DÁIL ÉIREANN

BILL NA LIA-CHLEACHTÓIRÍ 2007
MEDICAL PRACTITIONERS BILL 2007
LEASUITHE COISTE
COMMITTEE AMENDMENTS

[No. 2 of 2007] [20 March, 2007]
DÁIL ÉIREANN

BILLÉ NA LIA-CHLEACHTÓIRÍ 2007
—ROGHCHOISTE

MEDICAL PRACTITIONERS BILL 2007
—SELECT COMMITTEE

Leasuithe
Amendments

SECTION 2
1. In page 10, paragraph (a), line 1, to delete “made in” and substitute “arising out of”.
   —An tAire Sláinte agus Leanai.

2. In page 11, line 18, to delete “section 63(1)(b) or (2)” and substitute “section 63”.
   —An tAire Sláinte agus Leanai.

3. In page 11, line 32, after “a”, to insert “significant”.
   —Liz McManus.

4. In page 11, line 33, after “competence” to insert the following:
   “(whether in knowledge and skill or the application of knowledge and skill or both)”.
   —An tAire Sláinte agus Leanai.

5. In page 11, line 34, after “medicine” to insert “of the kind practised by the practitioner”.
   —An tAire Sláinte agus Leanai.

6. In page 11, to delete lines 42 to 44 and in page 12, to delete lines 1 to 10.
   —An tAire Sláinte agus Leanai.

SECTION 5
7. In page 15, subsection (1)(b), line 28, to delete “an officer” and substitute “a member of the staff”.
   —An tAire Sláinte agus Leanai.

SECTION 7
8. In page 16, subsection (2)(f), line 16, to delete “paragraph (d)” and substitute “paragraph (e)”.
   —An tAire Sláinte agus Leanai.

9. In page 16, subsection (2), lines 18 to 25, to delete paragraph (g).
   —John Gormley.

10. In page 16, subsection (2)(i), line 40, after “on” to insert “all matters related to”.
   —Liz McManus.

[No. 2 of 2007] [20 March, 2007]
11. In page 16, subsection (2)(i), line 42, after “practitioners” to insert the following:

“subject to the requirement that only members of the Council who are registered medical practitioners shall have a vote in the Council on the specification of standards of professional conduct or ethics”.

—Liz McManus.

12. In page 17, subsection (2)(l), line 4, after “including” to insert the following:

“the advances, limitations and risks of current medical knowledge and practice”.

—Liz McManus.

13. In page 17, subsection (4), lines 28 to 31, to delete paragraph (d).

—John Gormley.

SECTION 8

14. In page 18, subsection (1)(a), line 5, before “confer” to insert “with the agreement of the Council”.

—Liz McManus.

SECTION 9

Section opposed.

—Liz McManus, John Gormley.

SECTION 11

15. In page 19, subsection (1)(b), lines 10 and 11, to delete “and in accordance with the request”.

—Liz McManus.

16. In page 19, subsection (2)(c), line 20, after “register” to insert “or their certificates of registration or both”.

—An tAire Sláinte agus Leanaí.

17. In page 19, subsection (2), between lines 33 and 34, to insert the following:

“(i) the specification of examinations for the purposes of subparagraph (i) of section 46(b),

(j) the specification of grounds for the purposes of subparagraph (ii) of section 46(b),

(k) the grounds on which subparagraph (iv) of section 46(b) shall not apply to a medical practitioner due to the unfeasibility of a document referred to in that subparagraph being produced in respect of that practitioner,”.

—An tAire Sláinte agus Leanaí.

SECTION 13

18. In page 22, subsection (2), lines 23 and 24, to delete all words from and including “in” in line 23 down to and including “Minister” in line 24.

—Liam Twomey.

19. In page 22, lines 33 to 36, to delete subsection (3).
[ SECTION 13 ]

20. In page 22, lines 37 to 43 and in page 23, lines 1 and 2, to delete subsection (4).
   —Liam Twomey.

21. In page 23, lines 3 to 5, to delete subsection (5).
   —Liam Twomey.

SECTION 15

22. In page 24, subsection (2), lines 2 to 5, to delete all words from and including “in” in line 2 down to and including “Minister)” in line 5.
   —Liam Twomey.

23. In page 24, subsection (2), line 12, to delete paragraph (d).
   —Liam Twomey.

24. In page 24, subsection (3), lines 16 to 19, to delete paragraphs (b) and (c).
   —Liam Twomey.

25. In page 24, lines 20 to 27, to delete subsection (4).
   —Liam Twomey.

SECTION 16

26. In page 25, lines 11 to 13, to delete subsection (2).
   —Liam Twomey.

SECTION 17

27. In page 25, subsection (1), lines 21 and 22, to delete all words from and including “the” where it firstly occurs in line 21 down to and including “Minister” in line 22 and substitute the following:
   “a proportion of the members of the Council shall be appointed by the Minister, a proportion shall be appointed through election by the bodies regulated by the Medical Council”.
   —Liam Twomey.

28. In page 25, subsection (1), line 22, after “Minister” to insert the following:
   “, following consultation and approval by the Joint Oireachtas Committee on Health and Children”.
   —John Gormley.

29. In page 25, subsection (1), line 22, after “Minister” to insert the following:
   “or, where a nominating body is specified in this section, appointed by that body”.
   —Liz McManus.

30. In page 25, subsection (1), line 23, to delete “25” and substitute “27”.
    —John Gormley.

31. In page 25, subsection (1)(a), line 24, to delete “persons” and substitute “registered medical practitioners”.
    —Liz McManus.
32. In page 25, subsection (1)(b), line 27, to delete “one” and substitute “two”.
—John Gormley.

33. In page 25, subsection (1)(d), line 33, to delete “one” and substitute “two”.
—John Gormley.

34. In page 25, subsection (1), lines 36 and 37, to delete paragraph (e) and substitute the following:
“(e) one registered medical practitioner nominated by—

(i) subject to subparagraph (ii), the Irish Psychiatric Training Committee in relation to psychiatry,

(ii) if a body other than that Committee is approved under section 89(3)(a) to grant evidence of the satisfactory completion of specialist training in relation to psychiatry, that body;”.
—An tAire Sláinte agus Leanaí.

35. In page 25, subsection (1), lines 43 to 45 and in page 26, lines 1 to 7, to delete paragraphs (g) to (i).
—Liz McManus.

36. In page 26, subsection (1), lines 11 to 14, to delete paragraph (k) and substitute the following:
“(k) one person nominated by the Health and Social Care Professionals Council—

(i) subject to subparagraph (ii), who is a registrant within the meaning of section 3 of the Health and Social Care Professionals Act 2005,

(ii) in the absence of any such registrant, a person who is a member of a designated profession within the meaning of that section;”.
—An tAire Sláinte agus Leanaí.

37. In page 26, subsection (1), lines 22 to 28, to delete paragraph (n).
—Liz McManus.

SECTION 20
38. In page 28, subsection (3), line 29, after “Part 10” to insert “or section 106”.
—An tAire Sláinte agus Leanaí.

39. In page 29, subsection (10), line 5, to delete “not”.
—Liam Twomey.

40. In page 29, subsection (11), lines 7 and 8, to delete “(except the Fitness to Practise Committee)”.
—Liam Twomey.

SECTION 23
41. In page 30, subsection (1)(e), line 2, after “satisfied” to insert the following:
“on the recommendation of the President of the Council”.
—Liz McManus.
42. In page 30, lines 36 to 38, to delete subsection (5). —Liz McManus.

43. In page 30, subsection (6), line 39, to delete “The Minister may” and substitute “Both Houses of the Oireachtas may, by resolution.”. —Liz McManus.

44. In page 31, subsection (6), lines 1 to 3, to delete paragraph (c). —Liam Twomey.

SECTION 30

45. In page 34, between lines 41 and 42, to insert the following subsection:

“(8) A disclosure under this section or section 31 shall be recorded in a register together with particulars of any interest of members of the Council or committee or persons to whom section 31 applies, and the register shall be available to public inspection during office hours.”. —Liz McManus.

SECTION 33

46. In page 36, subsection (1), line 13, after “may,” to insert “with the consent of the Minister for Finance and”. —An tAire Sláinte agus Leanáí.

SECTION 39

47. In page 38, subsection (1), line 27, to delete “after consulting” and substitute “on the recommendation of”. —Liz McManus.

48. In page 38, subsection (2)(b), line 39, after “designated” to insert the following:

“and having due regard to the rights of any persons using the title prior to any proposed exercise of that power”. —Liz McManus.

SECTION 43

49. In page 40, subsection (1), line 32, to delete “and maintain a” and substitute the following:

“, maintain and make available to the public a published”. —Liam Twomey.

50. In page 41, lines 11 and 12, to delete subsection (3). —Liam Twomey.

51. In page 41, subsection (5)(b), line 40, to delete “and”. —An tAire Sláinte agus Leanáí.

52. In page 41, subsection (5)(c), line 42, to delete “included.” and substitute “included, and”. —An tAire Sláinte agus Leanáí.

53. In page 41, subsection (5), between lines 42 and 43, to insert the following:
SECTION 43

“(d) such other identifying particulars of the practitioner as the Council considers appropriate.”. —An tAire Sláinte agus Leanaí.

54. In page 42, between lines 15 and 16, to insert the following subsection:

“(9) A registered medical practitioner shall not be required to register his or her home address in any part of the register which is open to public access.”.
—Liz McManus.

SECTION 44

55. In page 42, subsection (1)(a), line 20, after “shall” to insert “, subject to subsection (2),”.
—An tAire Sláinte agus Leanaí.

56. In page 42, between lines 33 and 34, to insert the following subsection:

“(2) Without prejudice to the operation of subsection (3), a medical practitioner whose name is entered in the General Register of Medical Practitioners pursuant to

(a) section 28 (as substituted by section 6 of the Act of 2002) of the Act of 1978, or

(b) section 29 (as amended by section 7 of the Act of 2002) of the Act of 1978,

may, for so long as the practitioner’s name is so entered, only practise medicine pursuant to that registration subject to the same conditions that were applicable to the practise of medicine by that practitioner immediately before the commencement of section 3.”.
—An tAire Sláinte agus Leanaí.

57. In page 43, subsection (3)(d), lines 5 and 6, to delete “of the Act of 1978”.
—An tAire Sláinte agus Leanaí.

—An tAire Sláinte agus Leanaí.

59. In page 43, subsection (3)(f), lines 19 and 20, to delete “of the Act of 1978”.
—An tAire Sláinte agus Leanaí.

60. In page 43, subsection (3)(f), line 20, after “2002)” to insert “of the Act of 1978”.
—An tAire Sláinte agus Leanaí.

SECTION 45

61. In page 44, between lines 41 and 42, to insert the following subsection:

“(7) For the avoidance of doubt, it is declared that the Council shall not register a medical practitioner pursuant to section 46, 47, 48 or 49 unless the practitioner has made an application under subsection (1).”.
—An tAire Sláinte agus Leanaí.
SECTION 46

62. In page 44, before section 46, to insert the following new section:

46.—The Council shall register in the General Division a medical practitioner (other than a visiting EEA practitioner)—

(a) who is not able to be registered—

(i) in the Specialist Division pursuant to section 47, or

(ii) in the Trainee Specialist Division pursuant to section 48 or 49,

and

(b) who—

(i) has passed an examination, specified in rules made under section 11 for the purposes of this subparagraph, for the purposes of registration in the General Division,

(ii) is exempted from subparagraph (i) by virtue of falling within a ground, specified in rules made under section 11 for the purposes of this subparagraph, for such exemption,

(iii) is a national of a Member State who has been awarded a qualification in medicine or a certificate of acquired rights by a competent body or authority designated for that purpose by a Member State, pursuant to Directive 2005/36/EC, or

(iv) subject to rules made under section 11 which apply to this subparagraph, has been granted a document which, in the opinion of the Council, is at least the equivalent of a certificate of experience.”.

—An tAire Sláinte agus Leanaí.

[Acceptance of this amendment involves the deletion of section 46 of the Bill.]

SECTION 48

63. In page 46, subsection (3), line 18, to delete “third country” and substitute the following:

“Member State who does not fall within subsection (1) or (2), or who is a national of a third country,”.

—An tAire Sláinte agus Leanaí.

64. In page 47, subsection (5), line 10, after “medicine” to insert the following:

“but, in any case, not later than 14 days after so ceasing to practise medicine”.

—An tAire Sláinte agus Leanaí.

65. In page 47, lines 12 to 14, to delete subsection (6) and substitute the following:

“(6) Where—

(a) the Council receives a notice under subsection (5) from a medical practitioner, or
SECTION 48

(b) a medical practitioner fails to comply with subsection (5), sections 45(3) and 46 shall apply to and in relation to the Council and the practitioner.”.

—An tAire Sláinte agus Leanáí.

SECTION 50

66. In page 48, subsection (1)(a), line 8, to delete “without first being registered”.

—Liam Twomey.

SECTION 57

67. In page 53, subsection (1)(g), line 6, after “offence” to insert the following:

“(being an offence which does or could potentially reflect on the registered medical practitioner’s fitness to practice medicine)”.

—Liz McManus.

68. In page 53, between lines 9 and 10, to insert the following subsection:

“(2) A complaint shall be made on a form prescribed by the Council and shall contain sufficient particulars to enable the registered medical practitioner to which the complaint relates to respond to the complaint.”.

—Liz McManus.

SECTION 59

69. In page 55, subsection (3)(a), line 28, to delete “affidavit” and substitute “statutory declaration”.

—Liz McManus.

70. In page 56, subsection (9), between lines 13 and 14, to insert the following:

“(b) whether the nature of the complaint is such that it is capable of being resolved by means referred to in section 62,”.

—Liz McManus.

SECTION 61

71. In page 57, subsection (1)(a), line 4, to delete “or”.

—An tAire Sláinte agus Leanáí.

72. In page 57, subsection (1)(b), line 6, after “scheme,” to insert “or”.

—An tAire Sláinte agus Leanáí.

73. In page 57, subsection (1), between lines 6 and 7, to insert the following:

“(c) the complaint is one that could be resolved by mediation or other informal means pursuant to guidelines prepared under section 62(1),”.

—An tAire Sláinte agus Leanáí.

74. In page 57, subsection (2)(c), to delete line 15.

—An tAire Sláinte agus Leanáí.

75. In page 57, subsection (2), lines 16 and 17, to delete paragraph (d) and substitute the following:

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“(d) refer the complaint for resolution by mediation or other informal means, or
(e) if it considers it necessary to do so, direct that further action be taken under section 63.”.

—An tAire Sláinte agus Leanaí.

76. In page 57, subsection (3), line 20, after “subsection (2)(b)” to insert “or (d)”.

—An tAire Sláinte agus Leanaí.

SECTION 63
77. In page 58, before section 63, to insert the following new section:

63.—Where—
(a) the Preliminary Proceedings Committee is of the opinion that there is a
prima facie case to warrant further action being taken in relation to a
complaint, or
(b) the Council directs under section 61(2)(e) that further action be taken
under this section in relation to a complaint,
the Preliminary Proceedings Committee shall refer the complaint to the Fitness to
Practise Committee.”.

—An tAire Sláinte agus Leanaí.

[Acceptance of this amendment involves the deletion of section 63 of the Bill.]

SECTION 65
78. In page 59, subsection (1), line 31, to delete “Practice” and substitute
“Practise”.

—An tAire Sláinte agus Leanaí, Liz McManus.

79. In page 59, lines 34 to 44, to delete subsection (2) and substitute the following:

“(2) A record shall be kept by the Fitness to Practise Committee of the
proceedings before that committee, and the record shall be made available to the
public by the Committee in the event of there being a finding adverse to the
registered medical practitioner concerned, with the exception of any part of the
record which the Committee decides to omit because it contains personal matters
about any person which the Committee considers should not be published, or
because the Committee decides it would otherwise be appropriate to do so. The
hearings of the Committee shall otherwise be held in private unless the Committee
otherwise decides for substantial reasons.”.

—Liz McManus.

SECTION 66
80. In page 60, subsection (1)(c), line 16, after “production” to insert “(including
discovery)”.

—An tAire Sláinte agus Leanaí.

SECTION 71
81. In page 62, line 41, to delete paragraph (a) and substitute the following:
“(a) an advice or admonishment, or a censure, in writing.”

—An tAire Sláinte agus Leanaí.

SECTION 75
82. In page 64, subsection (1), lines 13 and 14, to delete all words from and including “(other” in line 13 down to and including “71(a)” in line 14.

—Liz McManus.

SECTION 76
83. In page 64, lines 43 and 44, to delete subsection (2).

—Liz McManus.

SECTION 85
84. In page 70, line 8, after “public” to insert “or any section of the public”.

—Liz McManus.

SECTION 86
Section opposed.

—Liz McManus.

SECTION 88
85. In page 72, subsection (2)(a), line 8, to delete “with the consent of the Minister”.

—Liam Twomey.

86. In page 73, subsection (3), lines 8 to 12, to delete paragraph (a) and substitute the following:

“(a) on foot of proposals received from the Health Service Executive under section 86(3)(c) specify the number of intern training posts it approves for the purposes of intern training,.”

—Liam Twomey.

SECTION 90
87. In page 77, subsection (1), line 7, after “(II)” to insert “or (ii)”.

—An tAire Sláinte agus Leanaí.

SECTION 91
88. In page 78, subsection (7), line 32, after “Division” to insert “or the Trainee Specialist Division”.

—An tAire Sláinte agus Leanaí.

89. In page 78, subsection (7), line 36, after “Division,” to insert the following:

“or the Trainee Specialist Division, as the case may be”.

—An tAire Sláinte agus Leanaí.
SECTION 93
90. In page 79, lines 18 to 21, to delete subsection (1) and substitute the following:

“(1) The Health Service Executive must provide appropriate resources and funding to facilitate the maintenance of professional competence of registered medical practitioners.”

—Liam Twomey.

91. In page 79, subsection (1), lines 18 and 19, to delete all words from and including “,” to” in line 18 down to and including “functions,” in line 19.

—An tAire Sláinte agus Leanáí.

92. In page 79, subsection (2), line 23, to delete “, to the extent practicable,”.

—An tAire Sláinte agus Leanáí.

SECTION 94
93. In page 79, lines 26 and 27, to delete subsection (1) and substitute the following:

“(1) The Health Service Executive and the registered medical practitioner shall ensure that practitioner’s professional competence is maintained on an ongoing basis.”

—Liam Twomey.

94. In page 79, subsection (2), lines 28 and 29, to delete all words from and including “medical” in line 28 down to and including “Division” in line 29 and substitute “registered medical practitioner”.

—An tAire Sláinte agus Leanáí.

SECTION 95
95. In page 80, between lines 20 and 21, to insert the following subsection:

“(3) The Freedom of Information Acts 1997 and 2003 shall not apply to a record (within the meaning of those Acts) relating to any professional competence scheme.”

—An tAire Sláinte agus Leanáí.

SECTION 99
96. In page 81, subsection (3)(d), line 26, to delete “2001” and substitute “2005”.

—An tAire Sláinte agus Leanáí, Liz McManus.

97. In page 81, subsection (3)(e), line 27, to delete “2001” and substitute “2005”.

—An tAire Sláinte agus Leanáí, Liz McManus.


—An tAire Sláinte agus Leanáí.

SECTION 106
99. In page 84, paragraph (a), lines 39 and 40, to delete “[2 & 3 Will. IV c. 75]”.

—An tAire Sláinte agus Leanáí.
SECTION 109

100. In page 86, between lines 26 and 27, to insert the following subsection:

“(3) In this section, “certificate” includes a prescription.”

—An tAire Sláinte agus Leanaí.

SCHEDULE 1

101. In page 86, paragraph 1, line 38, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

102. In page 87, paragraph 2, line 2, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

103. In page 87, paragraph 3, line 4, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

104. In page 87, paragraph 4, line 6, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

105. In page 87, paragraph 5, line 8, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

106. In page 87, paragraph 6, line 10, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

107. In page 87, paragraph 7, line 11, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

108. In page 87, paragraph 8, line 14, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

109. In page 87, between lines 14 and 15, to insert the following:


—An tAire Sláinte agus Leanaí.

110. In page 87, paragraph 9, line 17, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

111. In page 87, paragraph 10, line 20, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

112. In page 87, paragraph 11, line 23, after “(S.I.” to insert “No.”.

—An tAire Sláinte agus Leanaí.

SCHEDULE 2

113. In page 87, paragraph 2, line 33, after “years” to insert the following:

“(for which purpose membership of the Council which occurred before the commencement of this Article shall be taken into account)”

—An tAire Sláinte agus Leanaí.

TITLE

114. In page 9, line 17, after “COUNCIL;” to insert the following:
“TO GIVE FURTHER EFFECT TO COUNCIL DIRECTIVE 2005/36/EC;”.
—Liz McManus.