



## Sharps Safety Initiative – Legislation

### Ontario Regulation 474/07 Needle Safety

*Regulation 474/07 Needle Safety* (enacted in August 2007 under the *Occupational Health and Safety Act* (OHSA)) requires hospitals to use safety-engineered needles and needleless devices to replace conventional hollow-bore needles, beginning September 1, 2008. The Ontario government recently amended the regulation, making it applicable April 1, 2009 to long-term care homes (i.e. nursing homes, homes for the aged), psychiatric facilities, rest homes, laboratories and specimen collection centres. However, even as amended, Regulation 474/07 still does not apply to all health care workplaces and it is incomplete – as it does not mandate replacing all conventional medical sharps with their safety-engineered counterparts.

A Ministry of Labour (MOL) News Release dated August 23, 2007 states “The government intends to mandate the use of safety engineered needles or needle-less systems ... in other health care workplaces (home care, doctor's offices, ambulances, etc.) in 2010.”

### Enforcement of Regulation 474/07 and/or the OHSA

Beginning September 1, 2008 inspectors where necessary, began to write orders to ensure replacement of hollow bore needles in hospitals. As of April 1, 2009, they will begin to write orders at workplaces newly covered by the regulation. Orders to change over to safety-engineered medical devices (SEMDs) for devices other than hollow bore needles will still be written under OHSA Section 25(2)(h). The MOL has stated that they do not anticipate that the enactment of the new regulation will limit their inspectors from continuing to write orders for risk assessments and implementation of SEMDs in any health care workplace.

### The Occupational Health and Safety Act (OHSA)

The OHSA requires an employer to “take every precaution reasonable in the circumstances for the protection of a worker” [Section 25 (2) (h)].

Section 8 of the *Regulation for Health Care and Residential Facilities (RHCRF)* requires, “Every employer in consultation with the joint health and safety committee or health and safety representative, if any, and upon consideration of the recommendation thereof, shall develop, establish and put into effect measures and procedures for the health and safety of workers.”

Section 9 of the regulation requires (in part), “The employer shall reduce the measures and procedures for the health and safety of workers established under Section 8 to writing and such measures and procedures may deal with, but are not limited to, the following:

1. Safe work practices.
2. Safe working conditions.
3. Proper hygiene practices and the use of hygiene facilities.

4. The control of infections.
5. Immunization and inoculation against infections.
6. The reporting of unsafe or defective devices, equipment or work surfaces.
7. The handling, cleaning and disposal of soiled linens, sharp objects and waste

Section 9 (2) of the regulation states, "At least once a year the measures and procedures for the health and safety of workers shall be reviewed and revised in the light of current knowledge and practice. Section 9 (3) states, "The review and revision of the measures and procedures shall be done more frequently than annually if:

- (a) The employer, on the advice of the joint health and safety committee or health and safety representative, if any, determines that such review and revision is necessary;  
or
- (b) There is a change in circumstances that may affect the health and safety of a worker."

Finally, Section 9 (4) states, "The employer, in consultation with and in consideration of the recommendation of the joint health and safety committee or health and safety representative, if any, shall develop, establish and provide training and educational programs in health and safety measures and procedures for workers that are relevant to the workers' work."

In accordance with OHS Act Section 25(2) (h), and RHCRCF Section 8 and 9 above, an employer should implement the following provisions in consultation with the Joint Health and Safety Committee:

- Perform a risk assessment to identify the potential for worker exposure to blood and bodily fluids;
- Create and implement an Exposure Control Plan for blood and bodily fluids;
- Utilize safety-engineered medical devices in all instances where there is risk of exposure to blood or bodily fluids;
- Provide effective training on the use of the safety-engineered medical devices along with education on how to reduce the risks of exposure to blood and bodily fluids;
- Implement a sharps injury log;
- Develop easily accessible and clearly established post-exposure protocols.

OHS Act Section 25(2) (e) requires an employer to "afford assistance and cooperation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions."

One of the "functions" or powers of the committee and health and safety representative is to "identify situations that may be a source of danger or hazard to workers" [Section 8 (10) or 9(18) (a)]. Therefore, if the committee or health and safety representative needs additional resources to help identify such hazards, it is our position that the employer has an obligation under Section 25(2) (e) to provide that information to the committee.

### **Make Written Recommendations**

Another power of the committee is to “make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers” [OHSA Section 9 (18) (b)].

The Health and Safety Representative (in workplaces with 5-19 workers) also has the power to “...make recommendations or report his or her findings thereon to the employer, the workers and the trade union or trade unions representing the workers.” (OHSA Section 8 (10))

### **Employer’s Response to Recommendations**

When the Joint Health and Safety Committee or Health and Safety Representative uses this power, the OHSA requires the employer to respond in writing within 21 days [Section 8 (12) or Section 9 (20)] with a timetable to implement the recommendations the employer agrees with and give reasons why it disagrees with any it does not accept [OHSA Section 8 (13) or 9 (21)].