

STORAGE NAME: h0047s1a.go

DATE: April 13, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: CS/HB 47

RELATING TO: Safety Standards for Public Health Care Employees

SPONSOR(S): Committee on Health Care Licensing & Regulation, Representative Kosmas and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION YEAS 11 NAYS 2
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 1
- (3) JUDICIARY
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (5)

I. SUMMARY:

This bill requires the Department of Labor and Employment Security to adopt a blood-borne-pathogen standard governing public employees. The standard must be at least as stringent as the standard adopted by the federal Occupational Safety and Health Administration and must include, but need not be limited to a requirement that needleless systems, sharps with engineered sharps injury protection, and approved needlestick prevention technologies be used in all facilities that employ public employees, except in cases where an evaluation committee, established by the public employer and consisting of a majority of health care workers, determines by means of an objective evaluation that the use of such devices will jeopardize the safety of patients or employees with respect to a specific medical procedure. The bill also states that the standards adopted, until May 1, 2003, may not prohibit the use of a prefilled syringe approved by the United States Food and Drug Administration.

This bill also requires that incidents of exposure be recorded in a sharps injury log. The Department of Labor and Employment Security must compile a list of needleless systems, sharps with engineered sharps injury protection, and approved needlestick prevention technologies to be made available to the public to assist employers with complying with the standards adopted. It further requires the department to consider additional requirements as part of the blood-borne pathogen standard such as training and educational requirements, measures to increase vaccinations, strategic placement of sharps containers as close to the work area as practical, and increased use of personal protective equipment.

The Department of Health reports that the first year fiscal impact of this bill is approximately \$1.5 million. The Department of Corrections estimates a fiscal impact of more than \$1 million annually. The Department of Children and Family Services estimates a fiscal impact of \$87,610 annually. The Department of Labor and Employment Security anticipates to be impacted although the exact amount is unknown. Local governments that provide health care services may be affected by this bill. The cost to local governments is unknown.

This bill provides an effective date of July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill requires rulemaking to govern what types of needles and sharps may be used. Health care providers will be prohibited from making these decisions individually.

B. PRESENT SITUATION:

Needles are used by health care workers to penetrate the skin and inject medication or fluids into the body as well as to withdraw bodily fluids. Unfortunately, during the process of injecting or withdrawing fluids from a patient or carrying the needle, the health care worker may accidentally penetrate his or her own skin and be "stuck" by the needle. While there are no statewide figures available, it is estimated that 187 per 1000 health care workers nationwide are injured annually by needlesticks.

These accidental needlestick injuries have led to the development and marketing of needleless and protected needle systems. In the past five years alone, there have been over 15 papers published according to the Department of Health on the subject of blood-borne pathogens and needlestick injuries. Seven of the fifteen papers included recommendations on the use of needleless and protected needle systems. Three of these seven recommended that needleless or protected needle systems be used. The remaining four papers opposed the use of needleless or protected needle systems. Four of the fifteen papers were a result of clinical trial studies. Of the four, two were randomized controlled studies. One of those studies concluded that the rate of transmission of blood-borne pathogens was similar regardless of whether a needleless or protected needle system was used. The other clinical trial concluded that no reduction of injuries can be attributed to the needleless and protected needle devices. Therefore, the effectiveness of needleless and needle protected devices is still subject to debate.

Data from hospitals participating in the Centers for Disease Control and Prevention, National Surveillance System for Hospital Health Care Workers (NaSH) and from hospitals included in the University of Virginia's Exposure Prevention Information Network (EPINet) research database show that approximately 38% of sharps injuries occur during needle use and 42% occur after use and before disposal. The circumstances leading to a needle stick injury depend partly on the type and design of the device used. For example, needle devices that must be taken apart or manipulated after use (e.g., prefilled cartridge syringes and phlebotomy needle/vacuum tube assemblies) have been associated with increased injury rates. Needles attached to a length of flexible tubing (e.g., winged-steel needles and needles attached to intravenous (IV) tubing) are sometimes difficult to place in sharps

containers and thus present another injury hazard. Injuries involving needles attached to IV tubing may occur when a health care worker inserts or withdraws a needle from an IV port or tries to temporarily remove the needle stick hazard by inserting the needle into a drip chamber, IV port or bag, or even bedding.

In addition to risks related to device characteristics, needle stick injuries are also related to certain work practices such as recapping, transferring a body fluid between containers, and failing to properly dispose of used needles in puncture-resistant sharps containers. Past studies of needle stick injuries have shown that 10% to 25% of such injuries occurred when recapping a used needle. Recapping by hand has been discouraged for some time and is prohibited under the Occupational Safety and Health Administration (OSHA) blood-borne-pathogens standard. Five percent of needle stick injuries in NaSH hospitals are still related to this practice. Injury may also occur when a health care worker attempts to transfer blood or other body fluids from a syringe to a specimen container (such as a vacuum tube) and misses the target. Also, if used needles or other sharps are left in the work area or are discarded in a sharps container that is not puncture resistant, a needle stick injury may occur.

Data from NaSH and the EPINet research database show that only a few needle types and other sharp devices are associated with the majority of injuries. Of nearly 5,000 injuries reported by hospitals participating in NaSH between June 1995 and July 1999, 62% were associated with hollow-bore needles, primarily hypodermic needles attached to disposable syringes (29%) and winged-steel (butterfly-type) needles.

In addition to the question of effectiveness, cost has been a significant factor in regards to the use of needleless or needle protected devices. The Department of Health reports that the cost of these systems is \$48 per 100 syringes compared to \$10 per 100 of the standard hollow-bore syringe. Adoption of a needleless system for the 2.5 million injections provided annually by the Department of Health would increase the cost from \$250,000 to \$1.2 million per year.

According to the proponents of this bill, the costs of treating each health care worker following a needlestick injury have been estimated between \$2,200 and \$3,800 for initial testing and treatment. The cost for annual drug therapy for a health care worker who contracts a blood-borne pathogen disease is estimated at \$20,000 to \$30,000. A lifetime of treating a health care worker who contracts Hepatitis C is estimated to cost up to \$500,000 and a lifetime of treating a health care worker who contracts HIV is estimated to cost up to \$1 million including lost wage payments and disability payments.

The California Occupational Safety and Health Standards Board estimated that California will have a net savings of \$106 million each year as a result of implementing the use of safe needles in all health care facilities. Although employers will spend \$185 million for the new, safer technology and for expenses associated with record keeping, there is an anticipated savings of \$291 million in the costs for diagnosing and treating needlestick injuries.

Pursuant to s. 442.20(2), F.S., the Florida Department of Labor and Employment Security, Division of Safety currently has the statutory authority to regulate workplace safety for public employees in Florida. The state has adopted in rule 381-20.003(1), F.A.C., the federal blood-borne pathogen standard, Subpart Z of the Occupational Safety and Health Standards, 29 C.F.R. Part 1920, which requires all job classes and specific jobs to be identified if they will be exposed to blood while completing assigned duties. For such positions, the employer must adopt an exposure control plan and offer the hepatitis B

STORAGE NAME: h0047s1a.go

DATE: April 13, 2000

PAGE 4

vaccine. State agencies also are required to use appropriate procedures for the disposal of needles and sharps.

The federal standard for addressing needle stick injuries is the blood-borne-pathogens standard promulgated by OSHA at 29 C.F.R. 1910.1030, which has been in effect since 1992 and was revised in 1993. The standard applies to all occupational exposures to blood or other potentially infectious materials. Notable elements of this standard require the following:

- A written exposure control plan designed to eliminate or minimize worker exposure to blood borne pathogens;
- Compliance with universal precautions (an infection control principle that treats all human blood and other potentially infectious materials as infectious);
- Engineering controls and work practices to eliminate or minimize worker exposure;
- Personal protective equipment (if engineering controls and work practices do not eliminate occupational exposures);
- Prohibition of bending, recapping, or removing contaminated needles and other sharps unless such an act is required by a specific procedure or has no feasible alternative;
- Prohibition of shearing or breaking contaminated needles (OSHA defines "contaminated" as the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface);
- Free hepatitis B vaccinations offered to workers with occupational exposure to blood borne pathogens;
- Worker training in appropriate engineering controls and work practices; and
- Post-exposure evaluation and follow up, including post-exposure prophylaxis when appropriate.

In November 1999, OSHA revised and strengthened its internal compliance directive (guidance to be used by field inspectors) to reflect newer and safer technologies now available and to increase the employer's responsibility to evaluate and use effective safer technologies.

State agencies are required to document blood exposure incidents, although needlesticks and sharps injuries are not coded specifically and kept in a central log. If an employee sustains a needlestick injury in connection with work duties, the Department of Labor and Employment Security requires a First Report of Injury Form to be completed and reported to the Department of Labor and Employment Security Worker's Compensation managed care provider. A copy of the form is also sent to the Department of Insurance, Division of Risk Management, Worker's Compensation Claims.

Four states, Texas, Tennessee, New Jersey, and California, have enacted needlestick prevention laws. Two other states, Maryland and Ohio, are considering legislation.

C. EFFECT OF PROPOSED CHANGES:

This bill requires the Department of Labor and Employment Security to adopt a blood-borne-pathogen standard governing public employees. The standard must be at least as stringent as the standard adopted by the federal Occupational Safety and Health Administration and must include, but need not be limited to, a requirement that needleless systems, sharps with engineered sharps injury protection, and approved needlestick prevention technologies be used in all facilities that employ public employees, except in cases where an evaluation committee, established by the public employer and consisting of a majority of health care workers, determines by means of an objective evaluation that the use of such devices will jeopardize the safety of patients or employees with respect to a specific medical procedure. The bill also states that the standards adopted, until May 1, 2003, may not prohibit the use of a prefilled syringe approved by the United States Food and Drug Administration.

This bill also requires that incidents of exposure be recorded in a sharps injury log and that the Department of Labor and Employment Security must compile a list of needleless systems and sharps with engineered sharps injury protection, and approved needlestick prevention technologies which shall be made available to the public to assist employers with complying with the standards adopted. It further requires the department to consider additional requirements as part of the blood-borne pathogen standard such as training and educational requirements, measures to increase vaccinations, strategic placement of sharps containers as close to the work area as practical, and increased use of personal protective equipment.

This bill provides an effective date of July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides definitions of "blood-borne pathogens," "engineered sharps injury protection," "needleless system," "public employer," "public employee," "sharp," and "approved needlestick prevention technology." Requires Department of Labor and Employment Security to adopt a blood-borne pathogen standard governing public employees to specifically include needleless systems and sharps with engineered sharps injury protection, and approved needlestick prevention technologies as well as a sharps injury log. Requires Department of Labor and Employment Security to consider additional requirements as part of standard. Mandates that the department compile and maintain list of existing needleless systems and sharps with engineered sharps injury protection, and approved needlestick prevention technologies.

Section 2. Provides legislative determination and declaration that the provisions of this act fulfill an important state interest due to the benefits of the prevention of communicable diseases.

Section 3. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Health estimates a fiscal impact of \$1.5 million annually. The Department of Corrections estimates a fiscal impact of more than \$1 million annually. The Department of Children and Family Services estimates a fiscal impact of \$87,610 annually. The Department of Labor and Employment Security anticipates to be impacted although the exact amount is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments that provide health care services may be affected by this bill. The exact cost to local governments is unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill may require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

No specific rulemaking authority is provided although this bill mandates that the Department of Labor and Employment Security adopt standards with statewide implications.

C. OTHER COMMENTS:

Similar bills have been filed in Congress, HR1899 and S1140, to require the Secretary of Labor to issue regulations to eliminate or minimize the significant risk of needlestick injuries to health care workers. The bills amend the Occupational Safety and Health Administration's blood-borne pathogens standard to require that all health care facilities use needle systems and sharps with engineered protection such as retractable needles. A new clearinghouse with the National Institute of Occupational Safety and Health would be established to collect data on engineered safety technology, would have access to sharps injury logs required to be maintained by employers, and would be appropriated \$15 million to carry out those functions. The U.S. Department of Health and Human Services would promulgate new regulations regarding participation in Medicare so that hospitals not covered by the existing regulations would have to comply with the new requirements.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 2000, the Committee on Health Care Licensing and Regulation heard this bill and adopted a strike-everything amendment with one amendment to the amendment as discussed herein. The original bill required the Department of Health to adopt the blood-borne pathogen standard and limited the public employers to only using built-in protection devices regardless of whether that device would be more dangerous in a particular setting. The Committee reported the amended bill favorably as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Wendy Smith Hansen

Lucretia Shaw Collins

STORAGE NAME: h0047s1a.go

DATE: April 13, 2000

PAGE 8

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jennifer D. Krell

Russell J. Cyphers, Jr.