

Senate Bill No. 953

Passed the Senate May 24, 2010

Secretary of the Senate

Passed the Assembly June 28, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 953, 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 and would state the Legislature's intent regarding that deletion.

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

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

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

- (1) The patient was unconscious.
- (2) The medical procedure was undertaken without the consent of the patient because the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to fully inform the patient.

(3) A medical procedure was performed on a person legally incapable of giving consent, and the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

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

(c) As used in this section:

(1) "Hospital" means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(2) "Emergency situation occurring in the licensee's office" means a situation occurring in an office, other than a hospital, used by a licensee for the examination or treatment of patients, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(3) "Emergency situation occurring in a hospital" means a situation occurring in a hospital, whether or not it occurs in an emergency room, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

SEC. 2. The amendments made to Section 2397 of the Business and Professions Code by this act are not intended, nor shall they be construed, to enlarge, reduce, or otherwise modify the scope of practice of doctors of podiatric medicine, as set forth in Section 2472 of the Business and Professions Code. The amendments are intended to clarify that exemptions from liability under Article 17 (commencing with Section 2395) of Chapter 5 of Division 2 of the Business and Professions Code and Section 1799.102 of the Health and Safety Code apply to doctors of podiatric medicine rendering emergency care, and are intended to delete a reference to an obsolete provision of law.

Approved _____, 2010

Governor