

The State of South Carolina



Office of the Attorney General

Opinion 1586-15
P65T. TRAVIS MEDLOCK
ATTORNEY GENERALREMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-758-8667

February 4, 1986

Dr. Nicholas A. Straney
Secretary-Treasurer
South Carolina State Board of Podiatry
701 St. Andrews Boulevard
Charleston, South Carolina 29407

RE: Surgical Second Opinions

Dear Dr. Straney:


You have requested an opinion of this Office as to whether or not companies currently writing health policies in South Carolina can require second surgical opinions of podiatric surgery exclusively by orthopaedic surgeons. Section 38-35-90, Code of Laws, South Carolina, 1976, as amended, which addresses the prohibition of any policy of accident and health insurance excluding payment or reimbursement for services performed within the scope of practice of a licensed podiatrist would appear to also restrict the exclusion of licensed podiatrists from giving second opinions in areas within their scope of practice. Section 38-35-90 states that:

Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by this chapter, in the benefits payable thereon, in any of the terms or conditions of such policy or in any other manner whatsoever is prohibited. Whenever any policy of insurance governed by this chapter provides for payment or reimbursement for any service which is within the scope of practice of a duly licensed podiatrist or duly licensed oral surgeon, the insured or other person entitled to benefits under such policy shall be entitled to payment of or reimbursement in accordance with the usual and customary fee for such services whether such services be performed by a duly licensed physician or a duly licensed podiatrist or a duly licensed oral surgeon, notwithstanding any provision contained in such policy; and the policyholder, insured or beneficiary shall have the right to choose the provider of such services, notwithstanding any provision to the contrary in any other statute.
(Emphasis added).

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Therefore, it appears that if the service in question is within the scope of practice of a licensed podiatrist that Section 38-35-90 prohibits the exclusion of a licensed podiatrist from giving a second opinion as to those services.

Very truly yours,


C. Havird Jones, Jr.
Assistant Attorney General

CHJjr:ppw

APPROVED BY:



ROBERT D. COOK, Executive Assistant for Opinions