

THE REPUBLIC OF TRINIDAD & TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2025-00676

Between

MIKALI HAMEL-SMITH

Claimant

And

THE NURSING COUNCIL OF TRINIDAD AND TOBAGO

Defendant

Appearances:

Claimant: Timothy Hamel-Smith

Defendant: Nirupa Rai

Before The Honourable Mr. Justice Devindra Rampersad

Date of Delivery: April 8, 2026

RULING

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Introduction

1. This is an appeal of the decision of a public body pursuant to section 38 of the Nursing Personnel Act, Chap 29:53, by the claimant against the defendant's refusal dated 28 January 2025 to register the claimant as a general nurse and to enter her name on the Register of Nurses. The reliefs sought include a declaration that the refusal was an unreasonable, irregular or improper exercise of discretion, a mandatory order requiring reconsideration with proper weight to be given to qualifications and any Statements on Recognition issued by the Accreditation Council of Trinidad and Tobago, and consequential orders including costs.
2. The claimant relies on foreign training completed at Keiser University in Florida, leading to an Associate of Science in Nursing, and on an Accreditation Council of Trinidad and Tobago ("ACTT") Statement on Recognition issued on 27 February 2025, confirming institutional and programme recognition. The claimant also relies on having passed the NCLEX RN examination and on the grant of a Florida multi-state licence.
3. In response, the president of the Nursing Council deposes that the defendant is the statutory regulator responsible for registration and standard setting under the Act and Regulations. The affidavit sets out the statutory pathway to registration and confirms that the claimant's application, received on 9 October 2024, was reviewed against those criteria. The review recorded that the claimant's Associate of Science in Nursing program ran from January 2023 to April 2024, a period of approximately fifteen months, and cited Regulation 13, which stipulates a three-year training period for student nurses under the local framework.
4. Against that background, the issues arising include:
 - 4.1. whether ACTT recognition satisfies the training limb in section 16(2)(a)(ii), whether the examination limb is met by the NCLEX RN through a nursing examining body recognised by ACTT or by prescription of the Council; and

- 4.2. whether the refusal properly applied the fit and proper requirement under section 16, including the weight placed on programme duration relative to the distinct foreign training route contemplated by the statute.

Claimant's Submissions

5. The claimant submits that Parliament created two parallel routes to registration under section 16. The local route is the completion of a course at a recognised place of training under section 40. The foreign route is the completion of a course approved or recognised by the Accreditation Council of Trinidad and Tobago, and the successful completion of an examination prescribed by the Council or by a nursing examining body recognised by the Accreditation Council. The 2014 amendments were intended to provide an alternative mechanism under which the Accreditation Council, rather than the defendant, evaluates the quality of foreign training.
6. On the training limb, the claimant relies on the ACTT Statement on Recognition for the Keiser University Associate of Science in Nursing and contends that this recognition satisfies section 16(2)(a)(ii). The claimant argues that the defendant may not import local syllabus or duration rules that govern the design of local training to defeat a foreign training application that ACTT has recognised under the statute.
7. On the examination limb, the claimant submits that section 16(2)(b) turns on recognition of a nursing examining body by the Accreditation Council, not on accreditation of a particular test. The claimant argues that the National Council of State Boards of Nursing, which prescribes the NCLEX RN, can be recognised by the Accreditation Council. In the alternative, if the Accreditation Council recognition is disputed, the claimant contends that the defendant ought to prescribe the NCLEX RN to give effect to the statutory scheme, as it has already adopted the Regional Examination for Nurse Registration.

8. The claimant further submits that the defendant's reliance on programme length to deny registration is a misuse of the fit and proper requirement. Good character in section 16(7), properly construed, concerns integrity, probity and trustworthiness and is not a vehicle to re-evaluate ACTT recognised curricula or to impose the three-year local training rule on foreign-trained applicants. The claimant contends that the defendant's approach collapses the distinct foreign training route and renders the amendments otiose.
9. Finally, the claimant contends that the refusal is procedurally unfair, irrational and a frustration of statutory purpose because the defendant did not give reasons that engage with the statutory scheme or with the ACTT recognition that was before it. The claimant therefore seeks declarations that the ACTT recognition satisfies section 16(2)(a)(ii), that the NCLEX RN satisfies section 16(2)(b) through a recognised examining body or by prescription, and consequential mandamus directing the defendant to prescribe the NCLEX RN and to register the claimant.

Defendant's Submissions

10. The defendant submits that Section 16(2) sets out three cumulative requirements for entitlement to registration. An applicant must complete a qualifying course under section 40 or one approved by the ACTT, must pass an examination prescribed by the Council or by a nursing examining body recognised by the ACTT, and must establish to the Council's satisfaction that the applicant is a fit and proper person, in addition to complying with the Act's general requirements. The defendant contends that the claimant's arguments have focused only on the first two limbs and that the provision must be applied in its threefold entirety to give effect to Parliament's intent.
11. On the examination limb, the defendant contends that there is no evidence that the ACTT has accredited or recognised the NCLEX examination or the resulting Florida licence and that, as a matter of law, such evidence cannot

exist. The defendant relies on section 8 of the ACTT Act to argue that the ACTT accredits programmes and courses but has no statutory power to accredit an examination such as the NCLEX. Until Parliament effects any change, the current statutory process must be followed.

12. On the fit and proper limb, the defendant submits that section 16(2) confers a discretionary power on the Council as the statutory regulator. The defendant cites the principle that such discretion should not be narrowly confined and points to the Council's statutory functions to set standards for education and practice, examine applicants, and verify documentation. The question for the court is whether the Council exercised this discretion lawfully, reasonably, and rationally.
13. Applying those principles, the defendant explains that the claimant's application, received on 9 October 2024, was reviewed by the Registration and Education Committee against the statutory criteria. The review recorded that the claimant's Associate of Science in Nursing ran from January 2023 to April 2024, a duration of approximately fifteen months, and referenced Regulation 13 which stipulates a three year period of training in the local framework, together with syllabus provisions in Regulations 14 and 15. These matters were treated as relevant to whether the claimant satisfied the statutory standards and was fit and proper for entry on the register.
14. In summary, the defendant asks the court to find that the claimant has not satisfied section 16(2), both because the NCLEX has not been recognised through the route contemplated by the Act and because, in the exercise of its statutory discretion, the Council was not satisfied that the claimant met the fit and proper requirement having regard to the training duration and related regulatory standards.

Claimant's Reply Submissions

15. The claimant maintains that section 16 establishes two parallel routes to registration and that the 2014 amendments were enacted to create a different
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path under which the Accreditation Council evaluates the quality of foreign training while the Council attends to the distinct examination and fit and proper limbs. The claimant contends that the defendant's construction collapses the foreign route by insisting that foreign programmes mirror the local syllabus and duration, notwithstanding Parliament's direction that ACTT is the principal body for recognition of institutions, programmes and awards.

16. On the examination issue, the reply addresses the defendant's submission that ACTT cannot accredit the NCLEX. The claimant relies on the statutory text to the effect that the examination limb is satisfied by passing an examination prescribed by the Council or by any nursing examining body recognised by ACTT. The focus is recognition of the examining body, not the accreditation of a particular test. Recognition of the National Council of State Boards of Nursing as an examining body, therefore, lies within ACTT's remit, supported by ACTT's general power to do all things necessary or convenient for the performance of its functions.
17. In the alternative, the claimant submits that where ACTT recognition of the examining body is disputed, the statutory scheme still functions because the Council can and should prescribe the NCLEX in order to give effect to section 16, just as it has operationally treated the RENR as the qualifying examination, although the Act and Regulations do not expressly name it. The reply notes that the defendant did not meet this alternative case in its submissions.
18. On the fit and proper issue, the claimant accepts that section 16 requires the Council's satisfaction and that section 16(7) directs consideration of good character and mental and physical capability. The claimant disputes the defendant's position that a shorter programme duration is a good character deficit. Good character, in its ordinary meaning, concerns moral and ethical qualities such as honesty, integrity, fairness, respect and empathy, not the length or timetabling of a course, which are quality matters already allocated to the training limb. The reply argues that using programme duration to conclude that the claimant is not of good character usurps ACTT's role and generates absurdity inconsistent with Parliament's intention.

19. The reply also challenges the evidential basis for the defendant's fit and proper conclusion. Although the defendant asserts that the Education Committee reviewed the Keiser programme at length, the defendant has produced no minutes or report of that review, from which the claimant invites an inference that the decision did not follow an evidence-based analysis required by the statute.
20. The claimant further submits that the defendant's interpretation cannot be reconciled with section 16(3), which uses the same fit and proper and compliance language for applicants registered or registrable in England and Wales. If the defendant were correct, Parliament would have created a special route for English-trained nurses only to require those applicants to comply again with local training requirements, which is an absurd construction. In this analysis, compliance with the requirements of the Act in these provisions refers to general administrative matters, such as paying fees and filing the requisite forms, not to the importation of local training criteria into the foreign or English routes.
21. Finally, the claimant asks the court to recognise that ACTT's Statement on Recognition satisfies the training limb, to hold that the examination limb turns on recognition of the examining body or prescription by the Council, and to quash the refusal for failure to apply the statutory scheme fairly and rationally, with directions that the Council consider the examination limb and the fit and proper limb according to law and without using programme duration as a proxy for character.

Statutory framework

22. **Nursing Personnel Act, Chap. 29:53 — Section 16(2):**

- (2) Any person who has— (a) completed a course of training—*
- (i) in a recognised place of training under section 40; or*
 - (ii) approved by the Accreditation Council under the Accreditation Council of Trinidad and Tobago Act; and*
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(b) passed the examination prescribed by the Council or any other nursing examining body recognised by the Accreditation Council, and who establishes to the Council's satisfaction that he is a fit and proper person to be entered on the Register as a nurse, shall on making application to the Council and upon compliance with the requirements of this Act, be entitled to be registered.

(7) In determining if a person is a fit and proper person under this section, the Council shall consider if he—

(a) is of good character;

(b) is mentally and physically capable of performing satisfactorily, the duties of a nurse; and (c) has the ability to understand, read and speak English.

23. Nursing Personnel Act Section 40:

"The Council may, with the approval of the Minister, designate such schools, hospitals or institutions as it thinks fit to be recognised as places of training or as affiliated places of training for nurses, nurse interns, midwives or nursing assistants, as the case may be."

24. Nursing Personnel Regulations section 13

"The period of training of a student nurse shall extend over a period of three years from the date of entry to training."

Issue 1: Whether ACTT recognition of the claimant's Associate of Science in Nursing satisfies section 16(2)(a)(ii) as completion of a course of training approved by ACTT

25. The statute points this court to a distinct "training" requirement that may be satisfied in one of two ways. An applicant must either complete a course "in a recognised place of training under section 40" or complete a course "approved by the Accreditation Council under the Accreditation Council of Trinidad and Tobago Act." The entitlement to registration then arises only when that training limb is coupled with the examination limb and with satisfaction of the

fit and proper requirement, together with compliance with the Act's general requirements.

26. On the evidence, the ACTT issued a Statement on Recognition dated 27 February 2025 that recognises the Keiser University Associate of Science in Nursing as a credential, and it identifies the institution, its institutional accreditation, and the programme level and status. The Statement expressly states "Associate of Science degree in Nursing," and records that the programme is "Recognised by The Accreditation Council of Trinidad and Tobago." It also contains an express caveat: "This statement is not a verification of a credential awarded to an individual."
27. Equally important is what the ACTT did not recognise. In the claimant's own affidavit, she deposes that her attorneys sought Statements on Recognition for two distinct things: "my Nursing License issued from Florida, and my Nursing Degree." She then states that she obtained a Statement on Recognition for the degree, but "the ACTT did not provide a Statement on Recognition with respect to my Florida License."
28. The ACTT's own letter, exhibited to the claimant's affidavit, makes the boundary line explicit. ACTT confirms that it "is responsible for recognising qualifications in Trinidad and Tobago," but that it "does not automatically approve foreign programmes or examinations for specific professional licensing purposes," since "professional bodies and licensing authorities, such as the Nursing Council of Trinidad and Tobago, establish their own criteria for registration and licensure." This is precisely the distinction at the heart of this issue: ACTT's recognition pertains to institutions, programmes, and awards, whereas professional licensure is vested in the statutory regulator under the sectoral legislation.
29. Those materials, therefore, establish two points for this court. First, ACTT has recognised the claimant's programme and its award. Second, ACTT has not recognised the claimant's licence, and indeed has stated that recognition for licensing purposes is not its function.

30. Section 16(2)(a)(ii) speaks in the language of training: a course “approved by” ACTT. The claimant’s position is that ACTT’s Statement on Recognition satisfies that training limb because it is an official ACTT determination on the status of the Keiser programme and award. The claimant further contends that importing the local regulatory framework for recognised places of training under section 40 would collapse the foreign training route, which Parliament amended in 2014 to function through ACTT. The claimant’s written submissions frame the question that way and rely on the Statement on Recognition as fulfilling the provisions of Section 16(2)(a)(ii).
31. The defendant does not deny that ACTT recognised the degree as a qualification. In its affidavit in response, the defendant “admits ... that the Claimant completed her course of study ... and that the academic qualification has been accredited by the Accreditation Council of Trinidad and Tobago.” The defendant’s resistance is, consequently, not that the ACTT recognition does not exist, but that the overall statutory pathway requires more than training recognition alone.
32. Properly construed, section 16(2)(a)(ii) does not make ACTT the nursing regulator. It assigns to ACTT the role of approving or recognising the training programme or award for quality assurance purposes. That is exactly what occurred here: ACTT recognised the Associate of Science in Nursing programme, but did not recognise the claimant’s licence.
33. On that analysis, ACTT recognition of the Keiser Associate of Science in Nursing satisfies the training limb. It demonstrates that the claimant completed a training course approved by ACTT. It does not, however, answer the examination limb or the fit and proper limb, nor does it displace the statutory regulator’s jurisdiction over admission to the register. That is the structure Parliament adopted.
34. The parties’ evidence repeatedly emphasises that the Nursing Council is the statutory regulator for admission to the register and for setting the criteria and processes by which applicants are registered. The defendant’s affidavit and submissions present the Council as the body “mandated to assess these very

types of applications,” and they link that mandate to the Act's scheme and the Regulations made under section 41.

35. The statute supports that characterisation. The Act confers regulation-making powers to prescribe curricula, training programmes, and the conduct of examinations, and makes ministerial Regulations supreme over any inconsistent Council rules. Those provisions form the local training under section 40 and govern Council-prescribed examinations under the local route. They also explain why ACTT's recognition of a foreign programme does not usurp the Council's role: the Council remains the gatekeeper for registration, subject to the Act and Regulations.
36. Nothing in section 16(2)(a)(ii) alters that allocation. The foreign training option is a statutory alternative for satisfying the training limb, not a transfer of the Council's jurisdiction over registration. The claimant's own materials accept this institutional division: ACTT recognises qualifications, while “professional bodies and licensing authorities, such as the Nursing Council of Trinidad and Tobago, establish their own criteria for registration and licensure.”
37. This court therefore recognises two concurrent propositions. First, it is clear that the defendant is the proper party to determine the criteria for admitting nurses to the register in Trinidad and Tobago, within the four corners of the Act and Regulations. Second, when an applicant pursues the section 16(2)(a)(ii) route, the Council must accept ACTT's role on whether a course is an approved or recognised programme for the training limb, while retaining its authority on the other statutory limbs.
38. Accordingly, in this court's respectful view, ACTT recognition of the claimant's programme satisfies the training limb and does not usurp the defendant's statutory role on the remaining limbs in section 16(2).

Issue 2- Whether the Claimant has satisfied Section 16(2)(b)

39. Section 16(2)(b) provides two routes by which the examination limb may be satisfied. First, success in an examination prescribed by the defendant. Second, success in an examination administered by a nursing examining body that has been recognised by the Accreditation Council of Trinidad and Tobago. Recognition by ACTT is therefore the statutory gateway for the examination, as it is not one prescribed by the defendant.
40. The claimant passed the NCLEX RN and obtained a Florida multi-state licence, but there is no prescription by the defendant of that examination and no recognition by ACTT of the relevant examining body for the purposes of section 16(2)(b). In those circumstances, this court cannot find that the NCLEX RN qualifies for the examination limb. Parliament has allocated the recognition function to ACTT and the prescription function to the defendant, and the hands of this court are tied by that allocation.
41. Parliament constituted the Nursing Council as a sector regulator with a broad and representative membership of sixteen persons. Six are appointed by the minister, namely an attorney at law of not less than five years standing, a person with qualifications and experience in nursing administration, a person with qualifications and experience as a nursing educator, a person registered under the Act nominated by the Tobago House of Assembly, a representative of the ministry, and a member of the public who is not an advanced practice nurse, midwife, nurse or nursing assistant. Nine are elected from the professions, comprising five nurses elected by registered nurses, one midwife elected by registered midwives, two mental health nurses elected by registered mental health nurses, and one nursing assistant elected by enrolled nursing assistants. In addition, the chief nursing officer or a nominee sits as an ex officio member. This composition reflects Parliament's intention that standards for entry to practice be set and applied by a body with both professional expertise and public accountability, which reinforces the deference owed to the council when it applies the statutory tests according to law.

42. This court cannot determine or declare that the NCLEX RN qualifies under section 16(2)(b), since recognition of a nursing examining body or prescription of a qualifying examination lies within the statutory remit of the defendant. The question that therefore arises for resolution is whether, in applying the examination limb and the fit and proper limb, the defendant was procedurally unfair, irrational and/or frustrated the statute.
43. It follows that the defendant could not lawfully treat the NCLEX RN as an approved qualifying examination in the absence of either prescription by the defendant or recognition by ACTT of the examining body. Unless and until one of those statutory routes is engaged, the examination limb is not met by reference to foreign licensure alone.
44. Steps that ought to have been considered included a reasoned request to ACTT to recognise the National Council of State Boards of Nursing as a nursing examining body for section 16(2)(b) purposes, and a request to the defendant to consider prescribing the NCLEX RN. An order of Mandamus relief would lie, if at all, only against the proper decision maker, upon an adequate evidential foundation. In this appeal, ACTT is not before the court, and there is no prescription by the council. The court cannot grant mandamus to achieve recognition or prescription indirectly.

Issue 3 — “fit and proper”: good character, and mental and physical capability

45. Given the finding on the examination limb, the defendant could not lawfully treat the NCLEX RN as satisfying section 16(2)(b). Given that the statutory route is unmet, it must necessarily inform how the defendant treats the “fit and proper” requirement.
46. In the circumstances, the defendant was required to return to first principles under the Act and the Regulations. In the absence of a recognised or prescribed examination, it was obliged to apply its own standards and benchmarks for entry to the register, including those directed to readiness to practise safely in local clinical settings.

47. Those benchmarks legitimately include the local framework as an objective reference for breadth and continuity of clinical preparation. While programme duration carries no weight on good character, duration, structure, and supervised exposure may properly inform the inquiry into mental and physical capability.
48. The remaining question is whether, applying those standards, the conclusion reached on capability was one that was open to the defendant in law. The court, therefore, turns to the fit and proper requirement.
49. Section 16(7) requires consideration of two distinct matters: whether the applicant is of good character, and whether the applicant is mentally and physically capable of performing the duties of a nurse. These are separate inquiries that together inform the “fit and proper” limb in section 16(2).
50. In this court’s respectful view, good character concerns moral and ethical qualities such as integrity, honesty, trustworthiness and respect. It does not turn on whether a foreign programme mirrors the timetable or duration prescribed for student nurses in recognised places of training under section 40. To the extent the refusal notice or subsequent reasoning linked programme length or syllabus differences to moral fitness, that would be a misdirection. The Regulations that prescribe the local three-year training model and its syllabus address the design and conduct of local training, not the meaning of “good character” in section 16(7).
51. On the defendant’s submissions, the defendant did not advance a developed case that the claimant lacked good character. The defence of the refusal was argued primarily by reference to the second matter in section 16(7), namely mental and physical capability, with emphasis on the duration and structure of the claimant’s preparation when benchmarked against the local framework.
52. Accordingly, this court does not accept that programme duration bears on good character and notes that the defendant did not put forward a substantive case against the claimant’s character on the evidence.
53. The second matter in section 16(7) is of a different nature. It asks whether the applicant is mentally and physically capable of performing the duties of a

nurse. Unlike moral character, capability may properly be informed by evidence of training intensity, clinical exposure, continuity of supervised practice, and other indicators of readiness for the rigours of ward and community nursing. In addressing this question, the defendant explained that it considered the training framework set by the Regulations as an objective benchmark for the breadth and continuity of preparation expected at first registration, and it recorded that the claimant's Associate of Science in Nursing ran for approximately fifteen months from January 2023 to April 2024.

54. Regulation 13 states that the period of training for local student nurses extends over three years from the date of entry to training, and Regulations 14 and 15 set out the syllabus and programme content. Those provisions do not govern the foreign training route under section 16(2)(a)(ii). They do, however, form part of the statutory scheme the defendant administers and can legitimately inform what the defendant understands to be the minimum breadth and continuity of clinical preparation for first registration in this jurisdiction. In other words, while the three-year model cannot decide the training limb for foreign programmes, it may be used as a benchmark when assessing capability under section 16(7).
55. On the evidence, the defendant grounded its assessment in the documented duration of the claimant's programme and in the purpose served by the local model, namely to ensure thorough and structured preparation before first registration. The materials disclose that the defendant treated a training period materially shorter than the local benchmark as insufficient, without further persuasive evidence, to demonstrate sustained exposure to the clinical, physical and emotional demands of practice at the point of entry to the Register. That reasoning appears in the description of the benchmarks applied and in the finding that the claimant had not demonstrated capability.
56. This court accepts the claimant's submission that duration cannot be converted into a character test. However, that submission does not displace the defendant's ability to treat duration and structure as relevant, non-determinative indicators within a capability assessment. The statute assigns

the capability judgment to the defendant. The Act and Regulations also assign to the defendant the broader functions of setting standards, regulating training and examinations, and assessing applicants for entry. The defendant is therefore the body best placed to determine, on the evidence, whether an applicant has satisfied the statutory criteria for admission, subject to the limits of legality, rationality, and procedural fairness.

57. For these reasons, in this court's respectful view, the defendant was entitled to assess mental and physical capability by reference to the nature and continuity of the claimant's preparation and to use the local framework as an objective benchmark for readiness. Having regard to the undisputed duration of the claimant's programme and to the benchmarks the defendant applied, the conclusion that the claimant had not demonstrated capability was open to the defendant on the materials.

The Order

58. As a result of the foregoing, the court is of the respectful view that the claimant's claim cannot be sustained on the merits. In the court's respectful view, the decision made by the defendant to refuse registration to the claimant was not unreasonable, irregular and/or an improper exercise of its discretion and, instead, that decision was a decision that was open to it to reach based on the evidence before it. The court cannot, therefore, mandate the defendant to reconsider its decision as the court is of the respectful view that it took into account relevant considerations when deciding whether to register the claimant.
59. The claim is therefore dismissed, and the claimant shall pay to the defendant the costs of the claim to be quantified by the court in default of agreement.
60. The court directs the parties to indicate whether or not there is any agreement on the costs by Tuesday, 14 April 2026. In default, the defendant is directed to file and serve a statement of costs by 21 April 2026, and the claimant is

directed to file and serve any objections thereto by 28 April 2026. The court will then give its decision on the issue of costs by 30 April 2026.

/s/ D. Rampersad J.
Judge