

## House Bill 166

By: Representatives Channell of the 116<sup>th</sup>, Keen of the 179<sup>th</sup>, Fleming of the 117<sup>th</sup>, Cooper of the 41<sup>st</sup>, Brown of the 69<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the  
2 care and protection of indigent and elderly patients, so as to enact the "'Health Share'  
3 Volunteers in Medicine Act"; to provide for a short title; to provide for legislative findings;  
4 to provide for definitions; to provide for contracts between health care providers and  
5 governmental contractors; to provide uncompensated health care services to low-income  
6 persons; to provide for notice requirements to patients; to provide for volunteers providing  
7 support services; to provide for applicability of benefits; to provide for a report on claim  
8 statistics; to provide for an annual report by the Department of Community Health to certain  
9 legislative officers; to provide for liability coverage for claims and defense of litigation; to  
10 provide for the establishment of rules and regulations; to provide for applicability; to amend  
11 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'  
12 compensation, so as to revise the definition of "employee"; to change certain provisions  
13 relating to basis and method for computing compensation; to amend Title 43 of the Official  
14 Code of Georgia Annotated, relating to professions and businesses, so as to revise certain  
15 provisions relating to the "Georgia Volunteers in Health Care Specialties Act"; to revise  
16 certain provisions relating to the "Georgia Volunteers in Dentistry Act"; to revise certain  
17 provisions relating to the "Georgia Volunteers in Medicine Health Care Act"; to amend  
18 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to  
19 state tort claims, so as to revise the definition of "state officer or employee"; to provide for  
20 related matters; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the care and  
24 protection of indigent and elderly patients, is amended by adding at the end thereof a new  
25 Article 8 to read as follows:

## "ARTICLE 8

1

2 31-8-190.

3 This article shall be known and may be cited as the "'Health Share" Volunteers in Medicine  
4 Act.'

5 31-8-191.

6 The General Assembly finds that a significant proportion of the residents of this state who  
7 are uninsured or Medicaid recipients are unable to access needed health care because health  
8 care providers fear the increased risk of medical negligence liability. It is the intent of the  
9 General Assembly that access to medical care for indigent residents be improved by  
10 providing governmental protection to health care providers who offer free quality medical  
11 services to underserved populations of the state. Therefore, it is the intent of the General  
12 Assembly to ensure that health care professionals who contract to provide such services as  
13 agents of the state are provided sovereign immunity.

14 31-8-192.

15 As used in this article, the term:

16 (1) 'Contract' means an agreement executed in compliance with this article between a  
17 health care provider and a governmental contractor. This contract shall allow the health  
18 care provider to deliver health care services to low-income recipients as an agent of the  
19 governmental contractor. The contract must be for volunteer, uncompensated services.  
20 Payments made to a health care provider from the Indigent Care Trust Fund shall not  
21 constitute compensation under this Article.

22 (2) 'Department' means the Department of Community Health.

23 (3) 'Governmental contractor' means the department, county health departments, or a  
24 hospital, nursing home, or community health care facility owned or operated by a  
25 governmental entity.

26 (4) 'Health care provider' or 'provider' means:

27 (A) An ambulatory surgical center licensed under Article 1 of Chapter 7 this title;

28 (B) A hospital or nursing home licensed under Article 1 of Chapter 7 of this title;

29 (C) A physician or physician assistant licensed under Article 2 of Chapter 34 of Title  
30 43;

31 (D) An osteopathic physician or osteopathic physician assistant licensed under Article  
32 2 of Chapter 34 of Title 43;

33 (E) A chiropractic physician licensed under Chapter 9 of Title 43;

34 (F) A podiatric physician licensed under Chapter 35 of Title 43;

1 (G) A registered nurse, nurse midwife, licensed practical nurse, or advanced registered  
 2 nurse practitioner licensed or registered under Chapter 26 of Title 43 or any facility  
 3 which employs nurses licensed or registered under Chapter 26 of Title 43 to supply all  
 4 or part of the care delivered under this article;

5 (H) A midwife certified under Chapter 26 of this title;

6 (I) A health maintenance organization certificated under Chapter 21 of Title 33;

7 (J) A professional association, professional corporation, limited liability company,  
 8 limited liability partnership, or other entity which provides or has members which  
 9 provide health care services;

10 (K) Any other medical facility the primary purpose of which is to deliver human  
 11 medical diagnostic services or which delivers nonsurgical human medical treatment  
 12 and which includes an office maintained by a provider;

13 (L) A dentist or dental hygienist licensed under Chapter 11 of Title 43; or

14 (M) Any other health care professional, practitioner, provider, or facility under contract  
 15 with a governmental contractor, including a student enrolled in an accredited program  
 16 that prepares the student for licensure as any one of the professionals listed in  
 17 subparagraphs (C) through (H) of this paragraph.

18 The term includes any nonprofit corporation qualified as exempt from federal income  
 19 taxation under Section 501(c) of the Internal Revenue Code which delivers health care  
 20 services provided by licensed professionals listed in this paragraph, any federally funded  
 21 community health center, and any volunteer corporation or volunteer health care provider  
 22 that delivers health care services.

23 (5) 'Low-income' means:

24 (A) A person who is Medicaid eligible under the laws of this state;

25 (B) A person:

26 (i) Who is without health insurance; or

27 (ii) Who has health insurance that does not cover the injury, illness, or condition for  
 28 which treatment is sought; and

29 whose family income does not exceed 200 percent of the federal poverty level as  
 30 defined annually by the federal Office of Management and Budget;

31 (C) A person:

32 (i) Who is without dental insurance; or

33 (ii) Who has dental insurance that does not cover the injury, illness, or condition for  
 34 which treatment is sought; and

35 whose family income does not exceed 200 percent of the federal poverty level as  
 36 defined annually by the federal Office of Management and Budget; or

1 (D) Any client or beneficiary of the department or the Department of Human  
2 Resources who voluntarily chooses to participate in a program offered or approved by  
3 the department or the Department of Human Resources and meets the program  
4 eligibility guidelines of the department or the Department of Human Resources.

5 (6) 'Occasional-service volunteer' means a volunteer who provides one-time or  
6 occasional volunteer service.

7 (7) 'Regular-service volunteer' means a volunteer engaged in specific voluntary service  
8 activities on an ongoing or continuous basis.

9 (8) 'Volunteer' means any person who, of his or her own free will, provides goods or  
10 services in support of or in assistance to the program of health care services provided  
11 pursuant to this article to any governmental contractor, with no monetary or material  
12 compensation. This term shall not include a health care provider.

13 31-8-193.

14 (a) A health care provider that executes a contract with a governmental contractor to  
15 deliver health care services on or after July 1, 2005, as an agent of the governmental  
16 contractor shall be considered a state officer or employee for purposes of Article 2 of  
17 Chapter 21 of Title 50, while acting within the scope of duties pursuant to the contract, if  
18 the contract complies with the requirements of this article and regardless of whether the  
19 individual treated is later found to be ineligible. A health care provider acting under the  
20 terms of a contract with a governmental contractor may not be named as a defendant in any  
21 action arising out of the medical care or treatment provided on or after July 1, 2005,  
22 pursuant to contracts entered into under this article. The contract must provide that:

23 (1) The right of dismissal or termination of any health care provider delivering services  
24 pursuant to the contract is retained by the governmental contractor;

25 (2) The governmental contractor has access to the patient records of patients provided  
26 services pursuant to this article of any health care provider delivering services pursuant  
27 to the contract;

28 (3) Adverse incidents and information on treatment outcomes, as defined by the  
29 department and in accordance with the rules and regulations of the Department of Human  
30 Resources, must be reported by any health care provider to the governmental contractor  
31 if such incidents and information pertain to a patient treated pursuant to the contract. If  
32 an incident involves a licensed professional or a licensed facility, the governmental  
33 contractor shall submit such incident reports to the appropriate department, agency, or  
34 board, which shall review each incident and determine whether it involves conduct by the  
35 licensee that is subject to disciplinary action. All patient medical records and any  
36 identifying information contained in adverse incident reports and treatment outcomes

1 which are obtained by governmental entities pursuant to this paragraph are confidential  
2 and exempt from the provisions of Article 4 of Chapter 18 of Title 50;

3 (4) The health care provider shall provide services to patients on a walk-in and referral  
4 basis, in accordance with the terms of the contract. The provider must accept all referred  
5 patients; provided, however, that the number of patients that must be accepted may be  
6 limited under the terms of the contract.

7 (5) The health care provider shall not provide services to a patient unless such patient has  
8 received and signed the notice required in Code Section 31-8-194; provided, however,  
9 in cases of emergency care, the patient's legal representative shall be required to receive  
10 and sign the notice, or if such individual is unavailable, such patient shall receive and  
11 sign the notice within 48 hours after the patient has the mental capacity to consent to  
12 treatment.

13 (6) Patient care and health care services shall be provided in accordance with the terms  
14 of the contract and with rules and regulations as established by the department pursuant  
15 to this article. Experimental procedures and clinically unproven procedures shall not be  
16 provided or performed pursuant to this article. The governmental contractor may reserve  
17 the right to approve through written protocols any specialty care services and  
18 hospitalization, except emergency care as provided for in paragraph (5) of this subsection.

19 (7) The provider is subject to supervision and regular inspection by the governmental  
20 contractor.

21 (b) In order to enter into a contract under this Code section, a health care provider shall:

22 (1) Have a current valid Georgia health professional license;

23 (2) Not be under probation or suspension by the applicable licensing board or  
24 intermediate sanction by the Centers for Medicare and Medicaid Services for medicare  
25 or Medicaid violations; and

26 (3) Submit to a credentialing process to determine acceptability of participation.

27 (c) A governmental contractor that is also a health care provider is not required to enter  
28 into a contract under this article with respect to the health care services delivered by its  
29 employees.

30 (d) The provider shall not subcontract for the provision of services under this chapter.

31 (e) A contract entered into pursuant to this Code section shall be effective for all services  
32 provided by the health care provider pursuant to this chapter, without regard to when the  
33 services are performed.

34 31-8-194.

35 The governmental contractor or the health care provider if designated in the contract must  
36 provide written notice to each patient or the patient's legal representative, receipt of which

1 must be acknowledged in writing, that the provider is a state employee or officer for  
2 purposes of this article and that the exclusive remedy for injury or damage suffered as the  
3 result of any act or omission of a provider acting within the scope of duties pursuant to a  
4 contract is by commencement of an action pursuant to the provisions of Article 2 of  
5 Chapter 21 of Title 50 and that a remedy or remedies for injury or damage suffered as the  
6 result of any act or omission of a provider acting outside the scope of duties shall be as  
7 provided for under general tort law or other applicable law.

8 31-8-195.

9 (a) Every governmental contractor is authorized to recruit, train, and accept the services  
10 of volunteers, including regular-service volunteers and occasional-service volunteers in  
11 support of or in assistance to the program of health care services provided pursuant to this  
12 article to provide services, including but not limited to clerical, computer, and  
13 administrative support.

14 (b) Each governmental contractor utilizing the services of volunteers pursuant to this Code  
15 section shall:

16 (1) Take such actions as are necessary to ensure that volunteers understand their duties  
17 and responsibilities;

18 (2) Take such actions as are necessary to ensure that volunteers are made aware of and  
19 follow all applicable health and safety rules, regulations, and procedures; and

20 (3) Take such actions as are necessary to ensure that volunteers are provided appropriate  
21 oversight and guidance in the performance of their volunteer service.

22 (c) Volunteers shall have limited liability in accordance with Article 2 of Chapter 21 of  
23 Title 50 while performing services pursuant to this Code section.

24 31-8-196.

25 (a) Health care providers and volunteers recruited, trained, or accepted under this article  
26 shall not be subject to any provisions of the laws of this state relating to state employment,  
27 collective bargaining, hours of work, rates of compensation, leave time, or employee  
28 benefits. However, all health care providers and volunteers shall comply with applicable  
29 department or agency rules and regulations. Health care providers who are individuals and  
30 volunteers shall be considered as unpaid independent volunteers and shall not be entitled  
31 to unemployment compensation.

32 (b) Health care providers who are individuals and volunteers shall be covered by workers'  
33 compensation in accordance with Chapter 9 of Title 34.

1 31-8-197.

2 The Department of Administrative Services shall annually compile a report of all claims  
3 statistics which shall include the number and total of all claims pending and paid, and  
4 defense and handling costs associated with all claims brought against contract providers  
5 under this article. This report shall be forwarded to the department and included in the  
6 annual report submitted to the General Assembly pursuant to Code Section 31-8-198.

7 31-8-198.

8 Annually, the department shall report to the President of the Senate, the Speaker of the  
9 House of Representatives, the minority leaders of each house, and chairpersons of the  
10 House Health and Human Services Committee and the Senate Health and Human Services  
11 Committee, summarizing the efficacy of access and treatment outcomes with respect to  
12 providing health care services for low-income persons pursuant to this article.

13 31-8-199.

14 The department shall be responsible for and shall pay such amounts as determined by the  
15 Department of Administrative Services for insurance premiums for liability coverage for  
16 the cost of claims and defense against litigation arising out of health care services delivered  
17 pursuant to this article. The department shall be responsible for submitting to the  
18 Department of Administrative Services all underwriting information requested by and all  
19 insurance premiums assessed by the Department of Administrative Services. The  
20 department shall annually report to the Department of Administrative Services the number  
21 and type of providers who have entered into a contract pursuant to this article.

22 31-8-200.

23 The department shall adopt rules and regulations to administer this article in a manner  
24 consistent with its purpose to provide and facilitate access to appropriate, safe, and  
25 cost-effective health care services and to maintain health care quality. All governmental  
26 contractors and providers shall be subject to such rules and regulations. The rules may  
27 include services to be provided and authorized procedures.

28 31-8-201.

29 This article applies to incidents occurring on or after July 1, 2005. Nothing in this article  
30 in any way reduces or limits the rights of the state or any of its agencies or subdivisions to  
31 any benefit currently provided under Article 2 of Chapter 21 of Title 50."

**SECTION 2.**

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended in Code Section 34-9-1, relating to definitions, by striking paragraph (2) and inserting in lieu thereof the following:

"(2) 'Employee' means every person in the service of another under any contract of hire or apprenticeship, written or implied, except a person whose employment is not in the usual course of the trade, business, occupation, or profession of the employer; and, except as otherwise provided in this chapter, minors are included even though working in violation of any child labor law or other similar statute; provided, however, that nothing contained in this chapter shall be construed as repealing or altering any such law or statute. Any reference to any employee who has been injured shall, if the employee dies, include such employee's legal representatives, dependents, and other persons to whom compensation may be payable pursuant to this chapter. All firefighters, law enforcement personnel, and personnel of emergency management or civil defense agencies, emergency medical services, and rescue organizations whose compensation is paid by the state or any county or municipality, regardless of the method of appointment, and all full-time county employees and employees of elected salaried county officials are specifically included in this definition. There shall also be included within such term any volunteer firefighter of any county or municipality of this state, but only for services rendered in such capacity which are not prohibited by Code Section 38-3-36 and only if the governing authority of the county or municipality for which such services are rendered shall provide by appropriate resolution for inclusion of such volunteer firefighters; any volunteer law enforcement personnel of any county or municipality of this state who are certified by the Georgia Peace Officer Standards and Training Council, for volunteer law enforcement services rendered in such capacity which are not prohibited by Code Section 38-3-36 and only if the governing authority of the county or municipality for which such services are rendered shall provide by appropriate resolution for inclusion of such volunteer law enforcement personnel; any person who is a volunteer member or worker of an emergency management or civil defense organization, emergency medical service, or rescue organization, whether governmental or not, of any county or municipality of this state for volunteer services, which are not prohibited by Code Section 38-3-36, rendered in such capacity and only if the governing authority of the county or municipality for which such services are rendered shall provide by appropriate resolution for inclusion of such volunteer members or workers; any person who is a health care provider or volunteer pursuant to Article 8 of Chapter 8 of Title 31; and any person certified by the Department of Human Resources or the Composite State Board of Medical Examiners and registered with any county or municipality of this state as a

1 medical first responder for any volunteer first responder services rendered in such  
2 capacity, which are not prohibited by Code Section 38-3-36 and only if the governing  
3 authority of the county or municipality for which such services are rendered shall provide  
4 by appropriate resolution for inclusion of such responders. The various elected county  
5 officers and elected members of the governing authority of an individual county shall also  
6 be included in this definition, if the governing authority of said county shall provide  
7 therefor by appropriate resolution. For the purposes of workers' compensation coverage,  
8 employees of county and district health agencies established under Chapter 3 of Title 31  
9 are deemed and shall be considered employees of the State of Georgia and employees of  
10 community service boards established under Chapter 2 of Title 37 shall be considered to  
11 be employees of the state. For the purpose of workers' compensation coverage, members  
12 of the Georgia National Guard and the State Defense Force serving on state active duty  
13 pursuant to an order by the Governor are deemed and shall be considered to be employees  
14 of this state. A person shall be an independent contractor and not an employee if such  
15 person has a written contract as an independent contractor and if such person buys a  
16 product and resells it, receiving no other compensation, or provides an agricultural  
17 service or such person otherwise qualifies as an independent contractor. Notwithstanding  
18 the foregoing provisions of this paragraph, any officer of a corporation may elect to be  
19 exempt from coverage under this chapter by filing written certification of such election  
20 with the insurer or, if there is no insurer, the State Board of Workers' Compensation as  
21 provided in Code Section 34-9-2.1. For purposes of this chapter, an owner-operator as  
22 such term is defined in Code Section 40-2-87 shall be deemed to be an independent  
23 contractor. Inmates or persons participating in a work release program, community  
24 service program, or similar program as part of the punishment for violation of a  
25 municipal ordinance pursuant to Code Section 36-32-5 or a county ordinance or a state  
26 law shall not be deemed to be an employee while participating in work or training or  
27 while going to and from the work site or training site, unless such inmate or person is  
28 employed for private gain in violation of Code Section 42-1-5 or Code Section 42-8-70  
29 or unless the municipality or county had voluntarily established a policy, on or before  
30 January 1, 1993, to provide workers' compensation benefits to such individuals."

31 **SECTION 3.**

32 Said chapter is further amended by striking Code Section 34-9-260, relating to basis and  
33 method for computing compensation generally, and inserting in lieu thereof the following:  
34 "34-9-260.

35 Except as otherwise provided in this chapter, the average weekly wages of the injured  
36 employee at the time of the injury shall be taken as the basis upon which to compute

1 compensation and shall be determined, subject to limitations as to the maximum and  
2 minimum amounts provided for in Code Sections 34-9-261 and 34-9-265, as follows:

3 (1) If the injured employee shall have worked in the employment in which he or she was  
4 working at the time of the injury, whether for the same or another employer, during  
5 substantially the whole of 13 weeks immediately preceding the injury, his or her average  
6 weekly wage shall be one-thirteenth of the total amount of wages earned in such  
7 employment during the 13 weeks;

8 (2) If the injured employee shall not have worked in such employment during  
9 substantially the whole of 13 weeks immediately preceding the injury, the wages of a  
10 similar employee in the same employment who has worked substantially the whole of  
11 such 13 weeks shall be used in making the determination under the preceding paragraph;

12 (3) If either of the foregoing methods cannot reasonably and fairly be applied, the  
13 full-time weekly wage of the injured employee shall be used;

14 (4) If compensation is due for a fractional part of the week, the compensation for such  
15 fractional part shall be determined by dividing the weekly compensation rate by the  
16 number of days employed per week to compute the amount due for each day;

17 (5) If the injured employee is a volunteer firefighter included under this chapter for  
18 volunteer fire-fighting services rendered to a county or municipality of this state or a  
19 volunteer law enforcement officer included under this chapter for volunteer law  
20 enforcement services rendered to a county or municipality of this state, such firefighter's  
21 or volunteer law enforcement officer's average weekly wage shall be deemed to be the  
22 Georgia average weekly earnings of production workers in manufacturing industries for  
23 the immediately preceding calendar year, as published by the Georgia Department of  
24 Labor;

25 (6) If the injured employee is a health care provider or volunteer pursuant to Article 8  
26 of Chapter 8 of Title 31 in the course of providing services for a governmental contractor,  
27 as defined in Code Section 31-8-192, such health care provider's or volunteer's average  
28 weekly wage shall be deemed to be the Georgia average weekly earnings of a health care  
29 professional or individual performing similar services for the immediately preceding  
30 calendar year, as published by the Georgia Department of Labor;

31 ~~(6)~~(7) The average weekly wage of a member of the Georgia National Guard or State  
32 Defense Force serving on state active duty pursuant to an order by the Governor shall be  
33 the greater of:

34 (A) Seven-thirtieths of the monthly pay and allowances of the individual at the time  
35 of the injury, computed in accordance with Code Section 38-2-250, adjusted from time  
36 to time for appropriated increases in such monthly pay and allowances, excluding  
37 longevity increases; or

1 (B) If the injured member of the Georgia National Guard or the State Defense Force  
 2 worked at the time of the injury in any employment other than serving as a member of  
 3 the Georgia National Guard or the State Defense Force, the average weekly wage of the  
 4 individual in such other employment as determined pursuant to paragraphs (1) through  
 5 ~~(5)~~(6) of this Code section or, if such individual worked at the time of the injury for  
 6 more than one employer, the average combined weekly wage of the individual in such  
 7 multiple employment as determined pursuant to paragraphs (1) through ~~(5)~~ (6) of this  
 8 Code section."

#### 9 SECTION 4.

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
 11 is amended by striking Code Section 43-1-28, relating to volunteers in health care specialties,  
 12 and inserting in lieu thereof the following:

13 "43-1-28.

14 (a) This Code section shall be known and may be cited as the 'Georgia Volunteers in  
 15 Health Care Specialties Act.'

16 (b) As used in this Code section, the term:

17 (1) 'Health care board' means that professional licensing board which licenses a health  
 18 care practitioner under this title.

19 (2) 'Health care practitioner' means a chiropractor, registered professional nurse, ~~or~~  
 20 podiatrist, optometrist, professional counselor, social worker, marriage and family  
 21 therapist, occupational therapist, physician's assistant, licensed practical nurse, or  
 22 certified nurse midwife.

23 (3) 'Health care specialty' means the practice of chiropractic, nursing, ~~or~~ podiatry,  
 24 optometry, professional counseling, social work, marriage and family therapy,  
 25 occupational therapy, physician assistance, or midwifery.

26 (c) Notwithstanding any other provision of law, each health care board may issue a special  
 27 license to qualifying health care practitioners whose health care specialty is licensed by that  
 28 board under the terms and conditions set forth in this Code section. The special license may  
 29 only be issued to a person who:

30 (1) Is currently licensed to practice the applicable health care specialty in any health care  
 31 specialty licensing jurisdiction in the United States and whose license is in good standing;  
 32 or

33 (2) Is retired from the practice of the health care specialty or, in the case of a physician's  
 34 assistant, has an inactive license and is not currently engaged in such practice either full  
 35 time or part time and has, prior to retirement or attaining inactive status, maintained full

1 licensure in good standing in the applicable health care specialty licensing jurisdiction in  
2 the United States.

3 (d) The special licensee shall be permitted to practice the health care specialty only in the  
4 noncompensated employ of public agencies or institutions, not for profit agencies, not for  
5 profit institutions, nonprofit corporations, or not for profit associations which provide  
6 health care specialty services only to indigent patients in areas which are underserved by  
7 that specialty or critical need population areas of the state, as determined by the board  
8 which licenses that specialty, or pursuant to Article 8 of Chapter 8 of Title 31.

9 (e) The person applying for the special license under this Code section shall submit to the  
10 appropriate health care board a copy of his or her health care specialty degree, a copy of  
11 his or her health care specialty license in his or her current or previous licensing and  
12 regulating jurisdiction, and a notarized statement from the employing agency, institution,  
13 corporation, ~~or~~ association, or health care program on a form prescribed by that board,  
14 whereby he or she agrees unequivocally not to receive compensation for any health care  
15 specialty services he or she may render while in possession of the special license.

16 (f) Examinations by the health care board, any application fees, and all licensure and  
17 renewal fees may be waived for the holder of the special license under this Code section.

18 (g) If, at the time application is made for the special license, the health care practitioner  
19 is not in compliance with the continuing education requirements established by the health  
20 care board for the applicable health care specialty, the health care practitioner shall be  
21 issued a nonrenewable temporary license to practice for six months provided the applicant  
22 is otherwise qualified for such license.

23 (h)(1) Except as provided for in paragraph (2) of this subsection, the ~~The~~ liability of  
24 persons practicing a health care specialty under and in compliance with a special license  
25 issued under this Code section and the liability of their employers for such practice shall  
26 be governed by Code Section 51-1-29.1, except that a podiatrist engaged in such practice  
27 and an employer thereof shall have the same immunity from liability as provided other  
28 health care practitioners under Code Section 51-1-29.1.

29 (2) The liability of persons practicing a health care specialty pursuant to Article 8 of  
30 Chapter 8 of Title 31 under and in compliance with a special license issued under this  
31 Code section and the liability of their employers for such practice shall be governed by  
32 the provisions of such article.

33 (i) This Code section, being in derogation of the common law, shall be strictly construed."



1 (2) The liability of persons practicing dentistry or dental hygiene pursuant to Article 8  
 2 of Chapter 8 of Title 31 under and in compliance with a special license issued under this  
 3 Code section shall be governed by the provisions of such article.

4 (h) This Code section, being in derogation of the common law, shall be strictly construed.

5 (i) Application for a license under this Code section shall constitute consent for  
 6 performance of a criminal background check. Each applicant who submits an application  
 7 to the board for licensure agrees to provide the board with any and all information  
 8 necessary to run a criminal background check, including but not limited to classifiable sets  
 9 of fingerprints. The applicant shall be responsible for all fees associated with the  
 10 performance of a background check."

### 11 SECTION 6.

12 Said title is further amended by striking Code Section 43-34-45.1, relating to special licenses  
 13 for volunteers, and inserting in lieu thereof the following:

14 "43-34-45.1.

15 (a) This Code section shall be known and may be cited as the 'Georgia Volunteers in  
 16 Medicine Health Care Act.'

17 (b) Notwithstanding any other provision of law, the board may issue a special license to  
 18 qualifying physicians under the terms and conditions set forth in this Code section. The  
 19 special license may only be issued to a person who:

20 (1) Is currently licensed to practice medicine in any medical-licensing jurisdiction in the  
 21 United States and whose license is in good standing; or

22 (2) Is retired from the practice of medicine and not currently engaged in such practice  
 23 either full time or part time and has, prior to retirement, maintained full licensure in good  
 24 standing in any medical-licensing jurisdiction in the United States.

25 (c) The special licensee shall be permitted to practice medicine only in the  
 26 noncompensated employ of public agencies or institutions or not for profit agencies, not  
 27 for profit institutions, nonprofit corporations, or not for profit associations which provide  
 28 medical services only to indigent patients in medically underserved or critical need  
 29 population areas of the state, as determined by the board, or pursuant to Article 8 of  
 30 Chapter 8 of Title 31.

31 (d) The person applying for the special license under this Code section shall submit to the  
 32 board a copy of his or her medical degree, a copy of his or her license in his or her current  
 33 or previous licensing and regulating jurisdiction, and a notarized statement from the  
 34 employing agency, institution, corporation, ~~or~~ association, or health care program, on a  
 35 form prescribed by the board, whereby he or she agrees unequivocally not to receive

1 compensation for any medical services he or she may render while in possession of the  
2 special license.

3 (e) The examination by the board, any application fees, and all licensure and renewal fees  
4 must be waived for the holder of the special license under this Code section and do not  
5 apply to such person.

6 (f) If at the time application is made for the special license the physician is not in  
7 compliance with the continuing medical education requirements established by the board,  
8 the physician shall be issued a nonrenewable temporary license to practice for six months  
9 provided the applicant is otherwise qualified for such license.

10 (g)(1) Except as provided for in paragraph (2) of this subsection, the The liability of of  
11 persons practicing medicine under and in compliance with a special license issued under  
12 this Code section and the liability of their employers for such practice shall be governed  
13 by Code Section 51-1-29.1.

14 (2) The liability of persons practicing medicine pursuant to Article 8 of Chapter 8 of  
15 Title 31 under and in compliance with a special license issued under this Code section  
16 and the liability of their employers shall be governed by the provisions of such article.

17 (h) Nothing contained in this Code section shall be construed to authorize the holder of the  
18 special license provided for in this Code section to perform surgery or any surgical  
19 procedure.

20 (i) This Code section, being in derogation of the common law, shall be strictly construed."

## 21 SECTION 7.

22 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to  
23 state tort claims, is amended in Code Section 50-21-22, relating to definitions, by striking  
24 paragraph (7) in its entirety and inserting in lieu thereof the following:

25 "(7) 'State officer or employee' means an officer or employee of the state, elected or  
26 appointed officials, law enforcement officers, and persons acting on behalf or in service  
27 of the state in any official capacity, whether with or without compensation, but the term  
28 does not include an independent contractor doing business with the state. The term state  
29 officer or employee also includes any natural person who is a member of a board,  
30 commission, committee, task force, or similar body established to perform specific tasks  
31 or advisory functions, with or without compensation, for the state or a state government  
32 entity, and any natural person who is a volunteer participating as a volunteer, with or  
33 without compensation, in a structured volunteer program organized, controlled, and  
34 directed by a state government entity for the purposes of carrying out the functions of the  
35 state entity. This shall include any health care provider and any volunteer when providing  
36 services pursuant to Article 8 of Chapter 8 of Title 31. An employee shall also include

1 foster parents and foster children. ~~The~~ Except as otherwise provided for in this paragraph,  
2 the term shall not include a corporation whether for profit or not for profit, or any private  
3 firm, business proprietorship, company, trust, partnership, association, or other such  
4 private entity."

5 **SECTION 8.**

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