ministry of Health and MBTT in order to:

i. **Provide greater autonomy to the Medical Council in the area of decision making.**
ii. **Reduce the lag time between approvals for decisions to be made.**

The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960) in Section 20.(1) & (2).

OBJECTIVE 2: THE PRACTICE AND PROCEDURE ADHERED TO BE THE MEDICAL COUNCIL IN RELATION TO DISCIPLINARY PRECEEDINGS INVOLVING MEDICAL DOCTORS

3.2.14

A. We recommend that a Board member against whom an allegation is made be mandated to respond to the allegations within the stipulated timeframe. A doctor should have the option of seeking an extension of time to provide feedback on the complaint. Thereafter, there should be a commensurate penalty for failure to provide a written response to allegations.

The MBTT stated that its internal policy stipulates a timeframe of 14 days for a doctor to respond to allegations. However, if a doctor fails to provide a response there is no penalty. The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960).

B. It is a standard practice that deliberative bodies such as committees and council convene meetings pursuant to an established quorum. In view of this, we recommend that Section 6 of the Act should be amended to stipulate that meetings of the Council be convene based on a quorum of members. Each council should have the authority to determine an appropriate quorum for conducting the council's meetings/proceedings.

The MBTT stated that its internal policy stipulates a quorum of 6 Members to convene monthly meetings. The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960).

3.2.17

C. We therefore recommend that an investigative arm of the Board should be commissioned in conjunction with the Director of Public Prosecutor's (DPP) office.

The Ministry of Health is currently reviewing this option and it will require an amendment to the Medical Board Act (1960).

D. The Committee recommends that the Ministry of Health pursue stakeholder consultations regarding the appropriate modalities for a robust and effective system for conducting investigation into complaints made against medical practitioners. The system should:

a) **Promote fairness and equality in the investigative process;**
b) **Afford the medical board sufficient powers to initiate or S upport such investigations;**
c) **Take into consideration existing policy guidelines that aim to threat with allegation of inappropriate conduct by medical doctors;**

d) Empower the Council to "send for papers and records" pertinent to any investigation into the conduct of medical doctors.

The Ministry of Health is currently reviewing these options and it will require amendments to the Medical Board Act (1960) in Section 20.(1) & (2).

E. We recommend that the Ministry of Health present to the Parliament a policy position on the regulation of allied health professionals (not inclusive on nurses) in Trinidad and Tobago within three months of the presentation of this report.

The Ministry of Health is currently developing the position paper on the regulations of allied health professionals. .

F. The policy position should also include the establishment and maintenance of a register of qualified allopathic doctors as is done by the General Medical Council, UK.

The Ministry of Health is reviewing this policy position for the development of a register of qualified allopathic doctors as is done by the General Medical Council, UK.

OBJECTIVE 3: CRITERIA, STANDARD AND PROCEDURED IN PLACE FOR THE HIRING OF FOREIGN DOCTORS AND MONITORING THEIR PERFORMANCE

3.2.10

A. Creating or facilitating any alternative mechanisms for registering medical doctors besides the medical board may have a deleterious effect on status and authority of the MBTT. Arguably, alternative mechanisms for screening doctors seeking registration in Trinidad and Tobago can employ the same criteria and due diligence process of the Medical Council. However, strengthening and supporting the operations of a single oversight body (i.e. MBTT) would promote greater control and certainty in the regulatory framework. In view of this, we recommend that the MBTT in collaboration with the MoH implement a strategy to ensure that all non-nationals are registered with the MBTT.

The MBTT's website listed the criteria for eligibility of registration with the application form and the listing of the requirements. Consideration is being given to partner with the MBTT to ensure that all non-nationals are registered. See the attached proposed amendments in Appendix 1.

OBJECTIVE 4: SYSTEMS IN PLACE TO PROTECT PATIENTS AGAINST MALPRACTICE BY DOCTORS

3.4.10

A. We concur with the T&TMA's suggestion that the Medical Council include in its draft legislation, provisions for the creation of a malpractice register. The proposed amendment to the MB Act must also prescribe that this list shall be published along with a Register of doctors in good standing. We believe that such an arrangement would promote more transparency in the medical profession. This along with other amendments to the Act should be submitted for the consideration/concurrence of the Minister of Health by the end of fiscal 2016/2017.

The Ministry of Health is currently reviewing this option and it will require an amendment to the Medical Board Act (1960). See the attached proposed amendments in Appendix 1.

B. Information on conduct/actions which may amount to a malpractice by a medical doctor should also be widely published/disseminated.

The Ministry of Health is currently reviewing this option and it will require an amendment to the Medical Board Act (1960). See the attached proposed amendments in Appendix 1.

3.4.11

A. We recommend that all doctors be required to provide the MBTT with documentary evidence of CME activity biennially in order to maintain general registration. To address this issue, we suggest that Section 20 of the MB Act should be amended and submitted for the consideration/concurrence of the Minister of Health by the end of fiscal 2016/2017 with other amendments recommended by the MBTT.

The Ministry of Health is currently reviewing this option and it will require an amendment to the Medical Board Act (1960). See the attached proposed amendments in Appendix 1.

B. We also recommend that the MBTT:

i. set out the framework of principles and behaviours that should guide CME activities in the form of a handbook for all doctors similar to that of the GMC's Continuing Professional Development Guidance for all doctors; and

ii. raise awareness about trends, issues or opportunities that may be relevant to CME for the guidance of doctors via an annual bulletin that should be published on both the MBTT's and MoH's websites.

The Ministry of Health is currently reviewing this option and it will require an amendment to the Medical Board Act (1960) and the MBTT internal policy. See the attached proposed amendments in Appendix 1.

C. We recommend that the MoH utilise its partnership with foreign institutions to provide training for doctors locally to assist in fulfilling the requirements for CME.

The Ministry of Health is currently reviewing this option with the MBTT to facilitate this process of training.

3.4.12

A. In this regard we recommend that the MBTT collaborate with the MoH to establish a mechanism for monitoring and evaluating foreign doctors who are engaged in private practice. These methods might include compulsory periodic reports or activities of foreign doctors; the establishment of a functioning complaint service for patients; independent community surveys using cheap methods such as citizens' score cards (Brixi 2009) or social audits; occasional key informant interviews or focused group discussions on doctors' behaviour.

The Ministry of Health is currently reviewing this option with the MBTT to facilitate this process of assessment and thereafter, if necessary, recommend amendments to the Act.

OTHER MATTERS HIGHLIGHTED DURING THE INQUIRY- TERMS AND CONDITIONS OF EMPLOYMENT WITHIN THE PUBLIC HEALTH SECTOR

3.4.19

A. We recommend that consideration be given to the implementation of an automated time record management system for doctors employed in the Public Health System.

The Ministry of Health is currently reviewing this option with the RHAs to facilitate this process for all personnel employed.

General Comments

The proposed amendments by the Medical Board of Trinidad and Tobago are currently being reviewed by the Ministry of Health and the process to allow for these amendments is outlined in Appendix II.

PROPOSED AMENDMENTS TO MEDICAL BOARD ACT (1960)

To implement our Medical Specialist Register – this interpretation exist in the Barbados Professions Act 2007, Part 1.2

Page 6 of Act, Section 2, paragraph 2 to remove and insert the following:

Interpretation (31 of 2007)

"Specialist" means a medical practitioner who has special training, experience and qualification acceptable to the Council in the areas specified by the Council and whose specialty is entered in the Medical Specialist Register.

To enact Continuing Medical Education credits the following is required

[Section 14 (1) and (2) are already existing in the Act]

Section 14

(1) An applicant for registration under section 16 shall pay to the Treasurer such registration fee as the Minister may by Order prescribe.

(2) A person, upon being admitted to registration or to whom a temporary licence has been granted, shall pay to the Treasurer such annual fee as the Minister may by Order prescribe.

(3) a) The person, upon being granted registration, in order to pay the Annual Retention Fee as prescribed in subsection (2), will be required to show evidence of continuing medical education (CME) credits, in accordance with the standards prescribed in the CME regulations.

b) The Secretary-Treasurer will be required to send notices to Medical Practitioners who fails to provide evidence of CME credits

(4) The Secretary-Treasurer on behalf of the Council is authorised to erase from the register of medical practitioners the name of -

(a) any person who, after three notices, fails to pay a fee prescribed in pursuance of subsection (2) above ; or

(b) any person who applies for his name to be erased from the register on the ground that he does not wish to pay or continue to pay fees prescribed in subsection (2) above.

(5) If a person whose name has been erased from the register in accordance with regulations made in pursuance of subsection (4) above, at any time pays-

(a) such sum (if any) as may be prescribed for the purposes of this subsection by regulations under this section ; and

(b) the fee (if any) which, if his name had not been so erased, would be due from him in respect of the current year, his name shall be restored to the register.

(6) a) Any person whose name is erased from the medical register would be automatically erased from the medical specialist register.

b) a person erased from the medical specialist register may still maintain registration on the medical register as decided by Council.

To prevent medical practitioners who have been erased or suspended in other jurisdictions still being able to practise in T&T by virtue of registration with MBTT

Section 24

(5) *(j)* has been currently erased or suspended or taken off the rolls due to disciplinary infractions from the General Medical Council or any other jurisdiction where he is simultaneously registered

(k) fails to notify MBTT of any erasure or suspension in jurisdictions outside of T&T within 6 weeks of Board Member becoming aware of the position.

To restore medical practitioners who have been erased

Section 29

(2) A person whose name has been erased from the medical register pursuant to section 24 (2c) of the Act may apply in writing to the Board in accordance with this regulation for his name to be restored to the register not less than 24 months following erasure.

(3) A restoration application shall include the following—

(a) the applicant's name and former registration number

(b) details of the applicant's medical qualifications

(c) the address which the applicant wishes to be entered on the register as his registered address

(d) the name and address of any person, body or organisation by whom the applicant will be employed or will have an arrangement to provide medical services, and

(e) where paragraph (d) does not apply, the name and address of the person, body or organisation which most recently employed the practitioner to provide medical services or with whom he most recently had an arrangement to do so;

(f) a statement by—

(i) the applicant including the circumstances leading to his erasure

(ii) any person or an officer of any organisation or body named in accordance with subparagraph (d) or (e), and

(g) the relevant fee under Section 14 (2).

(4) *(a)* On receipt of a restoration application, the Council shall, as soon as is reasonably practicable, refer the matter for consideration by a Panel established by the Council

(b) The Panel shall consider

(i) the gravity of the issue for which the practitioner was erased

(ii) the practitioner's historical professional conduct

(iii) any other current pertinent information which raises concerns

(iv) applicant's fitness to practise

(c) The Panel may adjudicate to

(i) recommend restoration of the applicant's name to the Medical Register; or

(ii) reject the application

(d) No application may be made for restoration of the practitioner's name to the register before the expiry of one year beginning with the date on which the Panel rejected the application.

(e) if a practitioner who after restoration to the medical register, with documents to be restored to the medical specialist register then such practitioner will have to go through the normal application process outlined in section 16 and the specialist register regulation.

Regulations for Continuing Medical Education (CME) credits

The following are the prescribed CME credit points required for paying Annual Retention Fee as per Section 14 (3)

General Registration

All temporary and fully registered practitioners must produce documentary evidence of CME activity. Such evidence shall consist of at least 10 CPD credit points per annum for the first five years and thereafter at least 24 credit points per annum and which are recognised by the MBTT.

Specialist Registration

At the end of five years from the date of entry into the Medical Specialist Register, a specialist must produce documentary evidence of appropriate continuing professional development to maintain his/her status in the Specialist Register. Such evidence shall consist of at least 12 CME credit points per annum for the first five years and thereafter at least 30 credit points per annum in the respective specialty area. Such evidence may be submitted annually to the MBTT for their confirmation.

When is submission required?

The General requirement for CME should be submitted to Council by the 31st December of the preceding year.

1 CME credit point = 1 contact hour of educational activity

Regulations for Medical Board (Specialist Registration)

To implement Policy Guidelines for entry to the Medical Specialist Register and to correct the discrepancy for the non-existence of Specialist Register

Section 3, (a) to remove and insert the following:

(a) satisfactory evidence of fulfilling established Policy Guidelines by appointed Council.

Section 5, to remove item 5 to insert the following:-

Notwithstanding the provision of regulation 3, a person who at the date of the coming into force of these regulations is on the list of Higher Qualifications shall be entitled to be registered as a Specialist in the Medical Specialist Register under these regulations without making application therefore and shall be so registered.

Professor Terence Seemungal
President
MEDICAL BOARD OF T&T

DR. RAJEEV KHAJA
(Secretary)
22/09/2017

Appendix II

THE PROCESS OF LAWMAKING

1. The policy regarding the area to be legislated is developed and finalized following consultation.

2. Line Ministry obtains Cabinet's approval of the policy regarding the area to be legislated.

3. Line Ministry's Legal Department, whether alone or in consultation with the CPC and/ or external consultant, prepares first Draft Bill. Consultation with technical officer(s) and/ or external agencies is also held.

4. First Draft Bill forwarded formally to the Office of the Chief Parliamentary Counsel (CPC). *The CPC and the Law Commission, which fall under the Office of the Attorney General and the Ministry of Legal Affairs, are responsible for the drafting of Public Bills*.

In order to ensure that a Bill when enacted is legally sound and functional, CPC undertakes a detailed study of the matter including the circumstances which gave rise to need for the legislation and the state of the existing law on the particular subject, to determine whether there is a real need for additional/ amendment legislation.

5. First Draft Bill reviewed by CPC's (Pre) Legislative Review Committee (which comprises representatives from that Department and the line Ministry) and revised as necessary.

6. Revised Draft Bill submitted by CPC to LRC (which comprises various Ministers and is chaired at this time by the Minister of Finance).

7. LRC reviews Bill, amends where necessary and approves same.

8. CPC obtains the approval of the Cabinet to lay the Bill in Parliament.

9. Bill is laid in Parliament. *The Parliament comprises the President and the two Houses - the Senate and the House of Representatives. All three constituent parts of the Parliament are involved in the process of making a law.*

The standing orders (or rules) of each House provide for bills to be taken through the different stages on different days. The historic purpose of this was to prevent surprise and to ensure that each bill was considered carefully and without haste.

The different stages provide different opportunities to consider a bill-first overall or in principle, then in detail with the opportunity for amendments to be made, and finally, to enable reconsideration and a "last look".

- First Reading of a Bill - publication and instructions into the agenda, no debate.

- Second Reading- debate on general merits of the Bill.
- Committee Stage- a Standing Committee examines the Bill and amendments are made.
- Report Stage- Bill as amended at Committee stage goes to House for approval.
- Third Reading- final approval stage where verbal amendments may be made.
- In either House, a Bill may be referred to a Special Select Committee of the particular House or to a Joint Select Committee of both Houses for detailed inquiry away from the floor of the Chamber. Therefore, further consideration of the Bill is postponed until the Committee has reported. *The purpose of such inquiry is to enable a small group of Parliamentarians to give more detailed consideration on a Bill or certain aspects of it than is possible on the floor of the Chamber. A committee is usually given specific terms of reference and has the power to summon witnesses and obtain evidence from the public, interested persons and relevant Government Agencies. Once a Committee has reported, its report and the Bill is then considered by the House in which the Bill was first introduced. In the case of Joint Select Committees, the report will also be laid in the other House and debated.*

Some Bills brought to Parliament infringe rights established in the Constitution and must be passed with a special majority. At the end of such a Bill, there is a certificate which clearly states the required majority has been obtained. Section 54 of the Constitution of the Republic of Trinidad and Tobago spells out the types of majorities required for laws infringing various sections of the Constitution.

A Bill must pass through all these stages in each House of Parliament and any amendment(s) made in one House must be agreed to by the other House before it can be presented to His Excellency for Presidential Assent.

10. Once a Bill has been passed by both Houses, special Assent copies are prepared for the signature of the President of the Republic.

11. When the President signs, the Bill becomes an Act. This gives the legislation the status of Law.

12. Once Presidential Assent has been obtained, it is the duty of the Clerk of the House to have the Act printed and published in the Trinidad and Tobago Gazette. The Gazette notification shows the Act No., the Short Title and the date of Assent.

An Act can come into effect in one of several ways, namely:

- *Date of Assent;*
- *A date to be fixed by Proclamation;*
- *A particular or specified date or dates, or;*
- *A combination of the above.*
- *If there is no commencement date, the date of Assent is the date the Act becomes law.*