

House Bill 372 (AS PASSED HOUSE AND SENATE)

By: Representatives Dodson of the 84th, Post 1, Buckner of the 109th, Mosby of the 59th, Post 3, and Stephenson of the 60th, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 change certain provisions relating to adoption of health regulations; to provide for financial
3 assistance to students, postgraduate trainees, or the parents of such for programs of study in
4 fields in which critical personnel shortages exist in the authority's service area; to provide
5 for legislative findings; to provide for immunity for certain hospitals, their agents or
6 employees, health care providers, health care workers, and certain other persons participating
7 in the federal smallpox vaccination and treatment program; to provide for applicability; to
8 provide for a vaccination program for emergency responders who may be exposed to
9 infectious diseases when deployed to a disaster location; to provide for definitions of certain
10 terms; to provide for application for federal funding and implementation of a vaccination
11 program contingent upon such funding; to provide for related matters; to provide for
12 effective dates; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking
16 subsection (a) of Code Section 31-2-4, relating to rules and regulations of the Department
17 of Human Resources, variances and waivers to rules and regulations establishing licensure
18 standards for facilities, and exemption of classes of facilities from regulation, and inserting
19 in lieu thereof the following:

20 "(a) The department is authorized to adopt and promulgate rules and regulations to effect
21 prevention, abatement, and correction of situations and conditions which, if not promptly
22 checked, would militate against the health of the people of this state. Such rules and
23 regulations ~~must~~ shall be adapted to the purposes intended ~~and be,~~ within the purview of
24 the powers and duties imposed upon the department by this chapter, and supersede
25 conflicting rules, regulations, and orders adopted pursuant to the authority of Chapter 3 of
26 this title."

SECTION 2.

Said title is further amended by striking paragraph (25) of Code Section 31-7-75, relating to functions and powers, and inserting in its place the following:

"(25) To provide financial assistance to individuals for the purpose of obtaining educational training in nursing or another health care field if such individuals are employed by, or are on an authorized leave of absence from, such authority or have committed to be employed by such authority upon completion of such educational training; to provide grants, scholarships, loans or other assistance to such individuals and to students and parents of students for programs of study in fields in which critical shortages exist in the authority's service area, whether or not they are employees of the authority; to provide for the assumption, purchase, or cancellation of repayment of any loans, together with interest and charges thereon, made for educational purposes to students, postgraduate trainees, or the parents of such students or postgraduate trainees who have completed a program of study in a field in which critical shortages exist in the authority's service area; and to provide services and financial assistance to private not for profit organizations in the form of grants and loans, with or without interest and secured or unsecured at the discretion of such authority, for any purpose related to the provision of health or medical services or related social services to citizens;"

SECTION 3.

Said title is further amended by adding following Code Section 31-12-4, relating to isolation and segregation of diseased persons and quarantine, a new Code section to read as follows:

"31-12-4.1.

(a) The Georgia General Assembly makes the following findings: The attacks of September and October, 2001, on the United States have heightened concerns that terrorists may have access to the smallpox virus and may attempt to use it against the American public. In light of these concerns, and in order to secure public health and national security, the United States government has launched, and the State of Georgia has cooperated in, a smallpox vaccination and treatment program, with a recommendation for initial smallpox vaccinations for certain hospitals, health care workers, and emergency response workers. However, due to the virulent nature of smallpox and its vaccine, participation by hospitals and health care workers in such a program potentially increases their exposure to liability that, without sufficient legal protections, may significantly discourage their participation in the program. The federal government has determined, and the General Assembly agrees, that liability protection for those hospitals and health care workers who participate in such programs are integral to ensuring its maximum success. Accordingly, to achieve a potent and widespread smallpox vaccination and treatment

1 program and maintain an effective defense against possible terrorist attacks, it is critical
 2 that hospitals and health care workers participating in such program be protected from
 3 potential legal liability absent their gross negligence or willful or wanton misconduct. The
 4 General Assembly therefore concludes that certain steps must be taken to encourage
 5 participation in the smallpox vaccination and treatment program in order to reserve to
 6 Georgia citizens continued access to smallpox vaccination and treatment services in the
 7 event of a terrorist attack.

8 (b) Without waiving or affecting and cumulative of any existing immunity from any
 9 source, unless it is established that injuries or death were caused by gross negligence or
 10 willful or wanton misconduct:

11 (1) No licensed hospital which participates in a smallpox vaccination and treatment
 12 program authorized by the United States Secretary of Health and Human Services or the
 13 United States Public Health Service of the State of Georgia or employees, agents, or
 14 health care workers of such hospital; and

15 (2) No licensed health care provider, health care worker, or other person who participates
 16 in such smallpox vaccination and treatment program, whether or not such provider,
 17 workers, or person is an agent or employee of said hospital
 18 shall be liable for damages or injuries alleged to have been sustained by any individual by
 19 reason of such individual's receipt of a smallpox vaccination or treatment, such
 20 individual's exposure to smallpox or its related infections, or any act or omission
 21 committed by said hospital, employee, agent, health care provider, health care worker, or
 22 other person as a result of such individual's receipt of services from or related to such
 23 smallpox vaccination and treatment program.

24 (c) This Code section shall apply only to causes of action arising on or after the effective
 25 date of this Code section."

26 **SECTION 4.**

27 Said title is further amended by designating the current contents of Article 1 of Chapter 35,
 28 relating to vaccinations for firefighters, emergency medical technicians, and public safety
 29 officers, consisting of Code Sections 31-35-1 through 31-35-3 and inserting a new Article
 30 2 to read as follows:

31 "ARTICLE 2

32 31-35-10.

33 As used in this article, the term:

1 (1) 'Bioterrorism' means the intentional use, to cause or attempt to cause death, disease,
2 or other biological malfunction in any living organism, of any of the following:

3 (A) Microorganism;

4 (B) Virus;

5 (C) Infectious substance; or

6 (D) Biological product that may be engineered as a result of biotechnology or any
7 naturally occurring or bioengineered component of any microorganism, virus,
8 infectious substance, or biological product.

9 (2) 'Commissioner' means the commissioner of human resources.

10 (3) 'Department' means the Department of Human Resources.

11 (4) 'Disaster location' means any geographical location where a bioterrorism attack,
12 terrorist attack, catastrophic event, natural disaster, or emergency occurs.

13 (5) 'Emergency responder' means any person employed as state or local law enforcement
14 personnel, fire department personnel, corrections officers, or emergency medical
15 personnel who may be deployed to a bioterrorism attack, terrorist attack, catastrophic
16 event, natural disaster, or emergency.

17 31-35-11.

18 (a) The department shall offer a vaccination program for emergency responders who may
19 be exposed to infectious diseases when deployed to a disaster location. The program shall
20 include diseases for which vaccinations are recommended by the United States Public
21 Health Service and in accordance with the Federal Emergency Management Directors
22 Policy and may include, but not be limited to, vaccinations for hepatitis A, hepatitis B,
23 diphtheria-tetanus, influenza, and pneumococcal.

24 (b) An emergency responder shall be exempt from vaccination when a written statement
25 from a licensed physician is presented to the department indicating that a vaccine is
26 medically contraindicated for that person or the emergency responder signs a written
27 statement that the administration of a vaccination conflicts with his or her personal choice
28 or religious beliefs.

29 (c) In the event of a vaccine shortage, the commissioner, in consultation with the Governor
30 and the federal Centers for Disease Control and Prevention, shall use federal
31 recommendations to determine the priority for vaccinations for emergency responders.

32 (d) The department shall notify emergency responders of the availability of the vaccination
33 program and the risks associated with such vaccinations and shall provide educational
34 materials to emergency responders on ways to prevent exposure to infectious diseases.

1 (e) The department may contract with county and local health departments, not for profit
2 home health care agencies, hospitals, physicians, or other licensed health care organizations
3 to administer the vaccination program for emergency responders.

4 (f) The vaccination program established pursuant to this article shall be implemented only
5 upon receipt of federal funding or grants for aid available and approved for purposes under
6 this article.

7 (g) The department shall take all necessary steps to apply for federal funding to implement
8 the vaccination program under this article including use of an expedited application
9 procedure if circumstances require such. The department shall also amend the state plan
10 if necessary to meet federal funding requirements."

11 **SECTION 5.**

12 Section 4 of this Act shall become effective July 1, 2003. The remaining sections of this Act
13 shall become effective upon its approval by the Governor or upon its becoming law without
14 such approval.

15 **SECTION 6.**

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