



ONTARIO REGULATION 474/07 Needle Safety has been expanded

As of April 1, 2009, *Regulation 474/07 Needle Safety*, will apply to long-term care homes (i.e. nursing homes, homes for the aged), psychiatric facilities, rest homes, laboratories and specimen collection centres in addition to hospitals. Since 2007, our unions have jointly worked to press Ontario health care employers to effectively implement *Regulation 474/07, Needle Safety* and to meet their ongoing obligations under the *Occupational Health and Safety Act (OHSA)* to protect workers from sharps injuries. Over the past several years, many of our bargaining units made important progress in reducing the risk of sharps injuries, but much still needs to be done.

With the expansion of the regulation, our unions also need to turn our attention to workplaces newly covered. We hope that the documents included in this package and additional documents posted on our unions' websites will assist Joint Health and Safety Committees (JHSCs) and Health and Safety (H & S) Representatives with their work convincing employers to remove or control, as appropriate, medical sharps hazards in their workplaces.

BACKGROUND

In August, 2007, the Ontario government enacted a regulation under the OHSA that mandates the use of safety-engineered needles and needleless systems to replace conventional hollow-bore needles in hospitals. This regulation was an important step forward in protecting hospital workers, and the recent extension of the regulation is also welcome. 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.

RATIONALE FOR THE INITIATIVE

Hospitals in consultation with their JHSC, should have completed their conversion to safety-engineered needles in 2008. The other organizations now covered by the regulation must be in compliance with the regulation by April 1, 2009. In our experience, many facilities will not automatically comply with *Regulation 474/07* unless they are forced to do so.

IMPLEMENTATION ISSUES

We believe this Regulation may be misinterpreted by employers, who may argue that they need to protect workers only from the devices that are explicitly named. The implementation of *Regulation 474/07* in no way diminishes the responsibility of all health care employers to protect all workers from all sharps injuries. Injuries/hazards caused by devices not explicitly described in *Regulation 474/07* or at a facility not covered by *Regulation 474/07* fall under the protection of Section 25 (2) (h) of the OHSA. Therefore, this joint initiative applies to all of our health care facilities.

We also believe that many employers may misinterpret the use of exemptions under the regulation, in the belief that facilities can simply “opt out” of its requirements.

Appended are two (2) sharps safety and needle stick injury prevention checklists. The first is for workplaces covered by the Needle Safety Regulation as of April 1, 2009. The second is for the remaining healthcare workplaces. We are asking you to use the appropriate checklist and to modify it to reflect your workplace circumstances. The checklist should be used to assess the extent to which your employer has adopted safety-engineered medical devices (SEMDs) and implemented an Exposure Control Plan, sharps injury log and appropriate training for all affected workers.

If there is no Exposure Control Plan, or the answer to any of the items in the checklist is “no”, you can ensure your employer complies by having the JHSC or H & S Representative (in workplaces with 5 to 19 workers) send written recommendations to the employer as set out in the OHS Act Section 9 18 (b) or for H & S Representatives Section 8 (10). If the JHSC cannot agree to forward the recommendations to the employer or if they are sent and the employer does not satisfactorily address and resolve the recommendations/concerns, contact the Ministry of Labour.

For each category of workplace – those covered by the Needle Safety Regulation and those not covered as of April 1, 2009 – the checklists outline requirements under the regulation and the OHS Act.

Also appended is a sample recommendation and a note on exemptions, which clarifies under what circumstances a facility may continue to use non safety-engineered medical devices.

THE SHARPS SAFETY INITIATIVE

We are asking all of you to assess your employer’s compliance with the Needle Safety Regulation by completing the attached checklist appropriate for your workplace, develop your own written recommendations (by tailoring the attached sample recommendation (a word version can be downloaded from your Union’s website)) for sharps safety and present them at your next JHSC meeting (for workplaces with 5 - 19 workers present them directly to your employer). If the issue is not resolved after following this process, call the MOL and advise your union representative. (For step-by-step guidance on how to address this issue please refer to the “Step-By-Step Process for Sharps Safety” document found on your union’s website).

Because a health and safety culture does not exist in most health care workplaces, we cannot count on employers to ‘do the right thing.’ If you do not address this issue through your JHSC (or for workplaces with 5 - 19 workers directly to your employer), it is likely that many health care employers will continue to disregard the OHS Act and regulations under it. Please help us achieve our goal of protecting all of our members from sharps injuries in all our workplaces. For workplaces with a JHSC, work with the other union and worker members of the JHSC to ensure, through this initiative, that health care employers across Ontario take every precaution reasonable in the circumstances to protect our members.

By working together **now**, we can be stronger and more effective in protecting our members from these devastating and unnecessary exposures.

On our websites, you will find all of the appended documents plus the following resources and links:

- [Step-by-Step Process for Sharps Safety Initiative](#)
- [Sharps Safety Initiative – Useful Health and Safety Legislation](#)
- [Sharps Safety Position](#)
- [Regulation 474/07 Needle Safety \(current version, as amended\)](#)
- [Vancouver Island Health Authority's "Exposure Plan for Blood and Body Fluids \(2007\)"](#)
- [Link to the Ontario Safety Association for Community and Health Care a "Planning Guide: Implementation of Safety Engineered Medical Devices"](#)

Thank you for your help with this important initiative. Please do not hesitate to call your union representative with any questions or if you need assistance.

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Encl: Sharps Safety and Prevention Checklists; Exemption Issues Note; Sample Recommendation



APPENDIX 1

Sharps Safety and Prevention Checklist

**For Hospitals, Long-Term Care Homes (i.e. nursing homes, homes for the aged),
Psychiatric Facilities, Rest Homes, Laboratories, or Specimen Collection Centres**

HOW TO USE THIS DOCUMENT

- All hospitals should now be fully compliant with the requirements of *Regulation 474/07*.
- Beginning April 1, 2009, long-term care homes (i.e. nursing homes, homes for the aged), psychiatric facilities, rest homes and laboratories and specimen collection centres are required to comply with that regulation, as amended.
- Appendix 1 – Sharps Safety and Needlestick Prevention Checklist covers workplaces covered by the Needle Safety Regulation as of April 1, 2009. It outlines requirements under the Needle Safety Regulation and the *Occupational Health and Safety Act (OHSA)*.
- We recommend that Joint Health and Safety Committee (JHSC) members or Health and Safety (H & S) Representatives use this Checklist to assess the extent to which the employer has adopted safety-engineered medical devices (SEMDs) and implemented an exposure control plan, sharps injury log and appropriate training for all affected workers.
- If there is no Exposure Control Plan, or the answer to any of the items in the Checklist is “no”, we recommend the JHSC members or H & S Representative take immediate steps to ensure your employer’s compliance, including as appropriate, making written recommendations to the employer. If the JHSC cannot agree to forward the recommendations to the employer or if they are sent and the employer does not satisfactorily address and resolve the recommendations/concerns, contact the Ministry of Labour.

BLOOD-DRAWING

Situations covered by Needle Safety Regulation:

- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) implemented blood-drawing devices with integrated safety features designed to prevent percutaneous injuries?

Examples of such devices include:

- shielded or self-blunting needles for vacuum tube phlebotomy;
- shielded, retracting or self-blunting butterfly-type needles, syringes with a cylindrical sheath that shields needles when injecting blood into tubes;
- blood gas syringes with a hinged needle shield that can be put in place over the needle using a hands-free technique.

- Have all unnecessary needles been eliminated from use, including needles used for drawing blood from intravenous, arterial, and central lines? These devices can be replaced by needleless or blunt cannula devices.

Situations not covered by Needle Safety Regulation, but covered by Section 25 (2) (h) of the OHSA

- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) use automatically retracting finger/heelstick lancets in place of manual lancets or non-retracting spring-loaded lancets?
- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) switched from glass to plastic micro-bore capillary tubes for measuring hematocrit (or to mylar-wrapped glass capillary tubes, or alternative methods of measuring hematocrit that do not require capillary tubes)?
- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) replaced glass blood collection vacuum tubes with plastic tubes?
- Have blood-drawing personnel been advised not to manually recap or remove needles from blood-drawing devices?
- Have blood-drawing personnel been advised not to reuse blood tube holders, which requires manipulation of a blood-filled needle?
- Has the practice of injecting blood through a stopper into a vacuum tube using an exposed needle been discontinued?

Methods of drawing blood directly into vacuum tubes or other specimen containers should be preferentially employed; alternatively, safety syringes with a cylindrical needle shield locked in place over the needle, which allow a vacuum tube to be inserted into the shield during blood injection, will reduce the risk of needlestick injuries and of blood splatter from dislodged tube stoppers.

VASCULAR ACCESS

Situations covered by Needle Safety Regulation:

- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) implemented safety-engineered vascular access catheters that provide a protective shield for the stylet or blunt the stylet before or during its withdrawal from the patient?

IV INFUSION

(a) Situations covered by Needle Safety Regulation:

- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) converted to needleless or recessed needle IV infusion systems?

An FDA Safety Alert warned in 1992 of the dangers associated with “piggyback” or “intermittent I.V.” line connections. Since then, many health care workplaces have switched to needleless or recessed needle systems. But beware: in some health care workplaces, both systems – needleless/recessed needle and needle-based – are sometimes provided side by side. All health care workplaces should eliminate needles used to access I.V. ports.

INJECTION

Situations covered by Needle Safety Regulation:

- For syringes used for subcutaneous or intramuscular (IM) injections, has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) converted to devices that have integrated safety features such as sliding sleeves, retracting needles, or hinged caps, or to a needleless injection system?
- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) specify that syringes should not be used for venous blood drawing, because of increased risk of needlestick injuries?
- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) eliminated the inappropriate use of conventional or safety syringes for accessing ports of needleless or recessed needle I.V. systems?
- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) use safety-engineered pre-filled syringes, where available, for vaccinations and other applications where pre-filled syringes are employed?

SURGERY

Situations not covered by Needle Safety Regulation, but covered by Section 25 (2) (h) of the OHSA:

- Are blunt-tip suture needles, stapling devices, adhesive strips or tissue adhesives used whenever clinically feasible in order to reduce the use of sharp-tip suture needles?
- Are scalpel blades with safety features - such as round-tipped scalpel blades and retracting-blade and shielded-blade scalpels - used?
- Are alternative cutting methods - such as blunt electrocautery devices and laser devices - used when appropriate?

- Is manual tissue retraction avoided by using mechanical retraction devices?
- Has all equipment that is unnecessarily sharp been eliminated?

Example: towel clips have been identified as a cause of injury in operating rooms, yet blunt towel clips are available that do not cause injury and are adequate for securing surgical towels and drapes. Other examples of devices that do not always need to have sharp points include surgical scissors, surgical wire, and pick-ups.

ADDITIONAL SPECIALIZED SHARPS CATEGORIES

NOTE: The Needle Safety Regulation requires that hollow bore needles be converted to their safety equivalents where they exist. Some other sharps are included in this description and some are not. All of the devices listed below have safety-engineered equivalents.

The following items are covered by the Needle Safety Regulation:

- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) implemented safety alternatives for specialized areas such as:
 - Dialysis: fistula needles, syringes, blood drawing equipment, needle tubing access
 - Labs: sample transfer

The following are not covered the Needle Safety Regulation, but are covered by Section 25 (2) (h) of the OHSA:

- Has your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) implemented safety-engineered alternatives for specialized areas such as:
 - Dialysis: retracting lancets, capillary tubes
 - Blood banks: retracting lancets, capillary tubes
 - Labs: slide preparation

For information on evaluating safety-engineered medical devices, please refer to: www.tdict.org.

NOTE: The Needle Safety regulation does not require an exposure control plan. However, an effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with the OHSA Section 25 (2) (h) should require an exposure control plan in every workplace where there is a risk of exposure to pathogens borne by blood and bodily fluids.

EXPOSURE CONTROL PLAN

Situations not covered by the Needle Safety Regulation, but covered by Section 25 (2) (h) of the OHSA:

- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) have a written exposure control plan?
- Does the exposure control plan include a list of all jobs and tasks with potential for exposure to blood and bodily fluids?
- Is it accessible to workers?
- Is it reviewed and updated at least annually to document that safer medical devices designed to eliminate or minimize occupational exposure have been evaluated and implemented?
- Is it reviewed and updated at least annually to document that the employer has solicited input from non-managerial employees responsible for direct patient care in the identification, evaluation and selection of safety devices?
- Is it updated annually to reflect changes in technology that eliminate or minimize exposure to blood and bodily fluids?

SHARPS INJURY LOG

NOTE: The Needle Safety regulation does not require a sharps injury log. However, an effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with OHSA Section 25 (2) (h) should require a sharps injury log.

Situations not covered by the Needle Safety Regulation, but covered by Section 25 (2) (h) of the OHSA:

- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) maintain a sharps injury log?
- Does it include information on:
 - Type and brand of device involved in exposure incident;
 - Department or work area where exposure occurred;
 - An explanation of how exposure occurred?

Other important information to track: job classification of exposed workers, procedure involved, and whether the device causing the injury was a safety or conventional design.

(A surveillance system such as EPINet™ fulfills this requirement; for information on EPINet and for free forms and software, go to <http://www.med.virginia.edu/epinet> and click on About “EPINet”.)

- Does your workplace (hospital, long-term care home (i.e. nursing home, home for the aged), psychiatric facility, rest home, laboratory, or specimen collection centre) ensure injured employees' confidentiality when recording and maintaining information in the sharps injury log?

TRAINING PROGRAM

NOTE: The Needle Safety Regulation requires worker training only in specific identified circumstances. However, an effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with OSHA Section 25 (2) (h) and Health Care Regulation Section 8 & 9 should require a comprehensive training plan for all affected workers, developed in consultation with the JHSC.

Situations not covered by the Needle Safety Regulation, but covered by Section 25 (2) (h) of the OSHA and Section 8 & 9 of the Health Care Regulation:

- Has a training plan been developed to educate workers about the use of the new devices as well as other program components?
- Was the training program developed in consultation with the JHSC?
- A comprehensive staff education program should include:
 - Legislation
 - Goals/objectives of the program
 - Explanation of diseases borne by blood and bodily fluids, their modes of transmission, consequences of infection and treatment options
 - Overview of injury demographics/statistics
 - Labeling and identification of biohazardous material
 - Policy regarding medical sharps and associated procedures
 - Research/evidence for safety-engineered medical devices
 - Device-specific training
 - Post-exposure procedures including follow-up procedures
 - Hepatitis B vaccination: its purpose, benefits, safety and availability
 - Records of training
 - An evaluation tool



APPENDIX 2

Checklist for Health Care Workplaces not covered by the Needle Safety Regulation, as of April 1, 2009

NOTE: *Regulation 474/07 Needle Safety*, requires hospitals to use safety-engineered needles and needleless devices to replace conventional hollow-bore needles, effective September 1, 2008. In September, 2008, the government 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 and laboratories and specimen collection centres.

- Many workplaces where there are risks of exposure to pathogens borne by blood and bodily fluids are still not covered by the Needle Safety regulation, including home health care, paramedic services, health care professionals' offices, veterinarians' offices and correctional facilities.
- The *Occupational Health and Safety Act* (OHS) Section 25(2)(h) requires employers to take every precaution reasonable in the circumstances for the protection of a worker. The parties in workplaces that remain outside the regulation are required by OHS Section 25(2)(h) to take steps to protect workers from risks of exposure to pathogens borne by blood and bodily fluids.

Blood-Drawing:

- Has your workplace implemented blood-drawing devices with integrated safety features designed to prevent percutaneous injuries?

Examples of such devices include:

- *shielded or self-blunting needles for vacuum tube phlebotomy;*
 - *shielded, retracting or self-blunting butterfly-type needles, syringes with a cylindrical sheath that shields needles when injecting blood into tubes;*
 - *blood gas syringes with a hinged needle shield that can be put in place over the needle using a hands-free technique.*
- Have all unnecessary needles been eliminated from use, including needles used for drawing blood from intravenous, arterial, and central lines? These devices can be replaced by needleless or blunt cannula devices.
 - Does your workplace use automatically retracting finger/heelstick lancets in place of manual lancets or non-retracting spring-loaded lancets?
 - Has your workplace switched from glass to plastic micro-bore capillary tubes for measuring hematocrit (or to mylar-wrapped glass capillary tubes, or alternative methods of measuring hematocrit that do not require capillary tubes)?

- Has your workplace replaced glass blood collection vacuum tubes with plastic tubes?
- Have blood-drawing personnel been advised not to manually recap or remove needles from blood-drawing devices?
- Have blood-drawing personnel been advised not to reuse blood tube holders, which requires manipulation of a blood-filled needle?
- Has the practice of injecting blood through a stopper into a vacuum tube using an exposed needle been discontinued?

Methods of drawing blood directly into vacuum tubes or other specimen containers should be preferentially employed; alternatively, safety syringes with a cylindrical needle shield locked in place over the needle, which allow a vacuum tube to be inserted into the shield during blood injection, will reduce the risk of needlesticks and of blood splatter from dislodged tube stoppers.

Vascular Access:

- Has your workplace implemented safety vascular access catheters that provide a protective shield for the stylet or blunt the stylet before or during its withdrawal from the patient?

IV Infusion:

- Has your workplace converted to needleless or recessed needle IV infusion systems?

An FDA Safety Alert warned in 1992 of the dangers associated with “piggyback” or “intermittent I.V.” line connections. Since then, many health care workplaces have switched to needleless or recessed needle systems. But beware: in some workplaces, both systems – needleless/recessed needle and needle-based – are sometimes provided side by side. All workplaces should eliminate needles used to access I.V. ports.

Injection:

- For syringes used for subcutaneous or intramuscular (IM) injections, has your workplace converted to devices that have integrated safety features such as sliding sleeves, retracting needles, or hinged caps, or to a needleless injection system?
- Does your workplace specify that syringes should not be used for venous blood drawing, because of increased needlestick risk?
- Has your workplace eliminated the inappropriate use of conventional or safety syringes for accessing ports of needleless or recessed needle I.V. systems?
- Does your workplace use safety-designed pre-filled syringes, where available, for vaccinations and other applications where pre-filled syringes are employed?

Additional Specialized Sharps Categories:

NOTE: The devices listed below have safety-engineered equivalents and are covered by Section 25 (2) (h) of the OHSA.

- Has your workplace implemented safety alternatives for specialized areas such as:
 - Dialysis: fistula needles, syringes, blood drawing equipment, needle tubing access, retracting lancets, capillary tubes
 - Labs: sample transfer, slide preparation
 - Blood banks: retracting lancets, capillary tubes

For information on evaluating safety-engineered medical devices, please refer to: www.tdict.org.

Exposure Control Plan

NOTE: An effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with OHSA Section 25 (2) (h) should require an exposure control plan.

- Does your workplace have a written exposure control plan?
- Does the exposure control plan include a list of all jobs and tasks with potential for exposure to blood and bodily fluids?
- Is it accessible to workers?
- Is it reviewed and updated at least annually to document that safer medical devices designed to eliminate or minimize occupational exposure have been evaluated and implemented?
- Is it reviewed and updated at least annually to document that the employer has solicited input from non-managerial employees responsible for direct patient care in the identification, evaluation and selection of safety devices?
- Is it updated annually to reflect changes in technology that eliminate or minimize exposure to blood and bodily fluids?

Sharps Injury Log

NOTE: An effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with OHSA Section 25 (2) (h) should require a sharps injury log.

- Does your workplace maintain a sharps injury log?
- Does it include information on:
 - Type and brand of device involved in exposure incident;
 - Department or work area where exposure occurred;
 - An explanation of how exposure occurred?

Other important information to track: job classification of exposed workers, procedure involved, and whether the device causing the injury was a safety or conventional design.

(A surveillance system such as EPINet™ fulfills this requirement; for information on EPINet and for free forms and software, go to <http://www.med.virginia.edu/epinet> and click on About “EPINet”.)

- Does your workplace ensure injured employees’ confidentiality when recording and maintaining information in the sharps injury log?

Training Program

NOTE: An effective sharps safety program involves more than just replacing conventional sharps devices with safety-engineered sharps. Compliance with OSHA Section 25 (2) (h) and Section 8 & 9 of the Health Care Regulation should require a comprehensive training program, developed in consultation with the Joint Health and Safety Committee (JHSC) or Health and Safety (H & S) Representative, for all affected workers.

- Has a training plan been developed to educate workers about the use of the new devices as well as other program components?
- Was the training program developed in consultation with the JHSC or H & S Representative?
- A comprehensive training program should include:
 - Legislation
 - Goals/objectives of the program
 - Explanation of diseases borne by blood and bodily fluids, their modes of transmission, consequences of infection and treatment options
 - Overview of injury demographics/statistics
 - Labelling and identification of bio-hazardous material
 - Policy regarding medical sharps and associated procedures
 - Research/evidence for safety-engineered medical devices

- Device-specific training
- Post-exposure procedures including follow-up procedures
- Hepatitis B vaccination its purpose, benefits, safety and availability
- Records of training
- An evaluation tool



APPENDIX 3

EXEMPTION ISSUES

Introduction

- *Regulation 474/07* provides for exceptions to the mandatory use of safety-engineered devices. One of them is contained in section 4 (2), which provides that a worker
“may use a hollow-bore needle that is not a safety-engineered needle if he or she believes on reasonable grounds that, in the particular circumstances, the use of a safety-engineered needle would pose a greater risk of harm than the use of the hollow-bore needle.”
- “Risk of harm” is interpreted in the regulation to mean risk of harm to the worker, another worker or a risk of harm to a person on whom the needle is to be used.
- Section 4 (4) of the Regulation also provides that “The employer shall develop, establish and provide training for workers to assist them in applying subsection (2).”

Issues

Here are two additional issues, relating to implementation exemptions.

Issue #1 – Exemptions must be individual, procedure-specific and limited

- Our understanding is the exemptions in *Regulation 474/07* are intended to describe situation-specific circumstances and are not meant to enable general exemptions based on institutional practices or preferences.
- We have heard that some hospital employers are arguing for blanket exemptions for their pharmacy departments, which prepare a majority of patient medications and want to continue to deliver them to patients’ bedsides in pre-loaded, conventional (non-safety-engineered) syringes.
- In our view, this is contrary to both the letter and intent of *Regulation 474/07* and constitutes a significant threat to worker safety. We believe that *Regulation 474/07* limits exemptions to individual workers or procedures.

Issue #2 – Documenting Exemptions

- Our understanding is that the Ministry of Labour and the Ontario Hospital Association believe that situations in which conventional devices are used instead of safety-engineered device must be documented, to justify departing from the general requirement of the Regulation.
- We are aware that a number of health care workplaces are using so-called "exemption forms," to document such practices, in the hope of being exempted from the certain requirements of the Regulation

- We are extremely concerned by the use of such forms, because of the potential for abuse. In our view, they can promote the incorrect view that it is acceptable not to comply with *Regulation 474/07*, as long as there is a documented reason.
- For example, some such forms include the following, among their criteria for not using a safety-engineered device,
 - “Device is not compatible with other equipment currently used;”
 - “An infection control concern has been documented;”
 - “Requires change in technique that has yet to be adopted.”
- In our view, such criteria are objectionable. They are not consistent with either the letter or intent of *Regulation 474/07*.
- The Regulation is very straightforward. It says that:
 - Sections 3 (1) and 3 (2) provide that when a hollow bore needle is to be used, the employer must provide the worker with a safety-engineered needle that is appropriate for the work.
 - Section 3 (2) says that a conventional needles may be used if, despite having made efforts that are reasonable in the circumstances, the employer is unable to obtain a safety-engineered needle.
 - As noted above, section 4 (2) provides an exemption that a conventional needle may be used if the worker believes on reasonable grounds that, in the particular circumstances, the use of a safety-engineered needle would pose a greater risk of harm than the use of the hollow-bore needle.
 - Unless one of these situations exists, section 4 (1) says that when a worker has been provided with a safety-engineered needle, s/he shall use it to do the work required.
- These sections paint a clear and precise picture. Exemptions to the use of safety-engineered devices are narrowly defined and must be limited to the risk of harm to patients or health care workers, or the unavailability of appropriate safety-engineered devices. We insist that employers limit their justifications to the narrow grounds for exemption set out in *Regulation 474/07*.
- If the employer is using such “exemption forms” for the wrong purpose as indicated above or not implementing safety-engineered sharps for any reason that seems to go beyond the narrow grounds described in this note, we recommend that Joint Health and Safety Committee (JHSC) members or the Health and Safety (H & S) Representative take immediate steps to ensure compliance, including as appropriate, making written recommendations to the employer. If the JHSC cannot agree to forward the recommendations to the employer or if they are sent and the employer does not satisfactorily address and resolve the recommendations/concerns, contact the Ministry of Labour.



APPENDIX 4

Sample – Recommendations to Employer re Needlestick/Sharp Hazards

This is only a sample template. **If you have a similar issue in your workplace you can use this sample and include all or some of the recommendations, depending on the needs of your workers. If you are a Health and Safety (H & S) Representative in a workplace with 5 – 19 workers you should tailor this recommendation to reflect the wording in Section 8 (10) (12) and (13) of the Occupational Health and Safety Act (OHSA) and change any reference to the Joint Health and Safety Committee (JHSC) to the Health and Safety Representative.**

Written recommendations can be sent via e-mail or in a letter or any form. Regardless of the form of the recommendation, it is important to note the date sent, the hazard identified and the recommendation that the JHSC is proposing. If you are making more than one recommendation, each should be numbered. All written recommendations should be signed by the worker and employer co-chairs.

Date: _____

Hand delivered on date: _____

(Insert name of Employer)
(Insert address of Employer)

Pursuant to Section 9 (18) of the *Occupational Health and Safety Act*, (OHSA) we are responsible as a Joint Health and Safety Committee to “identify situations that may be a source of danger or hazard to workers and to make recommendations to the employer and the workers for the improvement of their health and safety and recommend to the employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health and safety of workers, and the trade union representing the workers.”

As such, we have identified the following sources of danger or hazard at [insert address of employer] and provide the following recommendations:

Identified Hazards or Dangers and Associated Recommendations

Hazard

Recommendations

<p>1. Risk of exposure to blood and bodily fluids as a result of using non-safety engineered sharp medical devices. Health care workers are using conventional – i.e., non-safety-engineered – needles, syringes, IV catheters, blood collection needles and suture needles. These devices do not protect the worker against skin puncture and are a serious risk for exposure to blood and body fluids.</p>	<p>The Joint Health and Safety Committee recommends that the employer forthwith ensures the following:</p> <ol style="list-style-type: none"> 1. Immediately conduct a risk assessment of all work areas identifying all potential areas of risk of exposure to blood and bodily fluids. 2. Develop an exposure control plan that identifies how the employer will address all areas of risk to eliminate potential exposure to blood and bodily fluids.
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<p>2. Risk posed by supervisors who are not “competent” under the <i>Occupational Health and Safety Act</i>. Supervisors and Workers acting as charge nurses/supervisors and Physicians acting as Supervisors are not trained in the <i>Occupational Health and Safety Act</i> and its duties and obligations. They are not trained to identify hazards, or how to take every precaution reasonable to protect workers.</p>	<ol style="list-style-type: none">3. Immediately implement safety-engineered medical devices to eliminate the above identified risk, with priority given to vascular access and blood drawing devices. Next for consideration are hypodermic devices, then scalpels/blades, lancets and lastly suture needles.4. Implement a sharps/needlestick injury log for all injuries that includes the type of device involved in the incident, including make, model and manufacturer, and an explanation of how the injury occurred.5. The employer develops, in consultation with the JHSC, easily accessible and clearly established post-exposure protocols, which are communicated to workers to ensure that timely, effective medical attention is provided to any worker who is injured, including immediate post-exposure evaluation and follow-up.6. Develop and deliver a training program to all workers in consultation with the Joint Health & Safety Committee to provide workers with information on the risk of blood and bodily fluids, and how to reduce these risks through safer products and practices. Workers should also be trained on post-exposure protocols.<ol style="list-style-type: none">a. Ensure that this facility has a sharps safety program that brings all of the above items together. The program is to be created and revised annually in consultation with the JHSC. Consider using the Ontario Safety Association for Community and Health Care’s (OSACH) planning guide (found at http://www.osach.ca/products/SEMS/introduction.html) and modeling the program after the Vancouver Island Health Authority’s “Exposure Control Plan for Blood and Body Fluids (2007)” (found at: http://www.opseu.org/campaign/saferneedles/VIHA%20-%20BBF%20Exposure%20Control%20Plan%202007.pdf)7. Ensure that the JHSC is advised of all devices the employer is exempting as part of its obligations under the OHS Act and <i>Regulation 474/07</i>.1. The employer forthwith engages the assistance of the Ontario Safety Association for Community and Healthcare (OSACH) to provide training to all supervisors to make them “competent” under the <i>Occupational Health and Safety Act</i>.
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Pursuant to Section 9 (20) an employer who receives written recommendations from a committee shall respond in writing within 21 days. Therefore we look forward to receiving your written response to our recommendations within 21 days, i.e., by [enter date].

We anticipate that your written response will include all information pursuant to the OHSA Section 9 (21) which states: “A response of a constructor or employer under subsection (20) shall contain a timetable for implementing the recommendations the constructor or employer agrees with and give reasons why the constructor or employer disagrees with any recommendations that the constructor or employer does not accept.”

Please sign below.

Worker Co-Chair Joint Health and Safety Committee

Employer Co-Chair Joint Health and Safety Committee

C: Post for the workers
Copy to JHSC
Local Bargaining Unit _____