

The Senate Health and Human Services Committee offered the following substitute to SB 315:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 11

38-3-160.

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

38-3-161.

As used in this article, the term:

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

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

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

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

(3) 'Emergency' means an event or condition that is deemed a state of emergency under Code Section 38-3-51, a public health emergency under Code Section 31-12-1.1, a local emergency under Code Section 36-69-2, or an emergency declared by a state entity or official or by a federal entity or official, if such emergency includes the State of Georgia, under any other provision of Georgia or federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) 'Volunteer health practitioner' means a health practitioner who provides health services or veterinary services pursuant to this article at no charge to the patients receiving such services, so long as such health practitioner does not receive compensation in direct relation to those specific services. The term shall not include a health practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires such health practitioner to provide health services in this state, unless such health practitioner is not a resident of this

state and is employed by a disaster relief organization providing health services in this state while an emergency declaration is in effect.

38-3-162.

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

38-3-163.

(a) For health services and veterinary services provided by volunteer health practitioners pursuant to this article while an emergency declaration is in effect, the Governor may limit, restrict, or otherwise regulate:

(1) The duration of practice by such volunteer health practitioners with respect to such services;

(2) The geographical areas in which such volunteer health practitioners may practice with respect to such services;

(3) The types of volunteer health practitioners who may practice with respect to such services; and

(4) Any other matters necessary

to coordinate effectively the provision of health services or veterinary services during the emergency.

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

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

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

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

38-3-164.

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

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

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

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

(4) Meet one of the following conditions:

(A) Be an emergency system for advance registration of volunteer health care practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Services Act, 42 U.S.C. Section 247d-7b;

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

(C) Be operated by a:

(i) Disaster relief organization;

(ii) Licensing board;

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

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

(v) Governmental entity; or

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

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

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

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

38-3-165.

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

(b) A volunteer health practitioner qualified under subsection (a) of this Code Section shall not be entitled to the protections of this article if such volunteer health practitioner is licensed in more than one state and any license of such volunteer health practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

38-3-166.

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

38-3-167.

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

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

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

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

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

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

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

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

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

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

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

38-3-168.

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

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

38-3-169.

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

38-3-170.

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

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

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

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

(2) An intentional tort;

(3) Breach of contract;

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

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

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

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

38-3-171.

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

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

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

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

(c) The Georgia Emergency Management Agency shall adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation laws of this state by volunteer health practitioners who reside in other states and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the volunteer health practitioners. To promote uniformity of application of this article with other states that enact similar legislation, the Georgia Emergency Management Agency shall consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states.

38-3-172.

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

SECTION 2.

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