

House Bill 1397

By: Representatives Porter of the 119th, Bordeaux of the 125th, Parrish of the 102nd, Skipper of the 116th, Jackson of the 124th, Post 1, 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 admissibility of expert opinions, so as to provide a definition; to provide for the admission
3 into evidence of the opinions of expert witnesses under certain circumstances; to provide for
4 the qualification of expert witnesses in certain cases; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 24-9-67 of the Official Code of Georgia Annotated, relating to admissibility
9 of expert opinions, is amended by striking the Code section and inserting in lieu thereof a
10 new Code Section 24-9-67 to read as follows:

11 "24-9-67.

12 (a) The opinions of experts on any question of science, skill, trade, or like questions shall
13 always be admissible; and such opinions may be given on the facts as proved by other
14 witnesses. As used in this Code section, the term 'professional malpractice action' means
15 an action involving any profession listed in Code Section 9-11-9.1, including, but not
16 limited to, medical malpractice actions as defined in Code Section 9-3-70.

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

21 (1) The testimony is based upon sufficient facts or data which has been admitted into
22 evidence;

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

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

25 (c) In professional malpractice actions, the opinions of an expert, who is otherwise
26 qualified as to the acceptable conduct of the professional whose conduct is at issue, shall

1 be admissible only if, at the time the act or omission is alleged to have occurred, such
 2 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 that 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 (d) The admissibility of proposed expert testimony under this Code section may be
 18 addressed before trial and the court may hold evidentiary or other hearings in connection
 19 with its disposition of such issues.

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

23 **SECTION 2.**

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