

# MAINE STATE LEGISLATURE

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Podiatry: Definitions

32 M.R.S.A. § 3551

~~Opinion?~~

February 2, 1977

Honorable Gerard P. Conley  
Senate Chambers

State House  
Augusta, Maine

Dear Senator Conley:

I am writing in reply to your letter to Attorney General Joseph E. Brennan concerning the practice of podiatry. You have correctly stated that, under 32 M.R.S.A. § 3551, a podiatrist is not permitted to use a general anesthesia when treating the human foot, if that podiatrist is operating independently of another practitioner. You ask whether a podiatrist would be operating outside the scope of his licensure if, during the podiatrist's treatment of the human foot, general anesthesia was administered to the patient by another medical practitioner who was authorized to administer general anesthesia and who was personally in attendance during the course of the treatment. It is our opinion that in the situation you have set forth, the podiatrist would be acting outside the permissible scope of his licensure.

32 M.R.S.A. § 3551 states in applicable part that:

"The practice of podiatry is defined as the diagnosis and treatment of the human foot by medical, mechanical or surgical means without the use of anaesthetics other than local except that the use of local anaesthesia shall be restricted to use only by those podiatrists who have been granted a doctorate degree from a school approved by the examiners. . . ."  
(emphasis added)

By the terms of the statute, a podiatrist can diagnose and treat the human foot by certain means, but this must be done ". . . without the use of anaesthetics other than local . . . ." It is the treatment of the human foot by a podiatrist with the use of

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a general anesthetic that is prohibited by the statute. There is nothing either in the terms of the statute, or in the legislative history thereof, to indicate that the legislature intended that the answer to whether a podiatrist was permitted to or prohibited from using a general anesthetic in connection with the practice of podiatry depended upon who actually administered the general anesthesia.

With regard to advice as to the situations and circumstances under which podiatric treatment conducted while a patient was under more than a local anesthetic would be appropriate, I believe it would be beneficial to discuss this request with you in somewhat more detail at your convenience so that I may adequately respond thereto.

Very truly yours,

DAVID ROSEMAN  
Assistant Attorney General

DR:jg