Senate Bill 102

By: Senators Balfour of the 9th, Unterman of the 45th, Rogers of the 21st, Williams of the 19th and Henson of the 41st

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to licensure and regulation of chiropractors, so as to define and redefine certain terms; to change provisions relative to the scope of practice of chiropractors; to change the criminal penalties for unlicensed practice of chiropractic; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to licensure and regulation of chiropractors, is amended by revising Code Section 43-9-1, relating to definitions, Code Section 43-9-16, relating to scope of practice, and 43-9-19, relating to the crime of unlicensed practice as follows:

"43-9-1.

As used in this chapter, the term:

(1) 'Board' means the Georgia Board of Chiropractic Examiners.

(2) 'Chiropractic' means the adjustment of the ~~articulation~~ articulations of the human body, including ilium, sacrum, and coccyx, and the use of ~~electric~~ X-ray ~~photography~~, provided that the X-ray shall not be used for therapeutical purposes. The term 'chiropractic' shall also mean that separate and distinct branch of the healing arts whose science and art utilize the inherent recuperative powers of the body and the relationship between the musculoskeletal structures and functions of the body, particularly of the spinal column and the nervous system, in the restoration and maintenance of health. Chiropractic is a learned profession which teaches that the relationship between structure and function in the human body is a significant health factor and that such relationships between the spinal column and the nervous system are most significant, since the normal transmission and expression of nerve energy are essential to the restoration and maintenance of health. However, the term 'chiropractic' shall not include the use of drugs

or surgery. The adjustment referred to in this paragraph and subsection (b) of Code Section 43-9-16 may only be administered by a doctor of chiropractic authorized to do so by the provisions of this chapter; provided, however, that the provisions of this Code section shall not prevent any other health care provider from administering techniques authorized within their scope of practice.

(3) 'Practice of chiropractic' shall also include peer review which is defined as the procedure by which chiropractors licensed in the state of Georgia evaluate the quality and efficiency of services ordered or performed by other chiropractors, including but not limited to practice analysis, audit, claims review, underwriting assistance, utilization review, and compliance with applicable laws, rules, and regulations.

(4) 'Subluxation' means a complex of functional or pathological articular changes that compromise neural integrity and general health. A subluxation is evaluated, diagnosed, and managed through the use of chiropractic procedures based on the best available rational and empirical evidence."

"43-9-16.

(a) Chiropractors who have complied with this chapter shall have the right to practice chiropractic as defined in paragraph (2) of Code Section 43-9-1 and to evaluate, diagnose, and adjust patients according to specific chiropractic methods in order to correct spinal subluxations or to adjust the articulations of the human body. Chiropractors shall observe all applicable public health regulations.

(b) The chiropractic adjustment of the spine or articulations of the human body may include manual adjustments and adjustments by means of electrical and mechanical devices which produce traction or vibration. Chiropractors who have complied with this chapter may also use ~~in conjunction with adjustments of the spinal structures electrical therapeutic~~ modalities. ~~which induce heat or electrical current beneath the skin, including therapeutic~~ Modalities include any physical agent applied to produce therapeutic change to biologic tissues including thermal, acoustic, noninvasive light, mechanical, or electric energy, hot or cold packs, ultrasound, galvanism, microwave, diathermy, and ~~electromuscular~~ electrical stimulation. Chiropractors who have complied with this chapter may utilize and recommend ~~hot and cold packs and nonprescription, over-the-counter structural supports for the~~ therapeutic procedures effecting change through the application of clinical skills and services that attempt to improve function, including therapeutic exercise, therapeutic activities, manual therapy techniques, massage, and structural supports as they relate to the articulations of the human body ~~which are commonly available through retail pharmacy outlets~~; provided, however, the same shall not be construed to allow chiropractors to treat patients outside the scope of practice of chiropractic as set forth in this chapter.

(c) Chiropractors who have complied with this chapter may utilize those ~~electric therapeutic~~ modalities and procedures described in subsection (b) of this Code section, provided the chiropractor shall have completed a course of study containing a minimum of 120 hours of instruction in the proper utilization of those procedures in accordance with the guidelines set forth by the Council on Chiropractic Education or its successor and is qualified and so certified in that proper utilization.

(d) Chiropractors who have complied with this chapter shall have the right to sign health certificates, reporting to the proper health officers the same as other practitioners.

(e) Chiropractors shall not prescribe or administer medicine to patients, perform surgery, or practice obstetrics or osteopathy.

(f) Chiropractors shall not use venipuncture, capillary puncture, acupuncture, or any other technique which is invasive of the human body either by penetrating the skin or through any of the orifices of the body or through the use of colonics. Nothing in this subsection shall be construed to prohibit a chiropractor who is licensed to perform acupuncture under Article 3 of Chapter 34 of this title from engaging in the practice of acupuncture.

(g) A person professing to practice chiropractic for compensation must bring to the exercise of that person´s profession a reasonable degree of care and skill. Any injury resulting from a want of such care and skill shall be a tort for which a recovery may be had. If a chiropractor performs upon a patient any act authorized to be so performed under this chapter but which act also constitutes a standard procedure of the practice of medicine, including but not limited to the use of modalities such as those described in subsection (b) of this Code section and X-rays, under similar circumstances the chiropractor shall be held to the same standard of care as would licensed doctors of medicine who are qualified to and who actually perform those acts under similar conditions and like circumstances.

(h) A licensed practitioner of chiropractic may use only the title 'chiropractor,' or 'doctor of chiropractic,' or 'D.C.'

(i) Chiropractors who have complied with this chapter may recommend the use of ~~vitamins, minerals, or food~~ nutritional and dietary supplements. Any such recommendation of ~~vitamins, minerals, or food~~ nutritional and dietary supplements shall not be construed to allow chiropractors to treat patients outside the scope of the practice of chiropractic as set forth in this chapter nor shall this subsection be construed to allow chiropractors to sell at a profit any such ~~vitamins, minerals, or food~~ nutritional and dietary supplements without providing their generic name. Nothing in this subsection shall preclude compliance with Chapter 8 of Title 48, relating to the collection of sales and use taxes.″

″43-9-19.

It shall be unlawful for any person to practice chiropractic unless that person shall have first obtained a license as provided in this chapter and possesses all the qualifications prescribed by the terms of this chapter. Any person who practices or attempts to practice chiropractic without a license, or who buys or fraudulently obtains a license to practice chiropractic, or who violates any of the terms of this chapter, or who uses the title 'doctor of chiropractic,' 'chiropractor,' 'chiropractic,' 'D.C.,' or any word or title to induce the belief that such a person is engaged in the practice of chiropractic, without first complying with this chapter, shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than $500.00 nor more than ~~$1,000.00~~ $5,000.00, or by imprisonment for not less than two nor more than five years, or both, at the discretion of the court. All subsequent offenses shall be separate and distinct offenses, and punishable in like manner.″

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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