

The House Committee on Regulated Industries offers the following substitute to
HB 377:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to
2 chiropractors, so as to provide for additional authority for the board to refuse to grant a
3 license, revoke a license, or discipline a licensee; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors,
8 is amended by striking subsection (a) of Code Section 43-9-12, relating to grounds for refusal
9 or revocation of license, and inserting in its place the following:

10 "(a) The board shall have the authority to refuse to grant a license to an applicant therefor
11 or to revoke the license of a person licensed by that board or to discipline a person licensed
12 by that board, upon a finding by a majority of the entire board that the licensee or applicant
13 has:

14 (1) Failed to demonstrate the qualifications or standards for a license contained in this
15 chapter or the rules or regulations promulgated under this chapter; it shall be incumbent
16 upon the applicant to demonstrate to the satisfaction of the board that he meets all the
17 requirements for the issuance of a license, and, if the board is not satisfied as to the
18 applicant's qualifications, it may deny a license without a prior hearing; provided,
19 however, that the applicant shall be allowed to appear before the board if he so desires;

20 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
21 practice of chiropractic or on any document connected therewith; or practiced fraud or
22 deceit or intentionally made any false statement in obtaining a license to practice the
23 licensed business or profession; or made a false statement or deceptive registration with
24 the board;

25 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
26 of this state or any other state, territory, or country or in the courts of the United States;

1 as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
2 include any offense which, if committed in this state, would be deemed a felony, without
3 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'
4 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
5 appeal of the conviction has been sought;

6 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
7 involving moral turpitude, where:

8 (A) A plea of nolo contendere was entered to the charge;

9 (B) First offender treatment without adjudication of guilt pursuant to the charge was
10 granted; or

11 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

12 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
13 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
14 treatment shall be conclusive evidence of arrest and sentencing for such crime;

15 (5) Had his license to practice chiropractic revoked, suspended, or annulled by any
16 lawful licensing authority other than the board; or had other disciplinary action taken
17 against him by any such lawful licensing authority other than the board; or was denied
18 a license by any such lawful licensing authority other than the board, pursuant to
19 disciplinary proceedings, or was refused the renewal of a license by any such lawful
20 licensing authority other than the board, pursuant to disciplinary proceedings;

21 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
22 or practice harmful to the public, which conduct or practice materially affects the fitness
23 of the licensee or applicant to practice chiropractic, or of a nature likely to jeopardize the
24 interest of the public, which conduct or practice need not have resulted in actual injury
25 to any person or be directly related to the practice of chiropractic but shows that the
26 licensee or applicant has committed any act or omission which is indicative of bad moral
27 character or untrustworthiness; unprofessional conduct shall also include any departure
28 from, or the failure to conform to, the minimal standards of acceptable and prevailing
29 practice of chiropractic;

30 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
31 encourages any unlicensed person or any licensee whose license has been suspended or
32 revoked by the board to practice chiropractic or to practice outside the scope of any
33 disciplinary limitation placed upon the licensee by the board;

34 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
35 board, the United States, or any other lawful authority without regard to whether the
36 violation is criminally punishable, which statute, law, or rule or regulation relates to or
37 in part regulates the practice of chiropractic when the licensee or applicant knows or

1 should know that such action is violative of such statute, law, or rule; or violated a lawful
 2 order of the board previously entered by the board in a disciplinary hearing, consent
 3 decree, or license reinstatement;

4 (9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or
 5 outside this state; any such adjudication shall automatically suspend the license of any
 6 such person and shall prevent the reissuance or renewal of any license so suspended for
 7 as long as the adjudication of incompetence is in effect; ~~or~~

8 (10) Displayed an inability to practice chiropractic with reasonable skill and safety to the
 9 public or has become unable to practice chiropractic with reasonable skill and safety to
 10 the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other
 11 type of material; or

12 (11) Become unable to practice chiropractic with reasonable skill and safety to patients
 13 by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of
 14 material, or as a result of any mental or physical condition:

15 (A) In enforcing this paragraph, the board may, upon reasonable grounds, require a
 16 licensee or applicant to submit to a mental or physical examination by licensed health
 17 care providers designated by the board. The results of such examination shall be
 18 admissible in any hearing before the board, notwithstanding any claim of privilege
 19 under a contrary rule of law or statute, including, but not limited to, Code Section
 20 24-9-21. Every person who shall accept the privilege of practicing chiropractic in this
 21 state or who shall file an application for a license to practice chiropractic in this state
 22 shall be deemed to have given his or her consent to submit to such mental or physical
 23 examination and to have waived all objections to the admissibility of the results in any
 24 hearing before the board, upon the grounds that the same constitutes a privileged
 25 communication. If a licensee or applicant fails to submit to such an examination when
 26 properly directed to do so by the board, unless such failure was due to circumstances
 27 beyond his or her control, the board may enter a final order upon proper notice, hearing,
 28 and proof of such refusal. Any licensee or applicant who is prohibited from practicing
 29 chiropractic under this paragraph shall at reasonable intervals be afforded an
 30 opportunity to demonstrate to the board that he or she can resume or begin the practice
 31 of chiropractic with reasonable skill and safety to patients;

32 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
 33 any and all records relating to the mental or physical condition of a licensee or
 34 applicant, including psychiatric records; and such records shall be admissible in any
 35 hearing before the board, notwithstanding any privilege under a contrary rule of law or
 36 statute, including, but not limited to, Code Section 24-9-21. Every person who shall
 37 accept the privilege of practicing chiropractic in this state or who shall file an

1 application to practice chiropractic in this state shall be deemed to have given his or her
2 consent to the board's obtaining any such records and to have waived all objections to
3 the admissibility of such records in any hearing before the board, upon the grounds that
4 the same constitutes a privileged communication; and
5 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
6 privilege to prevent the disclosure of the results of the examination provided for in
7 subparagraph (A) of this paragraph or the records relating to the mental or physical
8 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
9 paragraph, all such information shall be received by the board in camera and shall not
10 be disclosed to the public, nor shall any part of the record containing such information
11 be used against any licensee or applicant in any other type of proceeding."

12 **SECTION 2.**

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