ENROLLED HOUSE
BILL NO. 2139

By: Paulk of the House

and

Weedn of the Senate

An Act relating to public health and safety; creating the Needlestick Injury Prevention Act; defining terms; creating the Needlestick Injury Prevention Committee; providing for appointment of members; providing for meetings; providing for appointment of officers; providing for duties of the Committee and state agencies, and development of guidelines; providing for reimbursement; providing for public notice, comments, and hearings; requiring certain lists; requiring review; requiring promulgation of uniform rules; providing for contents; requiring certain report for failure to promulgate rules; specifying agencies required to promulgate rules; providing for rescinding of rules; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-539.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Needlestick Injury Prevention Act".

B. For purposes of the Needlestick Injury Prevention Act:

1. “Ambulance” means any ground, air or water vehicle approved by the State Commissioner of Health pursuant to the Oklahoma Emergency Response Systems Development Act and rules promulgated by the State Board of Health pursuant thereto when used to provide appropriate on-scene and enroute stabilization and emergency medical care;

2. "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and that can cause disease in humans including, but not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV);

3. "Committee" means the Needlestick Injury Prevention Committee;

4. “Department” means the State Department of Health;

5. "Engineered sharps injury protection" means:

a. a physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, which effectively reduces the risk of an exposure incident through the use of mechanisms such as barrier creation, blunting, encapsulation, withdrawal, retraction, or other effective mechanisms, or

b. a physical attribute built into any other type of needle device, or into a nonneedle sharp, which effectively reduces the risk of an exposure incident;

6. “First responder” means an individual who performs emergency medical services on scene in accordance with the Oklahoma Emergency Response Systems Development Act and rules of the State Board of Health promulgated thereto;

7. “High exposure area” means an operating room, an ambulatory surgical center, an emergency room, an intensive care unit, an ambulance or an area or scene at which a first responder performs or provides emergency medical services;

8. "Needleless systems" means devices that do not utilize needles for:

a. the withdrawal of body fluids after initial venous or arterial access is established,

b. the administration of medication or fluids, and

c. any other procedure involving the potential for an exposure incident;

9. "Needlestick injury" means the parenteral introduction into the body of a health care worker of blood or other potentially infectious material by a hollow-bore needle or sharp instrument, including, but not limited to, needles, lancets, scalpels, or contaminated broken glass, during the performance of duties of such worker; and

10. "Sharps" means any objects used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills, and burs.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-539.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. By August 1, 2000, each of the following agencies and associations shall appoint a member to the Needlestick Injury Prevention Committee:

1. The State Department of Health;

2. The State Department of Labor;

3. The Oklahoma Board of Nursing;

4. The Oklahoma State Medical Association;

5. The Oklahoma Osteopathic Association;

6. The Oklahoma Hospital Association;

7. The Oklahoma Nurses Association;

8. The Pharmaceutical Research and Manufacturers of America;

9. The Professional Firefighters of Oklahoma Association;

10. The Oklahoma Emergency Medical Technicians Association; and

11. The Oklahoma Municipal League.

B. Upon appointment of a member, each agency and entity specified by subsection A of this section shall submit the name, address and telephone number of the member so appointed to the State Commissioner of Health.

C. The State Commissioner of Health shall convene the first meeting of the Committee on or before October 1, 2000.

D. 1. The Committee shall elect a chair and vice-chair from among its members. The Committee shall meet as often as necessary to develop guidelines for the use of needleless systems and engineered sharps injury protection and to comply with the provisions of the Needlestick Injury Prevention Act. A majority of the members shall constitute a quorum for the transaction of business.

2. The Committee is authorized to utilize the conference rooms of the State Department of Health and to obtain staff assistance from the Department as needed.

3. The members of the Committee shall be reimbursed expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act. Members appointed by any state agency shall be reimbursed for any authorized expense incurred in the performance of such members' duties for the Committee, as provided in the State Travel Reimbursement Act. For members who are not state employees, the State Department of Health shall be responsible for the processing and payment of any authorized expense incurred in the performance of such members' duties for the Committee, as provided in the State Travel Reimbursement Act.

E. Before developing any guidelines for the development of uniform rules, the Committee shall give public notice, offer opportunity for public comment and conduct statewide public meetings.

F. The Committee shall have the power and duty to:

1. Evaluate needleless systems and sharps with engineered sharps injury protection in high exposure areas;

2. Compile a list of existing needleless systems and sharps with engineered sharps injury protection to assist employers;

3. Develop guidelines for uniform administrative rules related to the use of needleless systems and engineered sharps injury protection in high exposure areas;

4. Develop compliance thresholds for needleless systems in high exposure areas;

5. Assess the rate of use of needleless systems in high exposure areas;

6. Utilize the latest version of a directive published by the Occupational Safety and Health Administration, United States Department of Labor entitled "Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens" for the reporting mechanism for needlestick injuries in high exposure areas;

7. Prior to March 1, 2004, and annually thereafter determine whether there is sufficient utilization of sharps prevention technology in the state in high risk areas. If the Committee determines that there is a sufficient use of sharps prevention technology in the state, prior to the promulgation of rules pursuant to Section 3 of this act, the Committee shall recommend to the rule-making agencies that the proposed rules not be promulgated. If such determination is made after the rules have been promulgated pursuant to Section 3 of this act, the Committee shall recommend to the rule-making agencies that such promulgated rules be rescinded; and

8. Evaluate and consider such other data and information necessary to perform its duties and responsibilities pursuant to the provisions of the Needlestick Injury Prevention Act.

G. In exercising such powers and duties the Committee shall:

1. Consider training and education requirements and increased use of personal protective equipment in high exposure areas;

2. Consider the cost, cost benefit analysis and the availability of a needleless system; and

3. Consider information contained in the Center for Disease Prevention and Control's publication on universal precautions.

H. 1. On or before May 1, 2003, the Committee shall establish guidelines for the development of uniform administrative rules by the agencies specified in Section 3 of this act related to the use of needleless systems and engineered sharps injury protection. Guidelines established by the Needlestick Injury Prevention Committee and rules promulgated by the state agencies specified in Section 3 of this act shall in no way prohibit or otherwise limit the use of:

a. a prefilled syringe that is approved by the federal Food and Drug Administration; provided, however, this exemption shall expire on June 1, 2004, and

b. prefilled syringes purchased or in stock prior to June 1, 2004.

2. Before developing such guidelines the Committee shall provide an opportunity for public comment through a series of statewide public hearings. The Committee shall give advance public notice of such hearings.

3. On or before August 1, 2003, the agencies listed in Section 3 of this act shall submit copies of proposed rules to the Committee for review.

4. On or before September 1, 2003, the Committee shall review the proposed rules prepared by such agencies for uniformity and compliance with the guidelines established by the Committee. The Committee shall forward copies of the proposed rules to the Hospital Advisory Council for review.

5. Beginning November 1, 2003, the Hospital Advisory Council shall forward to the Committee for review copies of any proposed amendments to the rules promulgated pursuant to the Needlestick Injury Prevention Act. The Committee shall consider such comments and recommendations in making its recommendations to such agencies for modifications to the proposed rules, as necessary to ensure uniformity and compliance with the established guidelines.

6. On or before July 1, 2003, the Committee shall develop and maintain a list of existing needleless systems and engineered sharps injury protections. This list shall be available to assist employers in complying with the requirement of the standards, adopted in accordance with the Needlestick Injury Prevention Act.

7. Beginning March 1, 2004, the Committee shall meet not less than annually and more often as necessary, as determined by the chair of the Committee, for the purpose of reviewing proposed or necessary amendments to the rules promulgated pursuant to the Needlestick Injury Prevention Act, in order to ensure the continuing consistency and uniformity of the rules to provide for necessary revisions of the list.

I. Each state agency listed in Section 3 of this act shall provide information and staff assistance as necessary to prepare the rules, procedures, forms and lists required by the Needlestick Injury Prevention Act.

J. The Committee shall terminate on July 1, 2006.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-539.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. By March 1, 2004, each of the state agencies specified in subsection C of this section shall have promulgated uniform emergency rules and shall have submitted proposed permanent uniform rules to the Governor and Legislature pursuant to the Administrative Procedures Act for the use of needleless systems and engineered sharps injury protection in this state. Specifically the uniform rules shall require:

1. That each public or private health care facility or location have a written exposure control plan for risk exposure to bloodborne pathogens;

2. That sharps prevention technology be included as engineering or work practice controls in high exposure areas, except in cases where the employer or other appropriate party can demonstrate circumstances in which the technology does not promote employee or patient safety or interferes with a medical procedure. Those circumstances shall be specified in the control plan, and shall include, but not be limited to, circumstances where the technology is medically contraindicated or not more effective than alternative measures used by the employer to prevent exposure incidents in high exposure areas;

3. That the written exposure control plans include an effective procedure for identifying and selecting existing sharps prevention technology in high exposure areas;

4. That a written exposure control plan be updated when necessary to reflect progress in implementing the sharps prevention technology specified by the Committee and promulgated by rule of the regulating agency;

5. That information concerning exposure incidents be recorded in a sharps injury log, including, but not limited to, the type and brand of device involved in the incident; and

6. Such other requirements deemed necessary by the Needlestick Injury Prevention Committee.

B. The failure of any agency to promulgate rules consistent with the provisions of the Needlestick Injury Prevention Act shall be reported by the Committee in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. Each of the following agencies shall promulgate uniform rules and procedures for the use of needleless systems and engineered sharps injury protection in compliance with the provisions of the Needlestick Injury Prevention Act:

1. The State Department of Health; and

2. The State Department of Labor.

D. Upon notification by the Committee that the use of sharps prevention technology is adequate, the rule-making agency shall rescind rules promulgated pursuant to the provisions of the Needlestick Injury Prevention Act.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 19th day of May, 2000.

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Speaker of the House of Representatives

Passed the Senate the 22nd day of May, 2000.

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President of the Senate