Office of Collective Bargaining

-------------------------------------x In the Matter of the Impasse between THE CITY OF NEW YORK and THE PODIATRY SOCIETY OF THE STATE OF NEW YORK -------------------------------------x	<u>REPORT and RECOMMENDATIONS</u> of <u>IMPASSE PANEL</u> Re: Podiatrists (Part-Time) Case No. I-86-72

On May 15, 1972, the Office of Collective Bargaining determined that an impasse existed in the collective bargaining between the Podiatry Society of the State of New York, hereinafter referred to as the Society, and the City of New York, hereinafter referred to as the City, and designated the undersigned as a one-ember impasse panel to hear and report and make recommendations for the resolution of the dispute.

A hearing was held at the offices of the Office of Collective Bargaining on July 20, 1972, at which the parties were given full opportunity to present testimony, evidence and argument in support of their respective positions. The City was represented by Robert Pick, Assistant Director of Labor Relations. The Society was represented by Blinder, Steinhaus & Hochhauser, Attorneys, Albert A. Blinder, of counsel. Also present at tho hearing were the following:

<u>For the City</u>: Michael Davies, Personal Examiner
Dr. Tibor Fodor, Executive Medical Director of the Medical Assistance Program.

<u>For the Society</u>: Gilbert Hollander, Executive Director
S. G. Frank, Vice-Chairman, New York State Board of Podiatry
Herbert Rauscher, Podiatrist in Charge at Kings County Hospital

The dispute is concerned with salary and related matters for the positions of podiatrist (part-time) to apply for the period July 11 1971, to June 30, 1974. The standard rate for podiatrist (part-time) has been $11.90 per hour since April 1, 1971.

The Society asserts that there exists a basic parity between podiatrists, physicians and dentists which warrants they be treated the same in respect to salary and other benefits.

The City recognizes that podiatry has made great strides in recent years in its effort to obtain recognition of its scope and function but the City argues that the podiatrist has not yet reached the stage where it can be considered the equal of the physician and the dentist.

At the hearing, the Society presented evidence, exhibits and arguments to support its claim to parity. It pointed out that podiatry is one of the four health professions (medicine, osteopathy, dentistry and podiatry) receiving doctor degrees and licensor by the State of New York. To obtain a license a podiatrist must have obtained a doctoral degree and must pass examinations in the following subjects: anatomy, microbiology, chemistry, physiology, diagnosis, pathology, surgery, therapeutics I and II, (including pharmacology), podiatric surgery, and podiatric orthopedics. It maintains that these requirements are similar to those for dentistry, medicine and osteopathy.

The Society points out that podiatrists graduating from, the New York College of Podiatric Medicine in the last five years have had baccalaureate degrees before entering and therefore have had eight years of college and professional training. Podiatrists are listed and recognized by all state agencies and insurance companies throughout the State. The fees they receive for the care of patients is similar to that received by physicians. The United Medical Services (New York's Blue Shield) defines practitioners in its contracts as, “Physicians, Dentists, Podiatrists”. The fee schedule for all three under its contracts is identical. Similarly, scheduled insurance policies which provide specified fees make the same allowance for treatment given by physicians or podiatrists.

The provisions of the New York State Employees Health Insurance Plan cover dentistry and podiatry in identical language. A similar equality is recognized by the Workmen's Compensation Board, the Disability Benefits Law, the State Department of Social Services and the City Social Service Department.

Testimony was offered by Dr. Seymour Frank, Vice-Chairman of the New York State Board of Podiatry and former President of the Podiatry Society of the State of New York, by Dr. Herbert Rauscher, Podiatrist in Charge of Kings County Hospital, and by Gilbert Hollander, Executive Director of the Society, supporting the Society's case for equal treatment with doctors and dentists.

The City submitted the testimony of Dr. Tibor Fodor, Executive Medical Director of the Medical Assistance Program, who felt that podiatry, while important, could not compare in scope, extent and significance with the practice of medicine. The physician, in his view, is trained for the whole body while podiatry is essentially concerned with a patient's feet. The physician must make decisions at the time of emergency that affect affect the person's life or death. This is not true of podiatry. Dr. Fodor pointed out that a podiatrist becomes a practitioner as soon as he finishes school while a physician must intern. From his conversation with podiatrists, Dr. Fodor stated that 75% to 90% of their daily work has to do with corns and calluses. Podiatrists are supposed to treat anything, and everything that pertains to the foot, but if they find that the condition is of a systemic nature they must refer it to a physician. Dr. Fodor acknowledged that there were surgical podiatrists but they are not in the same class with medical surgeons.

Dr. Fodor testified that, in his opinion, dentists have to know more than podiatrists. A dentist is called upon to recognize a great many systemic diseases. While a podiatrist may also be called upon to recognize some, in his opinion, the number that are recognized in the mouth are considerably greater than in the foot. Dr. Fodor acknowledged that podiatry and dentistry were apparently equal in pre-professional training and in the absence of an internship

requirement but he stated that the training of dentists, although equal in time, was much deeper in scope than that of podiatrists.

Dr. Rauscher, testifying, in rebuttal to Dr. Fodor, pointed out that the foot is the furthest part of the body from the heart and by virtue of that distance is more prone to all the problems involving circulatory disturbances. Hence, diabetes is a particular concern of the podiatrists. The foot as the single organ for locomotion and weight-bearing is the foundation of the skeletal system and is particularly confronted with all types of arthritis. Gout affects only the foot. The foot is the place with greatest strain on muscles, ligaments and tendons. Skin diseases which affect any portion of the body also affect the foot but many skin contact diseases are localized in the foot.

Dr. Rauscher challenged that any one part of the body can be singled out in terms of its impact on the general well-being of the person. While not attempting to diminish the dentists' roll in helping to maintain general health, he argued that the podiatrists' concern with feet is of equal importance.

In addition to the testimony of its witnesses, the City introduced the transcript of the testimony given before George Moskowitz, the fact-finder in the contract dispute in 1970, which was made part of the record.

Having studied the transcript of the present hearing as well as that conducted in 1970 and the exhibits submitted by the parties, I have core to the following conclusions about the issue of parity between podiatry, medicine and dentistry. In comparison with the physician, the training, scope and significance of the podiatrist is clearly lesser. The principal reason is that the physician is responsible for the whole person and for life and death decisions while the podiatrist is concerned with one part of the body and must refer all systemic problems to a doctor. While a podiatrist may take a similar course of study these studies do not approach the scope and depth to which a physician is exposed. A doctor is subject to an internship after graduating from medical school, while a podiatrist can become a practitioner immediately upon graduation. It is becoming customary for podiatrists to take internships after graduation

but at present only about 50% do. In the past, podiatry was a second or third choice after failure to obtain admission to a medical or dental school. This is less so now as podiatry is becoming more generally recognized for its scope and function. In the past podiatrists have not been permitted to admit the patients into hospitals although this is changing and in some hospitals podiatrists are now permitted to initiate admissions under the supervision of a physician, but the physician remains responsible for the systemic condition of the patient. Podiatrists have not generally been accepted in the operating room although this, too, is changing.

While the superiority of the physician over the podiatrist is clearly demonstrated, the case for the dentist is less clear-ut although in my opinion dentistry must be accorded a higher status at the present time. Podiatry is still a lower choice of aspiring professionals although this is changing. To the extent that it is still true, dentistry attracts on the average more promising students but no one can say with any degree of confidence that the average dentist is a better practitioner than the average podiatrist. With respect to training and requirement for licensor, the course of study is similar. It was the impression of Dr. Fodor that the dentist's training was deeper in scope than that podiatrist but he made no definitive study thereof. With respect to the relative number of systemic diseases and conditions for which the dentist is trained as compared with the podiatrist the impression I have from the testimony is that the dentist stands higher but this is an opinion and not demonstrated in any depth so as to persuade one with conviction.

Dr. Fodor's testimony that the podiatrists spend the major part of their day on corns and calluses was not challenged. This concentration on minor afflictions of the feet shows that the more serious functions of the podiatrists are not known to the general public. People do not go to podiatrists for all foot problems as they do to dentists with all tooth problems. In the main, people go to their physicians for foot problems other than corns and calluses.

The recent amendment of the definition of podiatry in Section 7001 of the Education Law sponsored by the Society indicates the limitations of the

practice. Section 7001 defines it as "operating on the bones, muscles and tendons of the feet for the correction of minor deficiencies and deformities of a mechanical and functional nature, - - - treating simple and uncomplicated fractures of the bones of the foot; administering only local anesthetics treating under general anesthesia administered by authorized persons - - - (emphasis added).

From all this, I am led to the conclusion that podiatry may be approaching the scope and significance of dentistry but has not as yet reached its status. There is no doubt that in the past few years the state requirements with respect to podiatry both as to training and practice has been strengthened. It is also true that strides have been made in recognition of podiatry by hospital administrations. Thus, the manual for hospitals of the Joint Commission on Accreditation permits the governing board of a hospital, after considering the recommendations of their medical staff to grant privileges to "qualified, licensed podiatrists, in accordance with their training, experience and demonstrated competence of judgment". It permits a podiatrist with clinical privileges to initiate procedure for admitting patients with the concurrence of an appropriate member of the medical staff. Since 1970, new programs have been instituted at several of the City hospitals giving improved status to podiatrists but it is not generally granted elsewhere. At Kings County Hospital, Dr. Rauscher testified, there has been great progress made last year. Podiatrists now service the Home Care Departments and they have petitioned the Medical Board to propose a change in the by-laws which makes podiatry a separate division in the Department of Surgery. He testified that they have just gotten through the paper work and framework of the new constitution at Kings County Hospitals. The changes have been authorized by a large majority of podiatrists practicing at the hospital, but he also admitted that the change has not yet taken place. (Transcript, p. 27).

From the foregoing, it is apparent that podiatry, while pressing to achieve a status of parity has not yet achieved it and to grant the podiatrists

parity as far as salaries are concerned at this point, in my opinion, would be premature despite the fact that in many cases their fee schedule is the same.

The flow chart of salary relationship between podiatrists and clinicians and dentists in the City reveals that the podiatrist has moved from $6.50 an hour in 1964, when the clinician and dentist were getting $9.20 per hour, to $11.90 in 1971 when the comparable rate for clinician was $13.30. In those seven years, the podiatrists have moved from 70% of the clinicians' salary to 89%.

In my opinion, until the podiatrists have been accepted by hospital administrations and the general public as the equal of dentists if not clinicians they are not entitled to move any closer to the salary paid the clinician and dentist. The clinicians and dentists were awarded an increase of $3.20 during a three-year contract for 1971-74. By my computation, 89% thereof is $2.85. Accordingly, I recommend as follows:

1. That the contract be renewed for another three years.

2. That the salary for podiatrists be increased at the beginning of the first year 70¢ per hour; at the beginning of the second year $1.075 per hour; at the beginning of the third year $1.075 per hour.

3. The differential paid for the designation as Chief of Section shall remain at $4.00 per session for the year beginning July 1, 1971, but shall be raised to $5.00 per session for the year beginning July 1, 1972, and July 1, 1974.

4. Other differentials shall remain unchanged.

Dated: September 25, 1972

BENJAMIN H. WOLF - IMPASSE PANEL