

The Senate Health and Human Services Committee offered the following substitute to HB 266:

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 expunge or delete
3 certain violations from the disciplinary record of any licensee; to provide for additional
4 authority for the board to refuse to grant a license, revoke a license, or discipline a licensee;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to chiropractors,
9 is amended by striking Code Section 43-9-6.1, relating to the scope of the authority of the
10 Georgia Board of Chiropractic Examiners, and inserting in its place the following:

11 "43-9-6.1.

12 The board is authorized to:

- 13 (1) Adopt, amend, and repeal such rules and regulations not inconsistent with this
14 chapter necessary for the proper administration and enforcement of said chapter;
- 15 (2) Examine, issue, renew, and reinstate the licenses of duly qualified applicants for
16 licensure to practice chiropractic in this state;
- 17 (3) Deny, suspend, revoke, or otherwise sanction licenses to practice chiropractic in this
18 state;
- 19 (4) Initiate investigations for the purpose of discovering violations of this chapter;
- 20 (5) Conduct hearings upon charges calling for the discipline of a licensee or on violations
21 of this chapter; ~~and~~
- 22 (6) Issue to chiropractors, licensed under this chapter, certificates under the seal of the
23 board evidencing such licensure and signed, either by hand or facsimile signature, by the
24 president of the board and the division director; and

1 (7) Expunge or delete from the disciplinary record of any licensee advertising violations
 2 not defined in the rules of the board as immoral and unprofessional conduct or relating
 3 to reasonable care and skill in the treatment of a patient."

4 **SECTION 2.**

5 Said chapter is further amended by striking subsection (a) of Code Section 43-9-12, relating
 6 to grounds for refusal or revocation of license, and inserting in its place the following:

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

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

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

22 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
 23 of this state or any other state, territory, or country or in the courts of the United States;
 24 as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
 25 include any offense which, if committed in this state, would be deemed a felony, without
 26 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'
 27 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
 28 appeal of the conviction has been sought;

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

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

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

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

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

4 (5) Had his license to practice chiropractic revoked, suspended, or annulled by any
5 lawful licensing authority other than the board; or had other disciplinary action taken
6 against him by any such lawful licensing authority other than the board; or was denied
7 a license by any such lawful licensing authority other than the board, pursuant to
8 disciplinary proceedings, or was refused the renewal of a license by any such lawful
9 licensing authority other than the board, pursuant to disciplinary proceedings;

10 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
11 or practice harmful to the public, which conduct or practice materially affects the fitness
12 of the licensee or applicant to practice chiropractic, or of a nature likely to jeopardize the
13 interest of the public, which conduct or practice need not have resulted in actual injury
14 to any person or be directly related to the practice of chiropractic but shows that the
15 licensee or applicant has committed any act or omission which is indicative of bad moral
16 character or untrustworthiness; unprofessional conduct shall also include any departure
17 from, or the failure to conform to, the minimal standards of acceptable and prevailing
18 practice of chiropractic;

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

23 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
24 board, the United States, or any other lawful authority without regard to whether the
25 violation is criminally punishable, which statute, law, or rule or regulation relates to or
26 in part regulates the practice of chiropractic when the licensee or applicant knows or
27 should know that such action is violative of such statute, law, or rule; or violated a lawful
28 order of the board previously entered by the board in a disciplinary hearing, consent
29 decree, or license reinstatement;

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

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

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

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

21 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
22 any and all records relating to the mental or physical condition of a licensee or
23 applicant, including psychiatric records; and such records shall be admissible in any
24 hearing before the board, notwithstanding any privilege under a contrary rule of law or
25 statute, including, but not limited to, Code Section 24-9-21. Every person who shall
26 accept the privilege of practicing chiropractic in this state or who shall file an
27 application to practice chiropractic in this state shall be deemed to have given his or her
28 consent to the board's obtaining any such records and to have waived all objections to
29 the admissibility of such records in any hearing before the board, upon the grounds that
30 the same constitutes a privileged communication; and

31 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
32 privilege to prevent the disclosure of the results of the examination provided for in
33 subparagraph (A) of this paragraph or the records relating to the mental or physical
34 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
35 paragraph, all such information shall be received by the board in camera and shall not
36 be disclosed to the public, nor shall any part of the record containing such information
37 be used against any licensee or applicant in any other type of proceeding."

1

SECTION 3.

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