

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

