

Introduced by Senator WaltersFebruary 4, 2010

An act to amend Section 2397 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 953, as introduced, Walters. Podiatrists: liability for emergency services.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and for the licensure and regulation of podiatrists by the California Board of Podiatric Medicine within the Medical Board of California. Existing law exempts a licensee of either of those boards from liability for civil damages for acts or omissions by the licensee in rendering specified emergency care and for injury or death caused in an emergency situation occurring in the licensee's office or a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure, as specified. Existing law prohibits construing these provisions to authorize a podiatrist to act beyond certain scope of practice limitations.

This bill would delete that prohibition.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2397 of the Business and Professions
- 2 Code is amended to read:

1 2397. (a) A licensee shall not be liable for civil damages for
2 injury or death caused in an emergency situation occurring in the
3 licensee’s office or in a hospital on account of a failure to inform
4 a patient of the possible consequences of a medical procedure
5 where the failure to inform is caused by any of the following:

- 6 (1) The patient was unconscious.
- 7 (2) The medical procedure was undertaken without the consent
8 of the patient because the licensee reasonably believed that a
9 medical procedure should be undertaken immediately and that
10 there was insufficient time to fully inform the patient.
- 11 (3) A medical procedure was performed on a person legally
12 incapable of giving consent, and the licensee reasonably believed
13 that a medical procedure should be undertaken immediately and
14 that there was insufficient time to obtain the informed consent of
15 a person authorized to give such consent for the patient.

16 (b) This section is applicable only to actions for damages for
17 injuries or death arising because of a licensee’s failure to inform,
18 and not to actions for damages arising because of a licensee’s
19 negligence in rendering or failing to render treatment.

20 (c) As used in this section:

- 21 (1) “Hospital” means a licensed general acute care hospital as
22 defined in subdivision (a) of Section 1250 of the Health and Safety
23 Code.
- 24 (2) “Emergency situation occurring in the licensee’s office”
25 means a situation occurring in an office, other than a hospital, used
26 by a licensee for the examination or treatment of patients, requiring
27 immediate services for alleviation of severe pain, or immediate
28 diagnosis and treatment of unforeseeable medical conditions,
29 which, if not immediately diagnosed and treated, would lead to
30 serious disability or death.
- 31 (3) “Emergency situation occurring in a hospital” means a
32 situation occurring in a hospital, whether or not it occurs in an
33 emergency room, requiring immediate services for alleviation of
34 severe pain, or immediate diagnosis and treatment of unforeseeable
35 medical conditions, which, if not immediately diagnosed and
36 treated, would lead to serious disability or death.

37 ~~(d) Nothing in this article shall be construed to authorize practice~~
38 ~~by a podiatrist beyond that set forth in Section 2473.~~

O