

House Bill 417 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 32nd, Hitchens of the 161st, Clark of the 147th, and Williams of the 145th

A BILL TO BE ENTITLED
AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide for the comprehensive regulation of trauma scene cleanup services; to provide for definitions; to provide for registration requirements; to provide for qualifications; to provide for penalties for violations; to provide for emergencies; to provide for rules and regulations; to provide for exemptions; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by adding a new chapter to read as follows:

"CHAPTER 46A

43-46A-1.

As used in this chapter, the term:

(1) 'Pathogen' means a microorganism, including bacteria, viruses, rickettsiae, and parasites, or other agent, such as a proteinaceous infectious particle or prion, that can cause disease in humans.

(2) 'Potentially infectious material' means material known or reasonably expected to contain a pathogen.

(3) 'Regulated biomedical waste' means and includes the following:

(A) Biological waste, which includes blood and blood products, exudates, secretions, suctionings, and other body fluids which contain free liquids and cannot be or are not directly discarded into a municipal sewer system;

(B) Pathological waste, which includes all recognizable human tissues and body parts except teeth; and

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(C) Sharps, which include any discarded article that may cause punctures or cuts including, but not limited to, items such as needles, IV tubing and syringes with needles attached, and scalpel blades.

(4) 'Trauma scene' means a location soiled by or contaminated with potentially infectious material or regulated biomedical waste due to the occurrence of a homicide or suicide, or the occurrence of a death of a human being in which there is advanced decomposition of the body; provided, however, that this term shall not include the scene of a motor vehicle accident or locations which are subject to the laws and regulations of the federal Occupational Safety and Health Administration.

(5) 'Trauma scene waste' means potentially infectious material or regulated biomedical waste that has been removed, is to be removed, or is in the process of being removed from a trauma scene.

(6) 'Trauma scene waste management practitioner' means the owner of any interest in a commercial enterprise for the cleanup or removal of trauma scene waste and who is registered with the Secretary of State pursuant to this chapter.

43-46A-2.

(a) A trauma scene waste management practitioner shall be registered with the Secretary of State on forms provided by and in a manner as directed by the Secretary of State. Such registration shall be in addition to and not in place of any other registrations or licenses from other state agencies required by law. No county or municipal government shall be authorized to require licenses, registrations, or permits for trauma scene waste management practitioners in this state.

(b) The Secretary of State, upon its approval of an application, shall issue a registration to a trauma scene waste management practitioner who meets the qualifications for such registration and who submits a completed application form and registration fee. Such registration shall be valid for a period of three years from the date of issuance and may be renewed for additional three-year periods.

(c) Trauma scene waste management practitioners shall pay an initial registration fee of \$100.00 to the Secretary of State and, for each subsequent renewal of such registration, shall pay to the Secretary of State a registration renewal fee of \$100.00.

43-46A-3.

The Secretary of State shall maintain a current list of all registered trauma scene waste management practitioners on the Secretary of State's website.

58 43-46A-4.

59 (a) Each trauma scene waste management practitioner shall, prior to being registered,
60 submit to a fingerprint based criminal background check conducted by the Georgia Crime
61 Information Center and Federal Bureau of Investigation. No person who is currently
62 serving a sentence of incarceration or probation for any felony under the laws of this state
63 or any other state or the federal government shall be issued a trauma scene waste
64 management practitioner registration. Each trauma scene waste management practitioner
65 shall submit to a fingerprint based criminal background check conducted by the Georgia
66 Crime Information Center and Federal Bureau of Investigation every three years following
67 such initial background check.

68 (b) Each trauma scene waste management practitioner shall, upon approval of his or her
69 registration by the Secretary of State, submit to the Secretary of State a bond executed with
70 a surety company duly authorized to do business in this state and payable to the Governor
71 for the use and benefit of any person who is harmed by such trauma scene waste
72 management practitioner, his or her employee, or an independent contractor of such trauma
73 scene waste management practitioner in the performance of trauma scene waste
74 management services. The bond shall be in the amount of \$25,000.00. The bond shall be
75 approved by the Secretary of State as to the form and the solvency of the surety. No
76 trauma scene waste management practitioner or surety shall cancel, or cause to be canceled,
77 a bond issued pursuant to this subsection unless the Secretary of State is informed in
78 writing by a certified letter at least 30 days prior to the proposed cancellation. If the trauma
79 scene waste management practitioner or surety cancels the bond and the trauma scene
80 waste management practitioner fails to submit, within ten days of the effective date of the
81 cancellation, a new bond, the Secretary of State shall revoke such trauma scene waste
82 management practitioner's registration.

83 (c) Each trauma scene waste management practitioner shall provide the Secretary of State
84 with proof of liability insurance coverage for the trauma scene waste management
85 practitioner, his or her employees, and each independent contractor of such trauma scene
86 waste management practitioner who performs trauma scene waste management services
87 in the amount of at least \$100,000.00 for each occurrence. No trauma scene waste
88 management practitioner or insurance carrier shall cancel, or cause to be canceled, a
89 liability insurance policy issued pursuant to this subsection unless the Secretary of State
90 is informed in writing by a certified letter at least 30 days prior to the proposed
91 cancellation. If the trauma scene waste management practitioner or insurance carrier
92 cancels the liability insurance policy and the trauma scene waste management practitioner
93 fails to submit, within ten days of the effective date of the cancellation, a new liability

insurance policy that meets the requirements of this subsection, the Secretary of State shall revoke such trauma scene waste management practitioner's registration.

(d) Each trauma scene waste management practitioner shall provide the Secretary of State with proof that such practitioner has a valid generation and transportation permit from the Environmental Protection Division of the Department of Natural Resources for the provision of trauma scene waste management services or shall submit an affidavit that such practitioner contracts with an entity which has such permit. Additionally, each trauma scene waste management practitioner shall provide the Secretary of State with proof of all current certifications in the removal and disposal of regulated biomedical waste held by such practitioner or any contractor used by the practitioner for the provision of trauma scene waste management services.

(e) Each trauma scene waste management practitioner shall be responsible and liable for the acts of his or her employees and any independent contractor of such trauma scene waste management practitioner in the performance of trauma scene waste management services.

43-46A-5.

(a) As used in this Code section, the term 'person' means: an individual; any corporate entity or form authorized by law, including any of its subsidiaries or affiliates; or any officer, director, board member, or employee of any corporate entity or form authorized by law.

(b) No person shall perform, offer to perform, or engage in the cleanup of a trauma scene or the removal or remediation of regulated biomedical waste from any trauma scene unless such person is registered in accordance with this chapter or is an employee or independent contractor of such person registered in accordance with this chapter.

(c) Any person that violates this Code section shall be subject to a civil fine not to exceed \$5,000.00 and punitive action by the Secretary of State, up to and including revocation of registration.

43-46A-6.

On and after January 1, 2021, it shall be against public policy for any person who is not properly registered under this chapter to seek to recover from the owner of any property or any other person the cost of the cleanup, removal, or remediation of trauma scene waste at, in, or on such property.

43-46A-7.

Each trauma scene waste management practitioner registered under this chapter, prior to beginning the cleanup, removal, or remediation of trauma scene waste, shall provide the

128 individual who requested such services with a good faith estimate of the expected costs of
129 such services.

130 43-46A-8.

131 In the event of a declared public health emergency or a state of emergency, the Secretary
132 of State shall be authorized to issue temporary registrations to persons to be trauma scene
133 waste management practitioners under such limiting conditions as the Secretary of State
134 deems appropriate under such circumstances. Such temporary registrations shall terminate
135 at such time as may be specified by the Secretary of State, but, in any event, not later
136 than 90 days from their issuance.

137 43-46A-9.

138 The Secretary of State shall be authorized to promulgate such rules and regulations as it
139 deems necessary in order to effectuate and implement the provisions of this chapter.

140 43-46A-10.

141 (a) As used in this Code section, the term 'person' shall have the same meaning as provided
142 in Code Section 35-11-5.

143 (b) Nothing in this chapter shall apply to a medical practice or medical facility or a
144 subsidiary thereof that is subject to the laws and regulations of the federal Occupational
145 Safety and Health Administration.

146 (c) Nothing in this chapter shall apply to the cleanup of property owned by a person by
147 such person.

148 (d) Nothing in this chapter shall apply to the gratuitous cleanup, removal, or remediation
149 of trauma scene waste performed for the owner of any property by individuals who are not
150 doing so as part of a commercial enterprise for the cleanup or removal of trauma scene
151 waste, including, but not limited to, individuals who are family, friends, or neighbors of
152 such owner; provided, however, that nothing in this subsection shall prevent such owner
153 from offering such individuals a gratuity at his or her election."

154 **SECTION 2.**

155 This Act shall become effective on January 1, 2021.

156 **SECTION 3.**

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