

**STATE OF CONNECTICUT
CONNECTICUT BOARD OF EXAMINERS IN PODIATRY**

IN RE: PETITION FOR DECLARATORY RULING CONCERNING THE
ADMINISTRATION OF HYPERBARIC OXYGEN THERAPY BY
LICENSED PODIATRISTS

PETITIONER: NABIL A. ATWEH, M.D., CHAIRMAN, DEPARTMENT OF
SURGERY BRIDGEPORT HOSPITAL

**DECLARATORY RULING
MEMORANDUM OF DECISION**

Procedural Background

On November 28, 2007 and March 7, 2008, Nabil A. Atweh, M.D., Chairman, Department of Surgery, Bridgeport Hospital (“petitioner”) requested that the Board of Examiners in Podiatry (“the Board”) issue a Declaratory Ruling with regard to the following question:

Whether a podiatrist, licensed in the State of Connecticut, can monitor and treat foot and ankle disorders using hyperbaric oxygen therapy in a wound care setting provided the podiatrist has successfully completed hyperbaric oxygen education.
Bd. Exh. 1.

On or about March 19, 2008, the Board provided notice of the Petitions, as required by §4-176(c) of the Connecticut General Statutes (“the Statutes”); and, on June 4, 2008, the Board ordered the matter be set for public hearing on September 10, 2008, pursuant to §4-176(e)(2) of the Statutes.

On June 4, 2008, Notice of Declaratory Ruling Proceeding was provided to all interested parties as pursuant to §4-176 of the Statutes. Bd. Exh. 2.

On July 11, 2008, the Connecticut Orthopedic Society and Connecticut State Medical Society filed a Petition to Participate as Intervenors. Bd. Exh. 3.

On July 18, 2008, the Connecticut Orthopedic Society and the Connecticut State Medical Society were granted intervenor status pursuant to §4-177a(d) of the Statutes. Bd. Exhs. 4, 5. These intervenors provided pre-filed testimony, which they adopted under oath during the hearing, and the witnesses were available for questioning and cross-examination. Bd. Exh. 6

The hearing was held on September 10, 2008, and was conducted in accordance with Chapter 54 of the Statutes, and §§19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies (“the Regulations”). Attorney Lucas B. Rocklin appeared on behalf of the Connecticut Orthopedic Society and the Connecticut State Medical Society.

This Memorandum of Decision is based entirely on the record and sets forth findings of fact and conclusions of law, and an order. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

Findings of Fact

1. Hyperbaric oxygen therapy is a treatment in which a patient intermittently breathes 100% pure oxygen while inside a treatment chamber at two to three times the atmospheric pressure at sea level.¹ Bd. Exh. 6.
2. Hyperbaric oxygen therapy is used in the treatment of chronic non-healing wounds to stimulate the growth of blood vessels and increase oxygenation to stop certain types of infections and facilitate wound healing.² Bd. Exh. 6.
3. Educational training is required to administer hyperbaric oxygen therapy. Tr. 9/10/2008, pp. 8, 20-25
4. A podiatrist, licensed in the State of Connecticut, is statutorily authorized to treat the foot medically and surgically. Bd. Exh. 6;
5. A podiatrist, licensed in the State of Connecticut, who is board certified or board qualified by the by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine is also statutorily authorized to provide medical and non-surgical treatment to the ankle. Bd. Exh. 6; Tr., p. 10.
6. Hyperbaric oxygen therapy is a medical treatment. Bd. Exh. 6;
7. A podiatrist, licensed in the State of Connecticut, who has received educational training in the administration of hyperbaric oxygen can medically treat the foot with hyperbaric oxygen therapy. Bd. Exh. 6; Tr., pp. 9, 10.

¹ Tibbles, Patrick, M., M.D., and Edelsberg, John, S. M.D., M.P.H., *Hyperbaric-Oxygen Therapy*, THE NEW ENGLAND JOURNAL OF MEDICINE, pp. 1642-1648 (June 20, 1996).

² *Id.*

8. A podiatrist licensed in the State of Connecticut who has received educational training in the administration of hyperbaric oxygen and is board certified or board qualified by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine can medically treat the ankle with hyperbaric oxygen therapy. Bd. Exh. 6; Tr., pp. 10, 11.

Discussion and Conclusions of Law

This Declaratory Ruling addresses the applicability of Connecticut General Statutes (“Statutes”) §§20-50 and 20-54(b) to the question of whether a podiatrist, licensed in the State of Connecticut, can monitor and treat foot and ankle disorders using hyperbaric oxygen therapy in a wound care setting provided the podiatrist has successfully completed hyperbaric oxygen education.

Section 20-50 of the Statutes provides:

"Podiatric medicine" means the diagnosis and treatment, including medical and surgical treatment, of ailments of the foot and the anatomical structures of the foot and the administration and prescription of drugs incidental thereto. It shall include treatment of local manifestations of systemic diseases as they appear on the foot. A doctor of podiatric medicine, licensed pursuant to this chapter may prescribe, administer and dispense drugs and controlled substances in schedule II, III, IV or V, in accordance with section 21a-252, in connection with the practice of podiatric medicine.

Section 20-54(b) of the Statutes provides:

A licensed podiatrist who is board qualified or certified by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine may engage in the medical and nonsurgical treatment of the ankle and the anatomical structures of the ankle, as well as the administration and prescription of drugs incidental thereto, and the nonsurgical treatment of manifestations of systemic diseases as they appear on the ankle. Such licensed podiatrist shall restrict treatment of displaced ankle fractures to the initial diagnosis and the initial attempt at closed reduction at the time of presentation and shall not treat tibial pilon fractures. For purposes of this subsection, "ankle" means the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and the talus, and the portions of skin, subcutaneous tissue, fascia, muscles, tendons and nerves at or below the level of the myotendinous junction of the triceps surae.

During the hearing, Michael Aronow, M.D., Associate Professor in the Department of Orthopedic Surgery at the University of Connecticut, School of Medicine, specializing in the treatment of disorders of the foot and ankle, testified and adopted the pre-filed testimony on

behalf of the Connecticut Orthopedic Society and the Connecticut State Medical Society (Bd. Exh. 6). Dr. Dan Davis, Podiatrist, testified on behalf of St. Vincent's Medical Hospital Wound Care Center. (Tr., p. 18.)

Section 20-50 of the Statutes provides for the medical and surgical treatment of the foot by a licensed podiatrist. Section 20-54(b) of the Statutes provides for the medical and non-surgical treatment of the ankle by a licensed podiatrist who is board qualified or certified by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine.

The Board finds that hyperbaric oxygen therapy is a medical treatment, as prescribed in §§20-50 and 20-54(b) of the Statutes. However, absent appropriate educational training in hyperbaric oxygen, a podiatrist is not qualified to administer hyperbaric oxygen therapy based solely on the acquisition of a podiatric license. Proper education in hyperbaric oxygen provides a foundation to ensure patient safety and identify complications that warrant a physician's care. Though not prescribed by statute, the Board recommends that podiatrists have access to a physician within 15 minutes, at all times, in the event of a life-threatening complication, and while the patient is undergoing decompression during hyperbaric oxygen therapy. Bd. Exh. 6; Tr., pp. 11, 12, 26, 27, 32, 33.

As such, the Board agrees with the testimony of Michael Aronow, M.D. and Dr. Dan Davis, and finds that educational training in hyperbaric oxygen is a prerequisite to being qualified to administer hyperbaric oxygen therapy as a medical treatment in accordance with §§ 20-50 and 20-54(b) of the Statutes.

Order

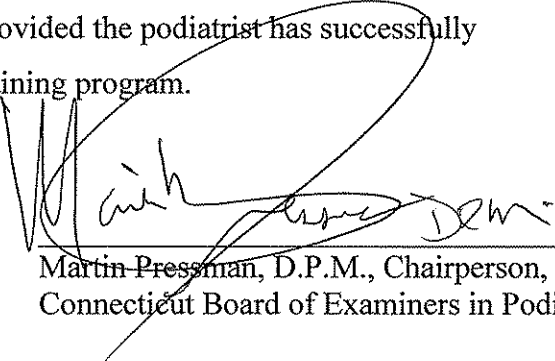
A preponderance of the evidence, a reasonable construction of the statutes and regulations, sound public policy, and the need to protect the public health and safety, all mandate the adoption of each of the following conclusions.

1. A podiatrist, licensed in the State of Connecticut, can monitor and treat foot disorders using hyperbaric oxygen therapy in a wound care setting provided the podiatrist has successfully completed an entire hyperbaric oxygen training program.

2. A podiatrist, licensed in the State of Connecticut, and board qualified or certified by the American Board of Podiatric Surgery or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, can monitor and treat ankle disorders using hyperbaric oxygen therapy in a wound care setting provided the podiatrist has successfully completed an entire hyperbaric oxygen training program.

6/3/89

Date



Martin Pressman, D.P.M., Chairperson,
Connecticut Board of Examiners in Podiatry