

STATE OF CALIFORNIA

Memorandum

To: JAMES RATHLESBERGER, Executive Officer
Board of Podiatric Medicine
Medical Board of California

Date: February 7, 1992

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From: **Department of Consumer Affairs**
Legal Office

Subject: Histories and Physical Examinations

This is in response to your request that I prepare an updated legal opinion regarding the authority of a podiatrist to perform a history and physical examination on his or her patients. Your request was prompted by a policy statement distributed by the California Medical Association that provides where a podiatrist (or dentist or clinical psychologist) admits a patient to a hospital that a physician member of the staff must conduct or "directly supervise" the admitting history and physical examination performed on the patient, except for that portion of the examination related to the licensee's scope of practice, i.e., foot, oral cavity, or mental condition.

In Legal Opinion 82-31 we concluded:

While a podiatrist may not treat ailments and physical conditions beyond his or her legally authorized scope of practice, a podiatrist may perform a complete history and physical examination as an adjunct to podiatric medical care and may report any symptoms and abnormalities observed. Such histories and physical examinations performed in a general acute care hospital are subject to regulations, if any, promulgated by the Department of Health Services pertaining to such facilities.

The laws upon which this conclusion was based have not been amended or modified in any way that would lead us to alter our conclusion. Therefore, there is no need to update or otherwise modify the conclusion stated above in response to this issue.

It appears from reading CMA's policy statement that they have confused the making of an assessment with the making of a

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diagnosis. I do not agree that the limit to which a podiatrist may take a patient history and perform a physical examination is limited to the anatomical area of the foot or the condition of the patient's foot and lower leg. For the podiatrist to do so may constitute malpractice, as many foot conditions are predicated upon a general medical condition such as diabetes mellitus or a generalized condition such as rheumatoid joint disease.

While Title 22 Cal. CodeReg. §70717(c)(1) does not specifically require that an admitting medical appraisal of a patient, including a history and physical examination be performed by a physician, ¹federal Medicare regulations do require in 42 CFR §482.22 that a physician perform a physical examination and medical history on all patients.

This requirement for reimbursement under the Medicare program does not alter a podiatrist's scope of practice under California law; it only impacts the reimbursement for hospitalization of patients under that program. It cannot be used for support of the argument that only physicians have the authority to perform a history and general physician examination of a patient.

I hope this clarifies these issues for you.

DERRY L. KNIGHT
Deputy Director
Legal Affairs

By GREGORY GORGES
Senior Staff Counsel

¹At the time the Department of Health Services adopted section 70717(c)(1) it was cognizant of the controversy surrounding the performance of admitting histories and physicals by podiatrists and deliberately worded the regulation at the instance of the podiatric medical community so as not to preclude a podiatrist's performing the necessary history and physical examination.