

Senate Bill 315

By: Senators Smith of the 52nd, Tolleson of the 20th, Williams of the 19th, Rogers of the 21st, Unterman of the 45th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to  
2 emergency management, so as to provide for the enactment of the "Uniform Emergency  
3 Volunteer Health Practitioners Act"; to provide for definitions; to provide for applicability  
4 to volunteer health practitioners; to provide for regulation of volunteer health practitioners  
5 during an emergency; to provide for registration systems; to provide for recognition of  
6 volunteer health practitioners licensed in other states; to provide that there shall be no effect  
7 on credentialing and privileging; to provide for the provision of volunteer health services or  
8 veterinary services; to provide for relation to other laws; to provide for regulatory authority;  
9 to provide for limitations on civil liability; to provide for workers' compensation coverage;  
10 to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency  
14 management, is amended by adding a new article to read as follows:

15 style="text-align:center">"ARTICLE 11

16 38-3-160.

17 This article shall be known and may be cited as the 'Uniform Emergency Volunteer Health  
18 Practitioners Act.'

19 38-3-161.

20 As used in this article, the term:

21 (1) 'Credentialing' means obtaining, verifying, and assessing the qualifications of a health  
22 practitioner to provide treatment, care, or services in or for a health facility.

23 (2) 'Disaster relief organization' means an entity that provides emergency or disaster relief  
 24 services that include health services or veterinary services provided by volunteer health  
 25 practitioners and that:

26 (A) Is designated or recognized as a provider of those services pursuant to a disaster  
 27 response and recovery plan adopted by an agency of the federal government or the  
 28 Georgia Emergency Management Agency; or

29 (B) Regularly plans and conducts its activities in coordination with an agency of the  
 30 federal government or the Georgia Emergency Management Agency.

31 (3) 'Emergency' means an event or condition that is deemed a state of emergency under  
 32 Code Section 38-3-51, public health emergency under Code Section 31-12-1.1, a local  
 33 emergency under Code Section 36-69-2, or an emergency under any other provision of  
 34 law.

35 (4) 'Emergency declaration' means a state of emergency declared by the Governor  
 36 pursuant to Code Section 38-3-51 or other applicable law or laws.

37 (5) 'Emergency Management Assistance Compact' means the interstate compact  
 38 approved by the United States Congress by Public Law No. 104-321, 110 Stat. 3877 and  
 39 enacted in this state as Article 5 of this chapter.

40 (6) 'Entity' means a person other than an individual.

41 (7) 'Health facility' means a hospital or other health facility licensed under Chapter 7 of  
 42 Title 31, a veterinary facility as defined in paragraph (16) of Code Section 43-50-3, or  
 43 any other entity licensed under the laws of another state to provide health services or  
 44 veterinary services.

45 (8) 'Health practitioner' means an individual licensed under the laws of this or another  
 46 state to provide health services or veterinary services.

47 (9) 'Health services' means the provision of treatment, care, advice, or guidance, or other  
 48 services or supplies, related to the health or death of individuals or human populations  
 49 to the extent necessary to respond to an emergency, including:

50 (A) The following, concerning the physical or mental condition or functional status of  
 51 an individual or affecting the structure or function of the body:

52 (i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care;  
 53 and

54 (ii) Counseling, assessment, procedures, or other services;

55 (B) The sale or dispensing of a drug, a device, equipment, or another item to an  
 56 individual in accordance with a prescription; and

57 (C) Funeral, cremation, cemetery, or other mortuary services.

58 (10) 'Host entity' means an entity operating in this state which uses volunteer health  
 59 practitioners to respond to an emergency.

60 (11) 'License' means authorization by a state to engage in health services or veterinary  
61 services that are unlawful without such authorization. The term includes authorization  
62 under the laws of this state to an individual to provide health services or veterinary  
63 services based upon a national certification issued by a public or private entity.

64 (12) 'Person' means an individual, corporation, business trust, trust, partnership, limited  
65 liability company, association, joint venture, public corporation, government or  
66 governmental subdivision, agency, or instrumentality, or any other legal or commercial  
67 entity.

68 (13) 'Privileging' means the authorizing by an appropriate authority, such as a governing  
69 body, of a health practitioner to provide specific treatment, care, or services at a health  
70 facility subject to limits based on factors that include license, education, training,  
71 experience, competence, health status, and specialized skill.

72 (14) 'Scope of practice' means the extent of the authorization to provide health services  
73 or veterinary services granted to a health practitioner by a license issued to such health  
74 practitioner in the state in which the principal part of such health practitioner's services  
75 are rendered, including any conditions imposed by the licensing authority.

76 (15) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the  
77 United States Virgin Islands, or any territory or insular possession subject to the  
78 jurisdiction of the United States.

79 (16) 'Veterinary services' means the provision of treatment, care, advice, or guidance, or  
80 other services or supplies, related to the health or death of an animal or to animal  
81 populations to the extent necessary to respond to an emergency, including:

82 (A) The diagnosis, treatment, or prevention of an animal disease, injury, or other  
83 physical or mental condition by the prescription, administration, or dispensing of  
84 vaccines, medicine, surgery, or therapy;

85 (B) The use of a procedure for reproductive management; and

86 (C) The monitoring and treatment of animal populations for diseases that have spread  
87 or demonstrate the potential to spread to humans.

88 (17) 'Volunteer health practitioner' means a health practitioner who provides health  
89 services or veterinary services, whether or not such health practitioner receives  
90 compensation for those services. The term shall not include a health practitioner who  
91 receives compensation pursuant to a preexisting employment relationship with a host  
92 entity or affiliate which requires such health practitioner to provide health services in this  
93 state, unless such health practitioner is not a resident of this state and is employed by a  
94 disaster relief organization providing health services in this state while an emergency  
95 declaration is in effect.

96 38-3-162.

97 This article shall apply to volunteer health practitioners registered with a registration  
 98 system that complies with Code Section 38-3-164 and who provide health services or  
 99 veterinary services in this state for a host entity while an emergency declaration is in effect.

100 38-3-163.

101 (a) While an emergency declaration is in effect, the Governor may limit, restrict, or  
 102 otherwise regulate:

103 (1) The duration of practice by volunteer health practitioners;

104 (2) The geographical areas in which volunteer health practitioners may practice;

105 (3) The types of volunteer health practitioners who may practice; and

106 (4) Any other matters necessary to coordinate effectively the provision of health services  
 107 or veterinary services during the emergency.

108 (b) An order issued pursuant to subsection (a) of this Code section may take effect  
 109 immediately, without prior notice or comment, and shall not be a rule within the meaning  
 110 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

111 (c) A host entity that uses volunteer health practitioners to provide health services or  
 112 veterinary services in this state shall:

113 (1) Consult and coordinate its activities with the Georgia Emergency Management  
 114 Agency to the extent practicable to provide for the efficient and effective use of volunteer  
 115 health practitioners; and

116 (2) Comply with the laws of this state relating to the management of emergency health  
 117 services or veterinary services.

118 38-3-164.

119 (a) To qualify as a volunteer health practitioner registration system, a system shall:

120 (1) Accept applications for the registration of volunteer health practitioners before or  
 121 during an emergency;

122 (2) Include information about the licensure and good standing of health practitioners  
 123 which is accessible by authorized persons;

124 (3) Be capable of confirming the accuracy of information concerning whether a health  
 125 practitioner is licensed and in good standing before health services or veterinary services  
 126 are provided under this article; and

127 (4) Meet one of the following conditions:

128 (A) Be an emergency system for advance registration of volunteer health care  
 129 practitioners established by a state and funded through the United States Department

130 of Health and Human Services under Section 319I of the Public Health Services Act,  
 131 42 U.S.C. Section 247d-7b;

132 (B) Be a local unit consisting of trained and equipped emergency response, public  
 133 health, and medical personnel formed pursuant to Section 2801 of the Public Health  
 134 Services Act, 42 U.S.C. Section 300hh;

135 (C) Be operated by a:

136 (i) Disaster relief organization;

137 (ii) Licensing board;

138 (iii) National or regional association of licensing boards or health practitioners;

139 (iv) Health facility that provides comprehensive inpatient and outpatient health care  
 140 services, including a tertiary care and teaching hospital; or

141 (v) Governmental entity; or

142 (D) Be designated by the Georgia Emergency Management Agency as a registration  
 143 system for purposes of this article.

144 (b) While an emergency declaration is in effect, the Georgia Emergency Management  
 145 Agency, a person authorized to act on behalf of the Georgia Emergency Management  
 146 Agency, or a host entity may confirm whether volunteer health practitioners utilized in this  
 147 state are registered with a registration system that complies with subsection (a) of this Code  
 148 section. Confirmation shall be limited to obtaining the identities of the volunteer health  
 149 practitioners from the system and determining whether the system indicates that the  
 150 volunteer health practitioners are licensed and in good standing.

151 (c) Upon request of a person in this state authorized under subsection (b) of this Code  
 152 section, or a similarly authorized person in another state, a registration system located in  
 153 this state shall notify the person of the identities of volunteer health practitioners and  
 154 whether the volunteer health practitioners are licensed and in good standing.

155 (d) A host entity shall not be required to use the services of a volunteer health practitioner  
 156 even if such volunteer health practitioner is registered with a registration system that  
 157 indicates that such volunteer health practitioner is licensed and in good standing.

158 38-3-165.

159 (a) While an emergency declaration is in effect, a volunteer health practitioner registered  
 160 with a registration system that complies with Code Section 38-3-164 and who is licensed  
 161 and in good standing in the state upon which such volunteer health practitioner's  
 162 registration is based may practice in this state to the extent authorized by this article as if  
 163 such volunteer health practitioner were licensed in this state.

164 (b) A volunteer health practitioner qualified under subsection (a) of this Code Section shall  
 165 not be entitled to the protections of this article if such volunteer health practitioner is

166 licensed in more than one state and any license of such volunteer health practitioner is  
167 suspended, revoked, or subject to an agency order limiting or restricting practice privileges  
168 or has been voluntarily terminated under threat of sanction.

169 38-3-166.

170 This article shall not affect credentialing or privileging standards of a health facility and  
171 shall not preclude a health facility from waiving or modifying those standards while an  
172 emergency declaration is in effect.

173 38-3-167.

174 (a) Except as otherwise provided in this Code section, a volunteer health practitioner shall  
175 adhere to the scope of practice for a similarly licensed volunteer health practitioner  
176 established by the licensing provisions, practice acts, or other laws of this state.

177 (b) Except as otherwise provided in this article, this article shall not authorize a volunteer  
178 health practitioner to provide services that are outside such volunteer health practitioner's  
179 scope of practice, even if a similarly licensed volunteer health practitioner in this state  
180 would be permitted to provide such services.

181 (c) A host entity may restrict the health services or veterinary services that a volunteer  
182 health practitioner may provide pursuant to this article.

183 (d) A volunteer health practitioner shall not be considered to be engaging in unauthorized  
184 practice unless such volunteer health practitioner has reason to know of any limitation,  
185 modification, or restriction under this Code section or that a similarly licensed volunteer  
186 health practitioner in this state would not be permitted to provide such services. A  
187 volunteer health practitioner has reason to know of a limitation, modification, or restriction  
188 under this Code section or that a similarly licensed volunteer health practitioner in this state  
189 would not be permitted to provide a service if:

190 (1) The volunteer health practitioner knows the limitation, modification, or restriction  
191 exists or that a similarly licensed volunteer health practitioner in this state would not be  
192 permitted to provide such service; or

193 (2) From all the facts and circumstances known to the volunteer health practitioner at the  
194 relevant time, a reasonable person would conclude that the limitation, modification, or  
195 restriction exists or that a similarly licensed volunteer health practitioner in this state  
196 would not be permitted to provide such service.

197 (e) In addition to the authority granted by the laws of this state other than this article to  
198 regulate the conduct of health practitioners, a licensing board or other disciplinary authority  
199 in this state:

200 (1) May impose administrative sanctions upon a health practitioner licensed in this state  
201 for conduct outside of this state in response to an out-of-state emergency;

202 (2) May impose administrative sanctions upon a health practitioner not licensed in this  
203 state for conduct in this state in response to an in-state emergency; and

204 (3) Shall report any administrative sanctions imposed upon a health practitioner licensed  
205 in another state to the appropriate licensing board or other disciplinary authority in any  
206 other state in which such health practitioner is known to be licensed.

207 (f) In determining whether to impose administrative sanctions under subsection (e) of this  
208 Code section, a licensing board or other disciplinary authority shall consider the  
209 circumstances in which the conduct took place, including any exigent circumstances, and  
210 the health practitioner's scope of practice, education, training, experience, and specialized  
211 skill.

212 38-3-168.

213 (a) This article shall not limit rights, privileges, or immunities provided to volunteer health  
214 practitioners by laws other than this article. Except as otherwise provided in subsection (b)  
215 of this Code section, this article shall not affect requirements for the use of health  
216 practitioners pursuant to the Emergency Management Assistance Compact.

217 (b) The Georgia Emergency Management Agency, pursuant to the Emergency  
218 Management Assistance Compact, may incorporate into the emergency forces of this state  
219 volunteer health practitioners who are not officers or employees of this state, a political  
220 subdivision of this state, or a municipality or other local government within this state.

221 38-3-169.

222 The Georgia Emergency Management Agency may promulgate rules to implement this  
223 article. In doing so, the Georgia Emergency Management Agency shall consult with and  
224 consider the recommendations of the Division of Public Health of the Department of  
225 Human Resources and shall also consult with and consider rules promulgated by similarly  
226 empowered agencies in other states to promote uniformity of application of this article and  
227 make the emergency response systems in the various states reasonably compatible.

228 38-3-170.

229 (a) Except as provided in subsection (c) of this Code section, a volunteer health  
230 practitioner who provides health services or veterinary services pursuant to this article shall  
231 not be liable for damages for his or her act or omission in providing such health services  
232 or veterinary services.

233 (b) No person shall be vicariously liable for damages for an act or omission of a volunteer  
 234 health practitioner if such volunteer practitioner is not liable for the damages under  
 235 subsection (a) of this Code section.

236 (c) This Code section shall not limit the liability of a volunteer health practitioner for:

237 (1) Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;

238 (2) An intentional tort;

239 (3) Breach of contract;

240 (4) A claim asserted by a host entity or by an entity located in this or another state which  
 241 employs or uses the services of the volunteer health practitioner; or

242 (5) An act or omission relating to the operation of a motor vehicle, vessel, aircraft, or  
 243 other vehicle.

244 (d) A person that, pursuant to this article, operates, uses, or relies upon information  
 245 provided by a volunteer health practitioner registration system shall not be liable for  
 246 damages for an act or omission relating to that operation, use, or reliance unless such act  
 247 or omission is an intentional tort or is willful misconduct or wanton, grossly negligent,  
 248 reckless, or criminal conduct.

249 (e) In addition to the protections provided in subsection (a) of this Code section, a  
 250 volunteer health practitioner who provides health services or veterinary services pursuant  
 251 to this article shall be entitled to all the rights, privileges, or immunities which may  
 252 otherwise be provided by law.

253 38-3-171.

254 (a) As used in this Code section, the term 'injury' means a physical or mental injury or  
 255 disease for which an employee of this state who is injured or contracts the disease in the  
 256 course of the employee's employment would be entitled to benefits under the workers'  
 257 compensation laws of this state.

258 (b) A volunteer health practitioner who dies or is injured as the result of providing health  
 259 services or veterinary services pursuant to this article shall be deemed to be an employee  
 260 of this state for the purpose of receiving benefits for such death or injury under the workers'  
 261 compensation laws of this state if:

262 (1) The volunteer health practitioner is not otherwise eligible for such benefits for such  
 263 injury or death under the laws of this or another state; and

264 (2) The volunteer health practitioner or, in the case of death, the volunteer health  
 265 practitioner's personal representative elects coverage under the workers' compensation  
 266 laws of this state by making a claim under that law.

267 (c) The Georgia Emergency Management Agency shall adopt rules, enter into agreements  
 268 with other states, or take other measures to facilitate the receipt of benefits for injury or

269 death under the workers' compensation laws of this state by volunteer health practitioners  
270 who reside in other states and may waive or modify requirements for filing, processing, and  
271 paying claims that unreasonably burden the volunteer health practitioners. To promote  
272 uniformity of application of this article with other states that enact similar legislation, the  
273 Georgia Emergency Management Agency shall consult with and consider the practices for  
274 filing, processing, and paying claims by agencies with similar authority in other states.

275 38-3-172.

276 In applying and construing this uniform Act, consideration shall be given to the need to  
277 promote uniformity of the law with respect to its subject matter among states that enact it."

278

## **SECTION 2.**

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