

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

In re: The Petition for Declaratory
Statement of:

ST. LUKE'S HOSPITAL ASSOCIATION,
d/b/a ST. LUKE'S HOSPITAL and
MAYO CLINIC JACKSONVILLE,

Petitioners.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (hereinafter Board) pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on June 5, 1992, for the purpose of considering the Petition for Declaratory Statement filed by St. Luke's Hospital Association, d/b/a St. Luke's Hospital and Mayo Clinic Jacksonville (hereinafter Petitioners). No person or entity sought to intervene as a party. Having considered the petition, the other evidence and documents of record, the applicable law, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions,

FINDINGS OF FACT

I. The factual allegations of the Petition for Declaratory statement are as follows:

Mayo Clinic Jacksonville is a component of the Mayo Foundation based in Rochester, Minnesota. Constituting a multi-specialty group practice of medicine, Mayo Clinic Jacksonville has, among its primary purposes, medical practice, medical education, and medical research.

Mayo Clinic Jacksonville physicians are full-time employees

of Mayo Clinic Jacksonville. Mayo Clinic Jacksonville physicians provide diagnosis, care and treatment on an outpatient basis at the Clinic unless there is a specific need for hospitalization. In the event hospitalization is necessary, Mayo Clinic Jacksonville patients are admitted to St. Luke's Hospital. Mayo Clinic Jacksonville and St. Luke's Hospital are located approximately 10 miles apart.

St. Luke's Hospital Association, d/b/a St. Luke's Hospital, is a 289-bed not-for-profit hospital licensed under Chapter 395, Florida Statutes. St. Luke's Hospital is part of the Mayo Foundation system through the hospital's formal affiliation with another component of the Mayo Foundation—the Mayo Foundation for Medical Education and Research. Through this relationship, St. Luke's Hospital serves as the exclusive clinical, teaching, and research hospital for Mayo Clinic Jacksonville. The physicians employed by Mayo Clinic Jacksonville are members of the St. Luke's Hospital medical staff.

Another component of the Mayo Foundation is the Mayo Graduate School of Medicine, with residency education activities in Rochester, Minnesota, Jacksonville, Florida and Scottsdale, Arizona. The Mayo Graduate School of Medicine provides resident physician training programs in various specialty areas which are accredited by the Accreditation Council for Graduate Education (ACGME).

The ACGME is the body responsible for accreditation of specialty and sub-specialty physician resident medical graduate training in the United States, its territories, and possessions. The Florida Board of Medicine recognizes ACGME as the appropriate accreditation body which approves any organized graduate educational program in which resident physicians in Florida participate.

Mayo Graduate School of Medicine is the primary, sponsoring institution for the purpose of offering ACGME approved physician resident programs. Mayo Clinic Jacksonville and St. Luke's Hospital are part of the Mayo Graduate School of Medicine system for the provision of resident physician training.

Accordingly, residents enrolled in the Mayo Graduate School of Medicine participate in a residency rotation,

involving various specialties, at the St. Luke's Hospital inpatient facility and Mayo Clinic Jacksonville outpatient facility. These Florida rotations are for a brief duration (varying from a 1 to 3 month period for most of the residents), and then the residents return to Rochester to finish residency training. Typically, these Mayo physician residents apply for and receive Florida medical licenses under Chapter 458, Florida Statutes, before beginning the residency in Florida.

Because of the brief window of time available to the resident to complete his or her rotation in Florida, problems are presented when the licensure process, for whatever reason, cannot be completed prior to the time of the rotation. For some residents, such situations have resulted in either a missed opportunity or a limited clinical experience. The ability to register through Section 458.345 gives the residency programs necessary scheduling flexibility without dealing with the licensure process which must be initiated 6 to 8 months in advance before sending a resident to Florida.

Given the limited period of time in which the physician will practice in Florida as Mayo physician resident, registration of these resident physicians under the mechanisms established pursuant to Section 458.345 constitutes a simpler, less time consuming, and more efficient means for both the Department and the institution of qualifying these resident physicians to practice in Florida than actual licensure. The registration would be accomplished through St. Luke's participation in the Mayo Graduate School of Medicine residency program, with the resident being under the supervision of appropriate St. Luke's Hospital medical staff members who also practice at Mayo Clinic Jacksonville.

Florida Administrative Code Rule 21M-23.005 describes assistant resident or resident physician as a person who "participates in an organized graduate educational program." However, the statute and rules do not provide guidance as to what factors must be present to demonstrate participation in an approved program for purposes of registration under Section 458.345.

Under ACGME guidelines, a sponsoring institution has the

discretion to utilize off-site facilities or staff to fulfill program needs, with the primary sponsor maintaining full responsibility for the quality of education provided in regards to ACGME accreditation concerns. These facilities can include hospitals or outpatient facilities, such as St. Luke's Hospital and Mayo Clinic Jacksonville, to be the site of a brief rotation.

The ACGME publishes, on an annual basis, the "Directory of Graduate Medical Education Programs." The Directory explains the accreditation process and reviews general and special requirements for the programs. Further, the Directory also presents a list of approved programs which specifically identifies hospitals and other institutions where residents will spend a significant period of time within the particular program. Thus, the Directory notes editorial policy that it does not list hospitals and other institutions:

... to which rotations are for a minimum of 6 months for programs of 3 or more years duration, a minimum of 4 months for programs of 2 years duration, and a minimum of 2 months for programs of one year duration.

[1992-1993 Directory, p.5]. Under this editorial policy, St. Luke's Hospital would not be found on the Directory list for substantially most of the programs in which it participates as being the site of brief rotations. For example, the University of Florida College of Medicine utilizes St. Luke's Hospital as a participating institution for brief residency rotations, but St. Luke's Hospital is not included in the Directory list.

Under the current system utilized by the board, each unlicensed physician who desires to register as a resident pursuant to Section 458.354 files a registration application. The registration application does not reveal any information regarding the "approved program" status of the hospital to which the registration applies, nor does this application form provide any information as to the specialty area in which training as a resident is being sought.

Pursuant to Section 458.345, twice a year each hospital employing a resident physician must report all such unlicensed physicians to the Board. The report form does

disclose the "department" (i.e., "specialty") in which the resident receives training. However, the report form does not ask for any specific evidence as to the "approved" nature of the training program, except to have the hospital confirm whether or not the resident is in an approved training program.

With the information provided by the registration application and hospital report forms, Board staff refers to the list of approved programs contained in the ACGME Directory to determine if the hospital is qualified to utilize registered residents. However, as it applies to the St. Luke's Hospital participation in the Mayo Graduate School of Medicine system, this method of "approved program" confirmation as utilized by the Board is not appropriate because:

St. Luke's Hospital would not be found in the Directory list to the extent such a list designation is precluded by the aforementioned editorial policy of the Directory--or precluded by error or any other editorial policy;

because the Directory is only updated on an annual basis, it can fail to provide a complete list of approved hospitals which, under the editorial policy, should be included; and

in any event, the best evidence would be documentation from the accreditation body for the program.

Graduate medical education is organized by specialty. Some institutions, such as Mayo Graduate School of Medicine, offer programs in many specialties. Within each program resident physicians seek to complete training requirements for certification by a specialty board. Each board generally requires that the graduate medical education be obtained in a program reviewed and approved by the Residency Review Committee (RRC) for that specialty under the authority of the ACGME.

The RRC, in order to ensure that the program continues to meet accreditation requirements, conducts surveys of the program on a regular basis. In order to secure continuing accreditation as part of this survey process, Mayo Graduate

School of Medicine submits documentation to the appropriate RRC which specifically identifies all facilities within the Mayo Graduate School of Medicine system which participate as part of the accredited training program.

Thus, when the RRC confirms continued accreditation of the program, the inclusion of St. Luke's and the Mayo Clinic Jacksonville as the site of resident physician rotations within the Mayo Graduate School of Medicine system is necessarily recognized by the RRC.

At this point in time, the Mayo Graduate School of Medicine has several accredited programs for which the appropriate RRC has recognized, in this manner, participation by St. Luke's Hospital and Mayo Clinic Jacksonville.

The ACGME recognizes that, in order to provide the complete education and training experience established by the special requirements of a specialty, resident physicians may be exposed to practice in various types of settings, which can include settings for outpatient care. However, the ACGME requirements for several of the various specialty programs stress the importance of outpatient exposure for the resident physicians, (as well as involvement with inpatient care). Finally, practical considerations reveal that in most residency programs, as well as in the practice of medicine in general, there are always the continuity, efficiency, and quality of care issues involving the movement of a patient between outpatient and inpatient treatment.

The St. Luke's Hospital resident physicians who would seek registration under Section 458.345 will all be supervised by appropriate St. Luke's medical staff members who are physicians employed by Mayo Clinic Jacksonville. All Mayo employed physicians who are on the St. Luke's Hospital Medical staff see and treat outpatients not requiring hospitalization, or those who have been hospitalized and are in need of follow-up care, exclusively at the Mayo Clinic Jacksonville facility. Thus, these resident physicians will receive any necessary outpatient training under the supervision of St. Luke's Hospital medical staff at the Mayo Clinic Jacksonville facility.

2. Petitioner requests the Board to review the above-stated facts in light of Section 458.345, Florida Statutes, and Rule 21M-23.005, Florida Administrative Code, and to answer the following questions:

(a) Whether in order for St. Luke's Hospital to register a resident physician under Section 458.345, Florida Statutes, to participate in a particular rotation, it will be acceptable if St. Luke's Hospital provides documentation to demonstrate that the Mayo Graduate School of Medicine program at issue has secured accreditation which includes the participation by St. Luke's Hospital and Mayo Clinic Jacksonville as part of the Mayo Graduate School of Medicine system?

(b) Whether resident physicians registered pursuant to Section 458.345, Florida Statutes, at St. Luke's Hospital will be restricted from receiving outpatient training at the Mayo Clinic Jacksonville site?

3. This petition was noticed by the Board of Medicine in the May 29, 1991, issue of the Florida Administrative Weekly (Vol.18, No.22, Pg. 3159).

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition for Declaratory Statement filed by Petitioner is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

3. Upon a review of the facts asserted, the Board determined that:

a. If a hospital is able to establish that the facts as stated in the petition are accurate, then the program at issue would be deemed to be an "organized educational program," as referenced in Rule 21M-23.005, Florida Administrative Code, for purposes of allowing registration under Section 458.345, Florida Statutes.

b. The facts asserted, if proven, would establish the eligibility of the resident physicians to receive residency training in an outpatient setting located at Mayo Clinic Jacksonville off-site from St. Luke's Hospital, but with those outpatient activities still under the ultimate supervision of appropriate medical staff of the hospital.

4. The Board's response to this Petition for Declaratory Statement responds only to the questions asked and interprets only the statutory and rule provisions provided by Petitioners. The conclusions by the Board with regard to the statutory provisions cited by Petitioner are not a comment on whether the proposal may or may not comport with other provisions of Chapter 458, Florida Statutes, or other related obligations.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. That St. Luke's Hospital can register a resident physician if the facts asserted are proven.

2. That resident physicians registered by St. Luke's Hospital can obtain outpatient training at Mayo Clinic Jacksonville under the constraints detailed in the Petition.

This Order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 11th day of July, 1992.

BOARD OF MEDICINE
ZACHARIAH P. ZACHARIAH, M.D.
CHAIRPERSON