

Senate Bill 230

By: Senators Hufstetler of the 52nd, Unterman of the 45th, Burke of the 11th and Watson of the 1st

**AS PASSED**

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 related matters; to repeal conflicting  
 10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **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 "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, the Department of Public Health, a local emergency management  
 31 agency, a local public health district, or the Georgia Emergency Management Agency.

32 (3) 'Emergency' means an event or condition that is deemed a state of emergency or  
 33 disaster under Code Section 38-3-51, a public health emergency under Code Section  
 34 31-12-1.1, a local emergency under Code Section 36-69-2, or an emergency declared by  
 35 a state entity or official or by a federal entity or official, if such emergency includes the  
 36 State of Georgia, under any other provision of Georgia or federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

97 unless such health practitioner is not a resident of this state and is employed by a disaster  
 98 relief organization providing health services in this state while an emergency declaration  
 99 is in effect.

100 38-3-162.

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

104 38-3-163.

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

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

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

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

114 (4) Any other matters necessary

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

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

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

122 (1) Consult and coordinate its activities with the Georgia Emergency Management  
 123 Agency, consistent with the Georgia Emergency Operations Plan, to provide for the  
 124 efficient and effective use of volunteer health practitioners; and

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

127 38-3-164.

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

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

- 131 (2) Include information about the licensure and good standing of health practitioners  
132 which is accessible by authorized persons;
- 133 (3) Be capable of confirming the accuracy of information concerning whether a health  
134 practitioner is licensed and in good standing before health services or veterinary services  
135 are provided under this article; and
- 136 (4) Meet one of the following conditions:
- 137 (A) Be an emergency system for advance registration of volunteer health care  
138 practitioners established by a state and funded through the United States Department  
139 of Health and Human Services under Section 319I of the Public Health Services Act,  
140 42 U.S.C. Section 247d-7b;
- 141 (B) Be a local unit consisting of trained and equipped emergency response, public  
142 health, and medical personnel formed pursuant to Section 2801 of the Public Health  
143 Services Act, 42 U.S.C. Section 300hh;
- 144 (B.1) Be a member of an approved medical reserve corps;
- 145 (C) Be operated by a:
- 146 (i) Disaster relief organization;
- 147 (ii) Licensing board;
- 148 (iii) National or regional association of licensing boards or health practitioners;
- 149 (iv) Health facility that provides comprehensive inpatient and outpatient health care  
150 services, including a tertiary care and teaching hospital; or
- 151 (v) Governmental entity; or
- 152 (D) Be designated by the Georgia Emergency Management Agency as a registration  
153 system for purposes of this article.
- 154 (b) While an emergency declaration is in effect, the Georgia Emergency Management  
155 Agency, consistent with the Georgia Emergency Operations Plan; a person authorized to  
156 act on behalf of the Georgia Emergency Management Agency; or a host entity may confirm  
157 whether volunteer health practitioners utilized in this state are registered with a registration  
158 system that complies with subsection (a) of this Code section. Confirmation shall be  
159 limited to obtaining the identities of the volunteer health practitioners from the system and  
160 determining whether the system indicates that the volunteer health practitioners are  
161 licensed and in good standing.
- 162 (c) Upon request of a person in this state authorized under subsection (b) of this Code  
163 section, or a similarly authorized person in another state, a registration system located in  
164 this state shall notify the person of the identities of volunteer health practitioners and  
165 whether the volunteer health practitioners are licensed and in good standing.

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

169 38-3-165.

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

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

180 38-3-166.

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

184 38-3-167.

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

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

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

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

199 under this Code section or that a similarly licensed volunteer health practitioner in this state  
 200 would not be permitted to provide a service if:

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

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

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

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

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

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

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

223 38-3-168.

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

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

232 38-3-169.

233 The Department of Public Health may promulgate rules and regulations to implement this  
234 article. In doing so, the Department of Public Health shall consult with and consider the  
235 recommendations of the Georgia Emergency Management Agency, consistent with the  
236 Georgia Emergency Operations Plan, and shall also consult with and consider rules and  
237 regulations promulgated by similarly empowered agencies in other states to promote  
238 uniformity of application of this article and make the emergency response systems in the  
239 various states reasonably compatible.

240 38-3-170.

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

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

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

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

250 (2) An intentional tort;

251 (3) Breach of contract;

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

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

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

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

265 38-3-171.

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

268 **SECTION 2.**

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