

No. 17 of 2009

Second Session Ninth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Medical Board Act, to provide for the establishment of a panel to issue special temporary licences in cases of a shortage a persons available to practice medicine in the public health sector, for the recognition of diplomas granted by certain institutions and for matters related thereto

THE MEDICAL BOARD (AMENDMENT) BILL, 2009

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of the Medical Board (Amendment) Bill, 2009 (“the Bill”) is to amend the Medical Board Act, Chap. 29:50 (“the Act”) to provide for the establishment of a panel to issue special temporary licences in cases of a shortage of persons available to practice medicine in the public health sector and for the recognition of diplomas granted by certain institutions.

Clauses 1 and 2 of the Bill are self-explanatory.

Clause 3 of the Bill would insert several new definitions in section 2 of the Act and amend other definitions.

Clause 4 of the Bill would insert two new sections - 9A and 9B.

The new section 9A would provide for the establishment of a panel, referred to as the “Panel for the Issue of Special Temporary Licences” (“the Panel”). The five members of the Panel would be appointed by the Minister of Health (“the Minister”). The Chief Medical Officer in the Ministry of Health would be the Chairman and an *ex officio* member.

The new section 9B would set out, among other things, the functions of the Panel. They are to consider applications for the issue of special temporary licences to practice medicine in the Public health sector, where requested to do so by the Minister and to issue special temporary licences or reject the applications.

Clause 5 of the Bill would repeal section 12 of the Act and substitute a new section to enable the Council to recognize diplomas granted by institutions which may not be recognized by the General Medical Council of the United Kingdom.

Clause 6 of the Bill would amend section 13 of the Act to empower the Minister, where circumstances in the public health sector are such that there is a shortage of persons available to practice medicine, to request the Panel to consider applications for the issue of special temporary licences.

The amendment to section 13 would also empower the Panel to determine the nature and extent of a special temporary licence, subject to certain restrictions regarding renewal.

Furthermore, under the amended section 13, the holder of a special temporary licence would be able to apply to the General Medical Council (“the Council”) for registration under the Act upon the expiration of the licence. The Panel would not be empowered to register persons.

Clause 7 of the Bill would insert a new section 13A and the act to provide for a book, referred to as the “Book of Special Temporary Licences”, to be kept.

Clause 8 of the Bill would amend section 14 of the Act to exempt holders of special temporary licences from the payment of fees under the Act.

Clause 9 would amend section 16 to require persons applying to the Panel for special temporary licences to furnish to the Chief Medical Officer, the same type of information that is currently required by the Council in respect of persons applying for registration as a medical practitioner or for the issue of a temporary licence, other than a special temporary licence.

Clause 10 of the Bill would amend section 18 of the Act to provide for an evidential matter.

Clause 11 would amend section 19 to require annual publication of a list of persons holding special temporary licences.

Clause 12 of the Bill would amend section 24 of the Act. The amendment to subsection (2) would give the Council the jurisdiction to investigate and made recommendations to the Panel, where a holder of a special temporary licence is convicted of an indictable offence or guilty of infamous or disgraceful conduct. The amendment to subsection (5) would make clearer the circumstances in which the holder of any temporary licence shall be deemed to be guilty of infamous or disgraceful conduct.

Clause 13 of the Bill would amend section 29 to make it clear that a person who is aggrieved by the refusal of the Panel to grant a special temporary licence would not have the redress currently available in respect of the decisions of the Council under section 29.

Clause 14 would insert a new section 29A in the Act to exempt the members of the Panel from personal liability as regards certain acts or omissions. This section would also exempt the members of the Board from liability as regards to acts or omissions of the Panel and of holders of a special temporary licence.

Clause 15 would limit the duration of certain provisions of this Act.

Clause 16 would insert a Schedule containing a list of Medical Schools.

BILL

AN ACT to amend the Medical Board Act to provide for the establishment of a panel to issue special temporary licences in cases of a shortage of persons available to practice medicine in the public health sector, for the recognition of diplomas granted by certain institutions and for matters related thereto

[, 2009]

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Medical Board (Amendment) Act, 2009.
Interpretation Chap. 29:50	2. In this Act, “the Act” means the Medical Board Act.
Section 2 amended	3. Section 2 of the Act is amended— <p>(a) by inserting in the appropriate alphabetical sequence, the following definitions:</p> <p>“ ‘Chief Medical Officer’ means the Chief Medical Officer in the Ministry with responsibility for health;</p> <p>“ ‘Minister’ means the Minister to whom responsibility for health is assigned;</p> <p>“ ‘Panel’ means the panel established under section 9A;</p> <p>“ ‘Permanent Secretary’ means the Permanent Secretary in the Ministry with responsibility for health;</p> <p>“ ‘public health sector’ means the public service or a Regional Health Authority;</p> <p>“ ‘special temporary licence’ means a licence to practice medicine in the public health sector, issued in accordance with section 13(1B);”;</p> <p>(b) in the definition of “member”, by inserting after the word “Board”, the words “, except where otherwise provided”; and</p>

(c) by deleting the definition of “temporary licence” and substituting the following definition:

“ “temporary licence” means a licence issued in accordance with section 13 and, except where otherwise provided, includes a special temporary licence.”.

4. The Act is amended by inserting after section 9, the following sections—

“Panel for the issue of Special Temporary Licences established

9A. (1) There is established a panel to be known as the “Panel for the issue of Special Temporary Licences”, consisting of members appointed in accordance with this section.

(2) The Minister shall appoint the following persons to be members of the Panel:

- (a) the Chief Medical Officer, who shall be both the Chairman and an *ex officio* member;
- (b) three medical practitioners, each having at least ten years experience as a medical practitioner; and
- (c) one lay person of good standing in the community, representing the interest of the public.

(3) A member of the Panel, other than the *ex officio* member, shall be appointed for a term not exceeding three years, subject to such terms and conditions as the Minister may fix in the instrument of appointment.

(4) At a sitting of the Panel, the Chief Medical Officer shall have the right to vote.

Section 9A and 9B inserted

(5) The quorum of the Panel shall consist of the Chairman and two other members.

Functions and powers of Panel 9B. (1) The functions of the Panel are to—

- (a) consider applications for the issue of special temporary licences, where requested to do so by the Minister, pursuant to section 13(1A); and
- (b) issue special temporary licences; and
- (c) reject unsuitable applications.

(2) Where the Panel rejects an application, it shall give reasons for so doing.

(3) The Panel shall have such power as is necessary for the discharge of its functions under this Act, including the power to make Rules to regulate its own procedure.

(4) In the exercise of its functions and in the execution of its powers, the Panel may be guided by any Rules or Regulations made by the Council under section 20.

(5) No Rule shall come into force or have effect until it has been approved by the Minister.”.

Section 12 amended **5.** Section 12 of the Act is repealed and the following section substituted:

“Who may be registered 12. (1) Any person who establishes to the satisfaction of the Council that he holds a diploma—

- (a) in respect of which he is entered or entitled to be entered on the Medical Register of the General Medical Council;

(b) granted by an institution listed in
Schedule the Schedule,

and that he is of good character and a fit and proper person to practice medicine, shall upon application and upon compliance with the requirements of this Act be entitled to be registered as a member of the Board.

(2) The Minister may by Order, amend the Schedule.”.

6. Section 13 of the Act is amended—

Section 13 amended

(a) in subsection (1), by inserting after the words “a temporary licence” the words “, other than a special temporary licence,”;

(b) by inserting after subsection (1), the following subsections:

“ (1A) Notwithstanding subsection (1), where the Minister is satisfied that there is a shortage of persons available to practice medicine in the public health sector, the Minister may request the Panel to consider applications for the issue of special temporary licences.

(1B) The Panel may, after consideration of the applications to which subsection (1A) relates, issue a special temporary licence to any person who establishes to its satisfaction that he holds a diploma—

(a) in respect of which he is entered or entitled to be entered on the Medical Register of the General Medical Council;

(b) granted by an institution listed in the Schedule; or;

(c) granted by a recognized institution approved by the Panel,

and that he is of good character and a fit and proper person to practice medicine.”;

(c) date of registration in the Register of Medical Practitioners.

“ (2) The Council or the Panel, as the case may be, shall determine the nature and extent of a temporary licence issued by it, including—

(a) the time during which the licence remains in force;

(b) the area to which it extends;

(c) the nature and character of the work which may be performed under the authority thereof; and

(d) such other terms and conditions as the Council or the Panel may deem expedient to impose.

(2A) A special temporary licence shall not—

(a) remain in force for more than three years;

(b) be renewed unless the holder of the special temporary licence performed satisfactorily during the period covered by the licence; and

(c) be renewed more than once.

(2B) A special temporary licence shall be signed by the Chairman of the Panel.”;

(d) in subsection (3), by deleting the words “the temporary licence” and substituting the words “any temporary licence issued under this Act”; and

(e) by inserting after subsection (3), the following subsection:

“ (4) For the avoidance of doubt, the Panel shall not be entitled to grant to a person registration as a member of the Board.”.

7. The Act is amended by inserted after section 13, ^{Section 13A inserted} the following section:

“Book of
Special
Temporary
Licences

13A. (1) The Permanent Secretary shall cause to be kept a book to be known as the “Book of Special Temporary Licences” in which shall be entered—

- (a) the full name and address of every person issued with a special temporary licence;
- (b) the date of issue of the special temporary licence; and
- (c) a description of and dates of the diplomas the person holds and such other medical degrees and certificates to which he is entitled.

(2) The Permanent Secretary shall cause to be made in the Book of Special Temporary Licences, such alterations as may be necessary to ensure that the information therein is accurate and current.

(3) The Book of Special Temporary Licences shall at all times be open and subject to inspection by any person on payment of a fee of one dollar.”.

Section 14 amended **8.** Section 14 of the Act is amended by inserting after the words “a temporary licence”, the words “, other than a special temporary licence,”.

Section 16 amended **9.** Section 16 of the Act is amended by inserting after the words—

(a) “the Secretary-Treasurer”, the words “or the Chief Medical Officer, as the case may be”; and

(b) “the Council”, the words “or the Panel”.

Section 18 amended **10.** Section 18 of the Act is amended by inserting after the words—

(a) “hand of the Secretary-Treasurer”, the words “or the hands of the Chief Medical Officer, as the case may be”; and

(b) “is the Secretary-Treasurer”, the words “or the person signing as the Chief Medical Officer is the Chief Medical Officer”.

Section 19 amended **11.** Section 19(1) of the Act is amended by inserting after the words “The Secretary-Treasurer”, the words “, or in the case of special temporary licences, the Permanent Secretary,”.

Section 24 amended **12.** Section 24 of the Act is amended—

(a) in subsection (2), by inserting after the words “conduct may”, the words “, in the case of a holder of a special temporary licence, recommend to the Panel that the Panel take such action as the Council may advise, and in any other case, may”; and

(b) in subsection (5)—

- (i) by inserting after the words “every medical practitioner”, the words “or holder of a temporary licence,”; and
- (ii) by inserting after the word “Council”, the words “or the Panel”.

13. Section 29 of the Act is amended by—

Section 29 amended

- (a) renumbering section 29 as section 29(1); and
- (b) inserting after section 29(1) as renumbered, the following subsection:

“ (2) For the avoidance of doubt, this section shall not apply to a refusal by the Panel to grant a special temporary licence to a person or to suspend or revoke a special temporary licence.”.

14. The Act is amended by inserting after section 29, Section 29A inserted the following section:

“Exemption from liability” 29A. (1) The Panel or a member thereof shall not be liable for anything done, permitted to be done or omitted to be done, in good faith, pursuant to the exercise of the functions and powers of the Panel under this Act.

(2) The Board, or a person holding a temporary licence other than a special temporary licence shall not be liable for the acts or omissions of -

- (a) the Panel; or
- (b) a holder of a special temporary licence.”.

15. Sections 3 and 4 and 6 to 14 of the Medical Board Duration (Amendment) Act, 2009 shall continue into force for six years from the date of its assent.

No.17 of 2009

**SECOND SESSION
NINTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO**

BILL

AN ACT to amend the Medical Board Act, to provide for the establishment of a panel to issue special temporary licences in cases of a shortage of persons available to practice medicine in the public health sector, for the recognition of diplomas granted by certain institutions and for matters related thereto

Received and read the

First time

Second time

Third time
