



Sharps/Needle 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* [OHS]) requires hospitals to use safety-engineered needles and needleless devices to replace conventional hollow-bore needles, beginning September 1, 2008. The Ontario government amended the regulation, making it applicable April 1, 2009 to long-term care homes (including long-term care facilities, nursing homes, homes for the aged and rest homes), psychiatric facilities, laboratories and specimen collection centres. As of July 1, 2010 the regulation will also apply to doctors' and dentists' offices, community health centres, family health teams, independent health facilities and other workplaces where health-related services are provided, including home care services, ambulance services, public health programs, health support services to students in schools and health care/first aid services to workers in industrial and other workplaces.

However, even as amended, Regulation 474/07 is still incomplete – as it does not mandate replacing all conventional medical sharps with their safety-engineered counterparts.

Enforcement of Regulation 474/07 and/or the OHS

Since September 1, 2008 and again after the first amendment effective April 1, 2009, Ministry of Labour (MOL) inspectors, where necessary, began to write orders to ensure replacement of hollow-bore needles in hospitals, long-term care homes (including long-term care facilities, nursing homes, homes for the aged and rest homes), psychiatric facilities, laboratories and specimen collection centres.

As of July 1, 2010, inspectors 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 can still be written under *OHS* Section 25(2)(h). The Ministry of Labour has stated that it does not anticipate that the enactment of the new regulation will limit their inspectors from continuing to write orders for risk assessments and implementation of Safety-Engineered Medical Devices (SEMDs) in any health care workplace.

The *Occupational Health and Safety Act*

The *OHS* 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 that “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 *OHSA* Section 25(2) (h), and *RHCRF* Section 8 and 9 above, an employer should implement the following provisions in consultation with the Joint Health and Safety Committee or Health and Safety Representative (in workplaces with 5 to 19 workers):

- 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.

OHSA 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 need 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 to 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)].