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designate local persons as agents if they are duly appointed and designated as his representatives or employees in accordance with the provisions of the above quoted statutes.

OFFICIAL OPINION NO. 39

June 17, 1953.

Miss Ruth V. Kirk,
Executive Secretary,
Board of Medical Registration and
Examination of Indiana,
538 K. of P. Building,
Indianapolis, Indiana.

Dear Miss Kirk:

Your letter of June 9, 1953 has been received and reads as follows:

“This Board has recently been confronted with determining whether or not the holder of a license to practice podiatry, under provisions of the Indiana Podiatry Law, was violating the Medical Practice Act, in that, he gave treatment by administering penicillin by injection in the arm to one of his patients for a foot ailment.

“The Board of Medical Registration and Examination of Indiana respectfully requests that an official opinion be rendered regarding the right of a licensed podiatrist, under provisions of Sections 1 and 2 of the Indiana Podiatry Law, or any other section thereof, to give treatment by penicillin or any other antibiotic injection, or by any procedure other than local application in connection with treatment of diseases or injury of the foot.”

The Podiatry Statute is Chapter 8 of the Acts of 1925, same being Burns' Indiana Statutes Annotated (1951 Repl.) Section 63-1401 *et seq.* Section 1 of said act is as follows:

“The term ‘podiatry’ (sometimes called chiropody), as used in this act shall be construed to mean the diag-

nosis, medical, surgical and mechanical treatment of ailments of the human foot. The term 'podiatrist', as used in this act shall be construed to mean one practicing podiatry."

The statute provides for the licensing and regulation of this profession. The podiatry examiners consist of two physicians of the Board of Medical Registration and Examination, the secretary of said State Board, and two licensed podiatrists who are residents of the state and appointed by the Board of Medical Registration and Examination of Indiana, but the license to practice is issued by the State Board of Medical Registration and Examination of Indiana.

This regulatory act should be construed in view of the provisions of the various regulatory statutes concerning physicians, surgeons, osteopathy, and other practices of the healing arts.

Davis v. State Board of Medical Registration and Examination (1936), 103 Ind. App. 88, 95, 5 N. E. (2d) 125;

1943 Ind. O. A. G., p. 347.

The above referred to official opinion of this office concerned an inquiry for an opinion as to the authority of a podiatrist to use narcotic drugs in the practice of his profession in the State of Indiana. Since the problem there dealt with is so closely analogous to the matter at hand, the following quotation from said opinion, including statutory references, are deemed pertinent, since such statutory references are still effective:

"It is evident from a consideration of the entire act regulating the practice of podiatry that the practice of podiatrists is to be limited to the human foot. The following provisions in the podiatry act seem to make this very clear:

"All licensees shall be designated as "registered podiatrists," and, no licensee shall use any title or abbreviation thereof without the designation "registered podiatrists," "*practice limited to the foot.*" * * *

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“Section 63-1405, Burns’ 1933; Sec. 5, Ch. 8, Acts 1925.

“ ‘No podiatrist shall amputate the human foot or toe or toes, or use or administer any anesthetic other than local.’

“Section 63-1402, Burns’ 1933; Sec. 2, Ch. 8, Acts 1925.

“ ‘After the passage of this act, any person, not exempt from examination under the provisions of section three (Sec. 63-1403) of this act, and desiring a license to practice podiatry in this state, shall be examined in the following subjects: Anatomy, chemistry, bacteriology, dermatology, diagnosis, materia medica, pathology, physiology, therapeutics, clinical and orthopedic podiatry, *limited in their scope to the treatment of the foot*, and, if found qualified, shall receive a license.’

“Section 63-1404, Burns’ 1933; Sec. 4, Ch. 8, Acts 1925.

“From a consideration of these provisions in the podiatry act, it is quite apparent that the practice of podiatry is more limited in its field as to what treatments may be used within the limited scope of the profession than the practice of medicine which, by the statute (Sec. 63-1311, Burns’ 1933) defines the practice of medicine as:

“ ‘to prescribe for, or to give surgical assistance to, or to heal, cure *or relieve*, or to attempt to heal, cure *or relieve* those suffering from injury or deformity, or disease of mind or body,
* * *’

“The only authorization in the podiatry act for the relieving of pain is the provision for local anesthetics.

“Section 63-1402, Burns’ 1933, *supra*.

“This is to be contrasted with the provision of the statute concerning the granting of licenses to practice osteopathy, surgery and obstetrics, which provides that the holder of any such license,

“ ‘shall have the right to practice osteopathy, surgery and obstetrics and to administer anesthetics, antiseptics and narcotics.’

“Having in view all the regulatory provisions of the podiatry act, I am of the opinion that the medical treatment of ailments of the human foot by podiatrists have to do only with some medical treatments that have therapeutic values as distinguished from relieving of pain by some other agency than a local anesthetic.

“The definition for local anesthetic, according to the 19th edition of Dorland’s American Medical Dictionary (1941 Rev.) is

“ ‘That which is confined to one limited part of the body.’

“This is to be distinguished from general anesthesia, which is defined by Webster’s New International Dictionary (2d ed.) as affecting ‘the entire body, causing loss of consciousness.’

“The Uniform Narcotic Drug Act did not in any way enlarge the professional practice of podiatrists. ✓

“ ‘Section 7. Professional use of Narcotic Drugs. (1) A physician or a dentist, in good faith *and in the course of his professional practice only*, may prescribe, administer, and dispense narcotic drugs, * * *.’

“Sec. 10-3525, Burns’ (1942 Repl.) Supp.; Sec. 7, Ch. 280, Acts 1935.

“It would not be possible in this opinion to designate all narcotic drugs or to specify their properties, since that is a matter for medical experts. However, I have been informed that there are certain narcotic drugs which can be used as local anesthetics. In answer to

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your question, therefore, it is my opinion that a registered podiatrist would be authorized to use only such narcotic drugs in his practice as could be used for a local anesthetic on the human foot."

The foregoing opinion clearly states that the use of narcotic drugs by a podiatrist is limited to those drugs which can be used as local anesthetics on the human foot.

From the references above given to the sections of the Podiatry Statute it is also clear that major surgery is not contemplated, as Section 5 of the statute prohibits the amputation of the foot or toe or toes, and in various sections the practice is specifically limited to the treatment of the foot.

Your question concerns the administration of penicillin in the arm in connection with treatment of a foot ailment. It is a matter of such common knowledge as to be judicially noticed that the use of penicillin and other antibiotic drugs have done wonders in the profession in the treatment of infectious disease, but because of their properties many persons are allergic to their use which results quite often in very serious illness affecting the entire human system. In case of any such reaction a medical doctor is required to exert considerable time and effort to alleviate such condition. The reaction of such drugs is internal and throughout the body. In nowise are they limited to the human foot. It is true that the use of such drugs injected into other parts of the body might have a tendency to control infection in the foot. The same could be as well argued that a person indicating some symptoms of heart condition, general physical breakdown, or possibly a specific function of the body, such as the liver or bladder, improperly functioning, might affect or impede treatment of the foot by a podiatrist. Yet it would not be reasonable to assume that because treatment of other parts of the body would assist a podiatrist in a foot treatment that he would be authorized to engage in such general practice of medicine.

It is also to be observed that in 1925 when this statute was passed, such antibiotic drugs were not in use. It has been held that the legislature could not be presumed to have intended to include those matters not in existence at the time of the passage of an act.

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Parker v. Humfleet (1916), 63 Ind. App. 281, 286,
288, 112 N. E. 253.

I am therefore of the opinion podiatrists under the Indiana Podiatry Law are not authorized to administer penicillin or any other antibiotic by injection or by any other procedure other than local application in connection with treatment of diseases or injury of the foot. Such local application would not include permitting injection of such drugs into the foot, as that would treat the entire body and would not be local treatment. ✓

From the tone of the restricted provisions of the Podiatry Act, I am of the opinion that any enlargement of its scope of authority, if desirable, to include the use of antibiotic injections for treating disease or injury of the foot, should not be made by judicial construction but would rather be a matter for consideration by the legislature.

OFFICIAL OPINION NO. 40

June 1, 1953.

Hon. Wilbur Young,
Supt. Public Instruction,
227 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter has been received and reads as follows:

“I wish to ask for an official opinion on the following questions:

“As we understand Chapter 273, Acts of 1953, the creditor corporation has two options in preparing a statement of per capita costs for transfer students.

“*Option I:* Per capita cost may be determined as provided in the 1951 and 1953 acts as follows: Total current expenditures as set out in the classified budget forms prescribed by the State Board of Accounts, excluding interest on bonded debt, capital outlay, debt services, and cost of transportation. To these costs