

64B8-2.001 Definitions.

(1) Levels of Supervision:

(a) "Direct supervision" shall require the physical presence of the supervising licensee on the premises so that the supervising licensee is reasonably available as needed. When this term is used in probationary terms of a Final Order, it requires that the licensee practice medicine only if the approved supervisor is on the premises.

(b) "Indirect supervision" shall require only that the supervising licensee practice at a location which is within close physical proximity of the practice location of the supervised licensee and that the supervising licensee must be readily available for consultation as needed. "Close physical proximity" shall be within 20 miles or 30 minutes unless otherwise authorized by the Board.

(c) Unless otherwise provided by law or rule, the above definitions will apply to all supervised licensees.

(2) The phrase "has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX) or on the examination of the National Board of Medical Examiners" as used in Section 7, Ch. 86-245, Laws of Florida, and the phrase "has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX) or on Part III of the examination of the National Board of Medical Examiners" shall mean a FLEX weighted average of no less than 75 percent from one complete sitting on the FLEX taken in the organization and format used prior to 1985; a score of no less than 75 on both Part I and Part II on the FLEX taken in the new organization and format in 1985 or later, both of which parts shall have been passed within a five-year period; an average score of no less than 75 on the National Board examination; or a score of no less than 75 on Part III of the National Board examination.

(3) The phrase "military service of the United States" as used in Section 458.313(3), F.S., shall mean the following: Serving as a commissioned medical officer in the Army, Navy, Marines, Air Force, Coast Guard, or U.S. Public Health Service.

(4) The "areas of critical needs," "areas of critical medical need," and "medically underserved areas" as used in Sections 458.315(1) and 458.317(1)(d), F.S., respectively, shall include but not be limited to the following:

- (a) Areas designated by the Department of Health and Human Services as health manpower shortage areas;
- (b) State mental institutions;
- (c) State institutions for the mentally retarded; or
- (d) State prison.

(5) The term "accredited medical school," as utilized in Section 458.303(1)(i), F.S., in setting forth the requirement of graduation from an accredited medical school by applicants for medical faculty certificate, shall mean those medical schools and colleges which are recognized and approved by an accrediting agency recognized by the United States Office of Education and those foreign medical schools which are listed by the World Health Organization.

(6) The term "the Educational Commission for Foreign Medical Graduates examination equivalent" as used in subsection (3)(d) of Section 458.311, F.S., as amended by Section 6, Chapter 86-245, Laws of Florida, shall mean the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).

(7) The term "consultation," as used in Section 458.303(1)(b), F.S., encompasses the actions of a physician lawfully licensed in another state, territory or foreign country. Such physician is permitted to examine the patient, take a history and physical, review laboratory tests and x-rays, and make recommendations to a physician duly licensed in this state with regard to diagnosis and treatment of the patient. However the term "consultation" does not include such physician's performance of any medical procedure on or the rendering of treatment to the patient.

(8) The phrase "approved postgraduate training program," as used in Section 766.314(4)(b)4., F.S., shall mean that the program must be an approved residency as set forth in Chapter 64B8-4, F.A.C.

(9) For purposes of interpreting and applying Section 458.331(1)(u), F.S., the term "experimentation" does not include:

(a) The use of two or more therapies each of which is within the standard of care for each patient's condition even if the determination of which therapy to use on a particular patient is based in part on the intent of the physician to capture research data for purposes of evaluating the efficacy of the competing therapies;

(b) Treatment that is the subject of U.S. Food and Drug Administration approved and IRB supervised research activities involving human subjects who are in need of emergency medical intervention but who cannot give full, informed, and written consent because of their life threatening medical condition and who do not have a legally authorized person present to consent for them;

1. A patient treated pursuant to this subparagraph may not be held financially responsible for such treatment;

2. There may be no financial incentives to the physician or the facility based upon the number of patients receiving treatment pursuant to this subparagraph;

3. Any treatment pursuant to this subparagraph must be directly related to the patient's life threatening condition and administered under the direction of a Florida licensed physician;

4. In no case may treatment pursuant to this subparagraph be administered when doing so would circumvent any known advance directive, living will or DNR order.

(c) Nothing herein shall be interpreted to allow, without full, informed, and written patient consent the use by a licensee, in any situation other than a medical emergency, of any device or substance, if the substance or device has not been approved for such use by the U.S. Food and Drug Administration.

(10) Successful completion of the Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX) is defined as obtaining a score of no less than 75 on that examination.

(11) For the purpose of implementing corrective action with regard to disciplinary proceedings, "community service" shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services to an entity which is exempt from federal taxation under 26 U.S.C. Section 501(c)(3), without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting.

(12) The term "record" as it appears in Section 456.50(2), F.S., shall include a certified copy of the official transcript of the civil or administrative proceeding resulting in a finding of medical malpractice, excluding the jury selection transcript, all evidence admitted or copies thereof if the original is not available, those matters officially recognized by the civil or administrative tribunal, and the final order or judgment reported or issued by the tribunal.

Specific Authority 456.50(2), 458.309, 458.315(1), 458.317(1)(c), 458.319(1), 766.314(4) FS. Law Implemented 456.072(2)(g), 456.50(2), 458.303, 458.311, 458.313, 458.315(1), 458.317(1)(c), 458.331(1)(u), 458.3485, 766.314(4) FS. History—New 11-10-82, Amended 12-4-85, Formerly 21M-29.01, Amended 12-4-86, 11-15-88, 3-13-89, 1-1-92, 9-24-92, 2-21-93, Formerly 21M-29.001, Amended 4-14-94, Formerly 61F6-29.001, 59R-2.001, Amended 4-7-99, 10-2-01, 11-10-02, 1-30-07.