

**CONTRIBUTION MADE BY THE MEMBER FOR NORTH ANDROS AND THE
BERRY ISLANDS, DR. HON. PERRY GOMEZ
DURING THE MEDICAL BILL DEBATE
WEDNESDAY APRIL 23, 2014**

MEMBER FOR NORTH ANDROS AND THE BERRY ISLANDS (DR. HON. PERRY GOMEZ):

Thank you, Mr. Speaker. Mr. Speaker, today I rise on behalf of my Government and the wonderful people of North Andros and the Berry Islands. I thank them again for the confidence they have placed in me as their representative in this honourable place, and I will continue to represent their best interest to the best of my abilities. Mr Speaker, today I am honoured and pleased to move the Bill for an Act to Revise the Regulation of Medical Practice in The Bahamas, and to provide for the continuance of the Medical Council. And before I go any further, I would like to, first, acknowledge two outstanding doctors who facilitated and assisted in the drafting of this new Medical Bill. One is Dr. Franklin Walkine, the Registrar of the Medical Council, who is an established private practitioner and also operator of the only real most efficient air ambulance service in The Bahamas, and who has served as the Registrar of the Council for quite a while.

The second is our Chief Medical Officer, Dr. Merceline Dahl-Regis, who is unable to be her today as she is presently attending a major event in the control of infectious diseases in this hemisphere, and I want to read a short sentence about her. The Comprehensive Family Immunization Unit of the Pan American Health Organization, World Health Organization, invited Dr. Merceline Dahl-Regis in her capacity as the President of the International Expert

Commission. At the convening of the Meeting of the International Expert Committee and National Commissions for Documenting and Verifying Measles, Rubella and Congenital Rubella Syndrome Elimination in the Americas.

This meeting is being held in Asuncion, Paraguay, South America. I want to emphasize that here's a Bahamian physician, paediatrician who trained at Howard University and rose to be an Associate Professor of Paediatrics, where she remained for about 15 years before coming home to take up the post as our Chief Medical Officer. And because of her expertise, she has risen to be the president of this major committee of the World Health Organization. You say, "We must believe in Bahamians". So I am pleased to move the Bill for an Act to Revise the Regulation of Medical Practice in The Bahamas, to Provide for the Continuance of the Medical Council, and for the Registration and Licensing of Medical Practitioners and for Connected Purposes. The Medical Bill of 2014 is needed for The Bahamas Medical Council to ensure that qualified medical practitioners provide quality care to residents, who live, work and do business in The Bahamas.

Mr. Speaker, for more than a decade, there has been the intention to revise the Medical Chapter 2 through 4 of 1975, to make the Medical Council more effective by establishing a more modern and autonomous body. In this the 40th year of Independence as a nation, the Bill will replace the 40-year-old Medical Act and seeks to provide the administrative structures and mechanisms to better regulate:

- A. The practice of medicine by varied groups and categories of medical practitioners.
- B. To upgrade medical practitioners through approved continuing medical education and to safeguard the public through improved means of receiving and disposing of complaints

Mr. Speaker, the functions of the Council will include the assignment of standards for the profession and the introduction of new methods of preservation of standards by the requirement of continuing medical education credits, and the investigation of professional conduct and of the capability of medical practitioners or specialist to practice medicine. The Bill provides for the appointment of a Registrar who is responsible for the management of the Council and outlines the duties of the Registrar. It establishes the General Medical Register of Practitioners in which is entered all practitioners is registered in the various categories.

Mr. Speaker, another new feature of the Bill is that by Clause 15, the Council is empowered to grant registration where the Council is satisfied where the applicant is qualified under Clause 16, to be a medical practitioner that meets certain requirements to practice medicine or surgery. Where the applicant is deficient in certain subjects, the Bill authorizes the Council to require the applicant to submit to an examination in such subjects. The Council shall appoint either a body to be called a Board of Examiners, consisting of three medical practitioners or designate the Caribbean Association of Medical Councils as the Board or an equivalent national, regional or international Board, to set and conduct examinations in some subject matters as the Council may determine.

Where the report indicates that the applicant satisfies the Board that he is skilled and informed in the subject matters in which he was examined, the applicant maybe regarded as having satisfied the Council that he is qualified to be registered as a medical practitioners. The Council may refuse to register an applicant on the grounds that he does not qualify for registration in accordance with Clauses 15 and 16.

Mr. Speaker, in addition to providing for temporary, provisional and special registration, the registration of persons for special purposes has been included. Where the Council is satisfied

that a person, (a), is qualified to practice medicine; and (b), meets the prescribed core standards, the Council may register that person for special purposes, including (one), tele-medicine, or alternative medicine, stem cell therapy and research and advance medical therapy and research, and grants Certificates of Registration are set out in their prescribed forms. Early in our administration, we'd brought forth legislation for stem cell therapy and research in The Bahamas and, of necessity, the Medical Act had to be retuned in order to license people under this category. And so, additionally, to this category, you see telemedicine and other advance medical therapies and alternative medicine.

The Bill also allows for the registration of specialist. A person is considered a specialist who provides proof of qualification in a particular specialty from an institution or body recognized by the Council at a minimum period of relevant post graduate training and practice that are required. A person is registered when the Council is satisfied that an applicant meets the qualifications to be registered as a specialist upon making the payment of the specified fee.

The Council should register the practitioners in a Register to be called the Specialist Register, which shall indicate the specialty in respect of which each specialist name is registered. This is another new feature of the bill. Mr. Speaker, the Bill spells out the professional responsibility of medical practitioners who are registered as specialist. The Bill provides that where a medical practitioner is assisted in his practice by other persons, he must ensure that those other persons are properly trained and certified as competent to render the required service. In the discharge of his professional responsibilities, he is required to conduct himself in a manner that is in accordance with the standards of the professional conduct, satisfy the national ethics committee, the national stem cell ethics committee or any other national ethics committee that he is qualified in his field of specialty. And in the case of advance medical therapies and

non-conventional treatments, satisfy the National Ethics Committee that he is qualified in his field of specialty.

Provision is also included in the Bill to allow a medical practitioner who has neither undergone formal training in a specialty nor has the relevant certification in this specialty to be registered as a specialist where he satisfies the Council that he has been engaged in the practice in a specialty recognized by the Council for a continuous period of not less than 25 years and has the requisite experience, skill and competence in the specialty. The Grand Father clause if you will.

A person registered under this Act is issued a Certificate of Registration by the Registrar which shall be valid for the period specified in the certificate. Similar to a License to Practice, a Certificate of Registration shall be displayed in a prominent position on his place of business.

Mr. Speaker, an applicant maybe refused registration where his character is such that it would not be in the public's interest to allow the applicant to practice as a medical practitioner. It may be that he has a physical or mental condition which significantly impairs his ability to practice as a medical practitioner or that the applicant was previously registered as a medical practitioner in another country and the registration was cancelled on grounds that would justify a similar cancellation in The Bahamas. The Bill provides for the reconsideration of an application where the Council refused to register an applicant and makes procedures for such application for reconsideration.

Mr. Speaker, the Bill provides for the renewal of registration of a medical practitioner except in a case where the registration has been suspended or terminated. The registration of a medical practitioner may be renewed at that point in the payment of the prescribed fee. The Council may require that as a condition precedent of the renewal of registration, evidence that he

has participated in post graduate training or ... or other approved activities that provide information or training respecting new developments in the medical profession or has been exposed to new techniques or procedures in the practice of medicine or has completed a prescribed number of CMEs for relicensing every 2 years approved by the Council.

Mr. Speaker, provision is made in the Bill for the establishment and appointment of the Assessment Committee, the Complaints Committee, and the Disciplinary Committee. The function of the Assessment Committee is to examine applicants for registration and advise the Council on the adequacy of the qualifications of an applicant for registration. The Complaints Committee has the responsibility for the conduct preliminary investigations into any matter concerning the ability of a medical practitioner to discharge, competently, his professional responsibilities or the professional misconduct of a medical practitioner and investigations into any other complaint relating to the conduct to a medical practitioner that is referred to the Complaints Committee by the Council.

Upon conclusion of an investigation, the Complaints Committee shall report, in writing, its findings and decision and the reasons for its decision to the Council and may recommend that no further investigation shall be carried out or the matter be referred in whole or in part to the Disciplinary Committee or such other steps be taken as it considers necessary. Where it is determined that a matter be referred to the Disciplinary Committee and the matter is to be undertaken by way of a formal hearing, the Council may engage the services of a council, an attorney of at least 10 years standing, to assist the Complaints Committee in preparing the referral.

Mr. Speaker, the Disciplinary Committee, which shall be comprised of medical practitioners of at least 10 years standing, shall interalia hear and determine allegations of

professional misconduct or incompetence in relation to a medical practitioner. Hear and determine other matters referred to the Disciplinary Committee by the Council. Upon the conclusion of a hearing or an investigation, the Disciplinary Committee shall report, in writing, its findings and decisions and the reasons for its decision to the Council.

The Disciplinary Committee shall further investigate complaints referred to it by the Council following a preliminary investigation by the Complaints Committee and any allegation made that a medical practitioner is guilty of professional misconduct. Similar to the Complaints Committee where the investigation by the Disciplinary Committee shall be undertaken by way of a formal hearing, the Council shall engage the services of a counsel, an attorney of at least 10 years standing, to assist the Disciplinary Committee with such assistance, if necessary.

Mr. Speaker, given the medical challenges of providing healthcare across the archipelago and geographical beauty of our islands, we are pruned to attract medical practitioners who may not have registered with the Medical Council. The Bill requires a medical practitioner or specialist to inform the Council and to publish a notice in any local newspaper of his intention to establish a medical practice. I repeat.....of his intention to establish a medical practice, and the Bill prescribes the information that must be contained in the notice.

There are expressed concerns by the medical community related to advertising practice by medical professionals as well as out of the country. Mr. Speaker, a medical practitioner or specialist shall not advertise the services to be provided by him or any group or organization with which that medical practitioner or specialist is directly or indirectly associated, or make any representation graphically or otherwise or engage in or permit any act or behaviour that may or is intended to attract business unfairly or that can reasonably be regarded as advertising or

canvassing or should not allow persons, working in his office, to engage in unethical practices that can reasonably be regarded as advertising or canvassing.

Advertising is permitted where a medical practitioner or specialist plans to change the office address for his medical practice, and the medical practitioner or specialist shall inform the Registrar of his intention to change the office address of his medical practice. A medical practitioner or specialist, who has changed the office address of his medical practice, may post a sign outside the premises of the former office for a period of three months. He may also use a circular to inform another medical practitioner or specialist and patients of his intention to go on leave and any arrangements relating to the operations of his medical practice, and the addition of any medical practitioner or specialist to his medical practice provided that the circular contains only his name and qualifications.

Mr. Speaker, the Bill does permit a medical practitioner or specialist a limited and dignified identification of him as a medical practitioner in public notices where the announcement of his professional status is required or authorized by law or is reasonably necessary for a purpose other than attraction of patients. He may also be permitted to place his announcements on a bonafide commercial, civic, professional, social or political organization in which he serves as a director or officer, or in connection with medical text books, articles or professional journals and other medical publications, in dignified and restrained advertisements or in announcements of any public address, lecture, or publication by him or in medical topics, provided that such announcements do not emphasize his own professional competence or make reference to the professional competence of another medical practitioner or specialist.

An advertisement by a medical practitioner or specialist shall comply with the requirements under the Act and the regulations, or the specialist shall be guilty of professional

misconduct. A person who is aggrieved by an advertisement by a medical practitioner or specialist may make a complaint to the Council in writing. Mr. Speaker, the Act outlines the procedure of the Council for conducting an investigation and making a determination regarding a complaint alleging professional misconduct of a medical practitioner or specialist. The Council shall investigate any matter concerning the practice of medicine or the conduct of a medical practitioner or specialist, where the Council determines that such an investigation is necessary in the public interest and in the interest of maintaining the standards and dignity of the profession. The Council may conduct a formal investigation into the ability of medical practitioners to practice medicine or specialist to practice in the area of medicine in respect of which he is registered as a specialist or an informal or formal hearing into the professional conduct of a medical practitioner or specialist.

The Council may investigate any representation, allegation or complaint made by a medical practitioner or specialist relating to the conduct or competence of any other medical practitioner or specialist or any allegation of complaint made in writing by a person other than a medical practitioner or specialist relating to the matter of professional misconduct, unless the Council has determined that the allegation is frivolous or vexatious.

An investigation by the Council, whether it is a preliminary investigation, a review, informal or formal, will be conducted by the Complaints Committee, Disciplinary Committee or Special Review Committee as necessary. Where the Council determines that special expertise is required in conducting an investigation, the Council may conduct a person or a panel to conduct the investigation. Should it be determined that an investigation, other than an assessment of qualifications, be carried out in respect of the conduct, capability or competence of a medical practitioner or specialist, the Council shall refer the matter to the Complaints Committee, the

Special Review Committee or a person or panel appointed by Council. Reasonable notice in writing of the referral shall be given to the medical practitioner or specialist in respect of whom the investigation may be conducted. The notice should be served personally on the medical practitioner or specialist or by prepaid registered mail as soon as possible after the Council has decided to conduct the investigation. A medical practitioner or specialist should be advised of the nature of the investigation and of his right to provide such information as is relevant to the matter. He should be advised of the procedures that may be taken in respect of the matter and of the possibility of being asked to submit to a medical examination or other specified assessment where a medical practitioner is asked to go for a medical examination or assessment, he shall be invited to indicate his willingness to submit to the examination or assessment. The committee, panel or person responsible for the conduct of the investigation, shall submit to the Council no later than 28 days after the conclusion of the investigation, a report in writing that includes its findings, the decision and reasons and the recommendations relating to the matter.

The Council upon receipt of a report relating to the investigation shall immediately make a determination relating to the matter, taking into account the report submitted and take such action as it considers fair and appropriate in the circumstances. Where it considers necessary, the Council may invite the medical practitioner or specialist to appear before Council or to provide, in writing, an explanation relating to the matter.

In the case of a preliminary investigation where the Council accepts the recommendation of the Complaints Committee that the matter be referred to the Disciplinary Committee, the Council shall inform the medical practitioner or specialist in writing of the conclusion of the preliminary investigation and caused to be served on the medical practitioner or specialist and the complainant in the matter, a copy of the decision and reasons for the decision.

In relation to any other investigation, the Council shall, within 28 days of receiving the report of the committee, person or panel that conducted the investigation or the conclusion of the matter after an appearance or submission by the practitioner or specialist has been received, notify the medical practitioner or specialist who is the subject of the investigation of the decision, and that no further action will be taken by the Council relating to the matter and that the matter is referred to the Disciplinary Committee for the conduct of an informal or formal hearing, or of the disciplinary measures to be taken by the Council. Where the report of an investigation by the Disciplinary Committee indicates that a medical practitioner or specialist was engaged in conduct that constitutes a criminal offence, the Council shall submit a copy of the report to the Attorney General.

Mr. Speaker, the Special Review Committee, established by this Bill, has responsibility of investigating the competence and ability of a medical practitioner or specialist to practice medicine. A procedure for such an investigation is outlined in the Bill. The Special Review Committee shall submit to the Council not later than 28 days after the conclusion of the investigation a report in writing that includes its findings, the decision and reasons and the recommendation relating to the matter.

The Council, upon receipt of the report relating to the investigation, shall immediately make a determination relating to the matter, taking into account the report submitted and take such action as it considers fair and appropriate in the circumstances. Where it considers necessary, the Council may invite the medical practitioner or specialist to appear before Council or to provide in writing an explanation relating to the matter.

In the case of a preliminary investigation, when the Council accepts the recommendation of the Complaints Committee that the matter be referred to the Disciplinary Committee, the

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In relation to any other investigation, the Council shall within 28 days of receiving the report of the committee, person or panel that conducted the investigation of the conclusion of the matter, after an appearance or submission by the practitioner or specialist has been received, notifies the medical practitioner or specialist who is the subject of the investigation of the decision, and that no further action will be taken by the Council relating to the matter, and that the matter is referred to the Disciplinary Committee for the conduct of an informal or formal hearing or of the disciplinary measures to be taken by the Council.

Where the report of an investigation by the Disciplinary Committee indicates that a medical practitioner or specialist will engage in conduct that constitutes a criminal offence, the Council shall submit a copy of the report to the Attorney General.

Mr. Speaker, the Special Review Committee established by this Bill has responsibility for investigating the competence and ability of a medical practitioner or specialist to practice medicine. A procedure for such an investigation is outlined in the Bill. The Special Review Committee shall give to the medical practitioner or specialist in respect of whom in the investigation is being conducted, at least 30 days notice in writing prior to the commencement of the investigation. The form of notice shall be prescribed by regulations and the Special Review Committee shall make such inquiries as it considers necessary.

The Special Review Committee may find the medical practitioner incompetent where the Committee has reasonable grounds for believing that the medical practitioner or specialist has displayed in his professional care of a patient a lack of knowledge, skills or judgement or disregard for the welfare of the patient, of a nature or to an extent that demonstrates he is unfit to continue in the practice of medicine.

Where the Special Review Committee has evidence of the inability of the medical practitioner or specialist to discharge his professional responsibilities is the result of impairment in the state of his physical or mental health, the dependence on drugs or alcohol or the existence of an incapacity, the Special Review Committee may require the medical practitioner or specialist to submit to physical or medical examination or tests by such qualified persons as the Special Review Committee designates; and to undergo such clinical and other examinations as the Special Review Committee designates to determine whether the medical practitioner or specialist has adequate skills and knowledge to continue the practice of medicine.

Mr. Speaker, where a medical practitioner refuses to submit to an examination or test as required by the Special Review Committee, and that the Committee is satisfied on the strength of other evidence, including the conduct and demeanour of the medical practitioner or specialist that his professional conduct may cause harm to his patients or to himself or bring the profession into disrepute, the Special Review Committee, on completion of the investigation, shall submit a report of its findings, recommendations and advice to the Council within 30 days of the completion of the investigation.

And where, Mr. Speaker, the Special Review Committee has come to conclusion that a medical practitioner or specialist is incompetent to perform his duties, the Committee may recommend to Council that the Certificate of Medical Practitioner or Specialist, be revoked and

that his name be struck from the Register in which it is entered; and the Certificate of Medical Practitioner or Specialist may be suspended for a fixed period or for an indefinite period until the occurrence of some specified future event. Restrictions may be imposed on the Certificate of the medical practitioner or specialist for such period or subjected to such conditions as the Special Review Committee considers necessary, and that the medical practitioner or specialist undergo such treatment of retraining as the Special Review Committee considers necessary, and advise the Council regarding other appropriate measures that may be taken in the circumstances.

Mr. Speaker, the Council may direct the Assessment Committee to conduct an evaluation of the qualifications or capability of a medical practitioner or specialists, or a Special Review Committee to conduct a review of the professional performance of a medical practitioner or specialist, where the capability, competence or professional performance is an issue in any matter under this Bill. The Assessment Committee shall submit a report of its findings in writing to the Council.

Mr. Speaker, the Bill outlines the procedure where a medical practitioner is convicted of an offence and the Council has to take disciplinary measures. If he is convicted of an offence that is punishable on indictment in The Bahamas, or in a country or place referred to in the Act, and that Act or omission constitutes an offense punishable on indictment, or if it took place in The Bahamas, the Council may, by order, suspend the registration.

Mr. Speaker, the financial provisions are at Clause 11 through 14 of the Bill. And the Minister is required at Clauses 12 and 13 to cause a copy of the annual financial statement of accounts together with the auditor's report to be laid before both Chambers of Parliament.

Mr. Speaker, as I said earlier, for more than a decade there has been the intention to revise the Medical Bill. This 2014 revision will make the Medical Council more effective by

establishing a more modern and autonomous body. The Bill, which seeks to provide the administrative machinery to better regulate the medical profession, create a speciality register to upgrade the medical practitioners through approved continuing medical education, and to safeguard the public through improved means of receiving and disposing of complaints, is the results of consultation among successive members of the Medical Association of The Bahamas, the private sector and The Bahamas Medical Council.

Mr. Speaker, that ends the direct comments and presentation on the Bill itself.