

DEFINITION OF A HEALTH CARE PROVIDER FOR THE PURPOSES OF PRE-SUIT AND MEDICAL MALPRACTICE

Issue: A health care provider gets the benefit of a medical malpractice suit. Who is defined as a “health care provider”?

Rule: Fla. Statute § 766.202(4) defines a health care provider as:

1. any **hospital** or **ambulatory surgical center** as defined and licensed under chapter 395, **Hospital Licensing and Regulation**;
 - a. “**Ambulatory surgical center**” means a facility the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. However, a facility existing for the primary purpose of performing terminations of pregnancy, an office maintained by a physician for the practice of medicine, or an office maintained for the practice of dentistry may not be construed to be an ambulatory surgical center, provided that any facility or office which is certified or seeks certification as a Medicare ambulatory surgical center shall be licensed as an ambulatory surgical center pursuant to s. 395.003.
 - b. “**Hospital**” means any establishment that:
 - i. **(a)** Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

(b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in s. 408.07, shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital.

2. **a birth center** licensed under chapter 383, **Maternal and Infant Health Care**
3. **any person licensed under chapter 458, Medical Practice, .**
 - a. **“Physician”** means a person who is licensed to practice medicine in this state. Practice of medicine” means the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.”
4. **any person licensed under chapter 459, Osteopathic Medicine,**
 - a. Practice of osteopathic medicine” means the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.

- b. **“Osteopathic physician”** means a person who is licensed to practice osteopathic medicine in this state.
 - c. **“Doctor of Osteopathy”** and **“Doctor of Osteopathic Medicine,”** when referring to degrees, shall be construed to be equivalent and equal degrees.
5. **any person licensed under chapter 460, Chiropractic Medicine,**
- a. **“Certified chiropractic physician’s assistant”** means a person who is a graduate of an approved program or its equivalent and is approved by the department to perform chiropractic services under the indirect supervision of a chiropractic physician or group of physicians certified by the board to supervise such assistant. An approved chiropractic physician or group of physicians may indirectly supervise more than one certified chiropractic physician’s assistant.
 - b. **“Chiropractic physician”** means any person licensed to practice chiropractic medicine pursuant to this chapter.
6. **any person licensed under chapter 461, Podiatric Medicine,**
- a. **“Certified podiatric X-ray assistant”** means a person who is employed by and under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed under this chapter. For purposes of this subsection, the term “direct supervision” means supervision whereby a podiatric physician orders the X ray, remains on the premises while the X ray is being performed and exposed, and approves the work performed before dismissal of the patient.

- b. **“Podiatric physician”** means any person licensed to practice podiatric medicine pursuant to this chapter.
 - c. **“Practice of podiatric medicine”** means the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatric physician may prescribe drugs that relate specifically to the scope of practice authorized herein.
7. **any person licensed under chapter 462, Naturopathy,**
- a. Naturopathy” and “Naturopathy” shall be construed as synonymous terms and mean the use and practice of **psychological**, mechanical, and material health sciences to aid in purifying, cleansing, and normalizing human tissues for the preservation or restoration of health, according to the fundamental principles of anatomy, physiology, and applied psychology, as may be required. Naturopathic practice employs, among other agencies, **phytotherapy, dietetics, psychotherapy, suggestotherapy, hydrotherapy, zone therapy, biochemistry**, external applications, electrotherapy, mechanotherapy, mechanical and electrical appliances, hygiene, first aid, sanitation, and heliotherapy; provided, however, that nothing in this chapter shall be held or construed to authorize any naturopathic physician licensed hereunder to practice materia medica or surgery or chiropractic medicine, nor shall the provisions of this law in any manner apply to or affect the practice of osteopathic medicine, chiropractic

medicine, Christian Science, or any other treatment authorized and provided for by law for the cure or prevention of disease and ailments.

8. **any person licensed under chapter 463, Optometry,**
9. **any person licensed under part I of chapter 464, Nursing, (Definitions effective until January 1, 2019)**
 - a. **“Advanced practice registered nurse”** means any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including **certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses;**
 - i. **“Advanced or specialized nursing practice”** means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse. Within the context of advanced or specialized nursing practice, the advanced practice registered nurse may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced practice registered nurse may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

- b. **“Clinical preceptor”** means a registered nurse or licensed practical nurse who is employed by a clinical training facility to serve as a role model and clinical resource person for a specified period to students enrolled in an approved program.
- c. **“Licensed practical nurse”** means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice practical nursing.
- d. **“Practice of practical nursing”** means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than nursing students. A practical nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing.
- e. **“Practice of professional nursing”** means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
 - i. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

- ii. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
- iii. The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.
- f. A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.
- g. **“Registered nurse”** means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice professional nursing.

10. any person licensed under 466, Dentistry, dental Hygiene, and Dental laboratories,

11. any person licensed under chapter 467, Midwifery,

- a. **“Certified nurse midwife”** means a person who is licensed as an advanced practice registered nurse under part I of chapter 464 and who is certified to practice midwifery by the American College of Nurse Midwives.
- b. **“Midwife”** means any person not less than 21 years of age, other than a licensed physician or certified nurse midwife, who is licensed under this chapter to supervise the birth of a child.
- c. **“Midwifery”** means the practice of supervising the conduct of a normal labor and childbirth, with the informed consent of the parent; the practice of advising the parents as to the progress of the childbirth; and the practice of rendering prenatal and postpartal care.

- 12. any person licensed under part XIV of chapter 468, Orthotics, Prosthetics, and Pedorthics**
- a. **“Orthotist”** means a person licensed to practice orthotics pursuant to this chapter. “Orthotics” means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device.
 - b. **“Pedorthist”** means a person licensed to practice pedorthics. “Pedorthics” means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device.
 - c. **“Prosthetist”** means a person licensed to practice prosthetics pursuant to this chapter. “Prosthetics” means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a prosthesis.
 - d. **“Prosthetist-orthotist”** means a person licensed to practice as a prosthetist and as an orthotist.
 - e. Orthotic fitter and orthotic fitter assistant.
- 13. any person licensed under chapter 486, Physical Therapy Practice;**
- a. **“Physical therapist”** means a person who is licensed and who practices physical therapy in accordance with the provisions of this chapter.
 - b. **“Physical therapist assistant”** means a person who is licensed in accordance with the provisions of this chapter to perform patient-related activities, including

the use of physical agents, whose license is in good standing, and whose activities are performed under the direction of a physical therapist as set forth in rules adopted pursuant to this chapter. Patient-related activities performed by a physical therapist assistant for a board-certified orthopedic physician or physiatrist licensed pursuant to chapter 458 or chapter 459 or a practitioner licensed under chapter 460 shall be under the general supervision of a physical therapist, but shall not require onsite supervision by a physical therapist. Patient-related activities performed for all other health care practitioners licensed under chapter 458 or chapter 459 and those patient-related activities performed for practitioners licensed under chapter 461 or chapter 466 shall be performed under the onsite supervision of a physical therapist.

- c. **“Physical therapy practitioner”** means a physical therapist or a physical therapist assistant who is licensed and who practices physical therapy in accordance with the provisions of this chapter.

14. a **health maintenance organization** certificated under part I of chapter 641;

15. a **blood bank**;

16. a **plasma center**;

17. an **industrial clinic**;

18. a **renal dialysis facility**; or

19. a professional association partnership, corporation, joint venture, or other association for professional activity by health care providers.