

House Bill 1337

By: Representatives Westmoreland of the 86th, Butler of the 88th, Post 1, Lunsford of the 85th,
Post 2, Burmeister of the 96th, Rice of the 64th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 24-9-67 of the Official Code of Georgia Annotated, relating to
2 opinions of experts, so as to provide for standards in admitting expert testimony in
3 professional malpractice actions; to provide for related matters; to provide for an effective
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 24-9-67 of the Official Code of Georgia Annotated, relating to opinions of
8 experts, is amended by striking the Code section and inserting in lieu thereof the following:
9 "24-9-67.

10 (a) As used in this Code section, the term 'professional malpractice action' means an action
11 involving any profession listed in Code Section 9-11-9.1, including, but not limited to
12 medical malpractice actions as defined in Code Section 9-3-70.

13 (b) Except as otherwise provided in this Code section, the ~~The~~ opinions of experts on any
14 question of science, skill, trade, or like questions shall always be admissible; and such
15 opinions may be given on the facts as proved by other witnesses.

16 (c) In a professional malpractice action, if scientific, technical, or other specialized
17 knowledge will assist the trier of fact to understand the evidence or to determine a fact in
18 issue, a witness qualified as an expert by knowledge, skill, experience, training, or
19 education may testify thereto in the form of an opinion or otherwise, if:

20 (1) The testimony is based upon sufficient facts or data which has been admitted into the
21 evidence at the trial of the case;

22 (2) The testimony is the product of reliable principles and methods; and

23 (3) The witness has applied the principles and methods reliably to the facts of the case.

24 (d) Notwithstanding the provisions of subsection (c) of this Code section and any other
25 provision of law which might be construed to the contrary, in professional malpractice
26 actions, the opinions of an expert, who is otherwise qualified as to the acceptable conduct

1 of the professional whose conduct is at issue shall be admissible only if, at the time the act
 2 or omission is alleged to have occurred, such expert:

3 (1) Was licensed by an appropriate regulatory agency to practice his or her profession
 4 in the state in which such expert was practicing or teaching in the profession at such time;

5 and

6 (2) Had actual professional knowledge and experience in the area of practice or specialty
 7 in which the opinion is to be given as the result of having been regularly engaged in:

8 (A) The active practice of such area of specialty of his or her profession for at least
 9 three of the last five years immediately preceding such time;

10 (B) The teaching of such area of practice or specialty of his or her profession for at
 11 least half of his or her professional time as an employed member of the faculty of an
 12 educational institution which has been accredited in the teaching of his or her
 13 profession for at least three of the last five years immediately preceding such time; or

14 (C) Any combination of the active practice or the teaching of his or her profession in
 15 a manner which meets the requirements of subparagraphs (A) and (B) of this paragraph
 16 for at least three of the last five years immediately preceding such time.

17 (e) An affiant under Code Section 9-11-9.1 shall not be deemed an expert competent to
 18 testify if his or her opinions would not be admissible in the action at issue under this Code
 19 section."

20 **SECTION 2.**

21 This Act shall become effective upon its approval by the Governor or upon its becoming law
 22 without such approval. This Act shall apply only to causes of action arising on or after the
 23 effective date of this Act. Any cause of action arising prior to that date shall continue to be
 24 governed by the law in effect at the time such cause of action arose.

25 **SECTION 3.**

26 All laws and parts of laws in conflict with this Act are repealed.