WEST VIRGINIA CODE CHAPTER 16 ARTICLE 36

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§16-36-1. Definitions.

As used in this article:

"Commissioner" means the Commissioner of the Bureau of Public Health;

"Engineering controls" means sharps prevention technology including, but not limited to, systems not using needles and needles with engineered sharps injury protection;

"Facility" means every hospital licensed under the provisions of §16-5b-1 *et seq*. of this code; every nursing home licensed under the provisions of §16-5c-1 *et seq*. of this code; every local health department, every home health agency certified by the office of health facility licensure and certification, all hospitals and nursing homes operated by the state or any agency of the state, and all hospitals, nursing homes, local health departments, and home health agencies which are staffed, in whole or in part, by public employees;

"Health care worker" means any person working in a facility;

"Needleless system" means a device that does not utilize needles for the withdrawal of body fluids after initial venous or arterial access is established, the administration of medication or fluids, or any other procedure involving the potential for an exposure incident;

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

"Sharps" means hollow-bore needles or sharp instruments, including, but not limited to, needles, lancets, and scalpels.

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§16-36-2. Needlestick injury prevention rules.

The commissioner is authorized to promulgate legislative rules, pursuant to §29A-1-1 *et seq*. of this code. The rules should include, but not be limited to, the following provisions:

(1) A requirement that facilities utilize needleless systems or other engineering controls designed to prevent needlestick or sharps injuries, except in cases where the facility 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 by the facility 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 facility to prevent exposure incidents: *Provided*, That no specific device may be mandated;

(2) A requirement that information concerning exposure incidents be recorded in a sharps injury log, to be kept within the facility and reported annually to the commissioner. Information recorded in the log shall contain, at a minimum:

(A) The date and time of the exposure incident;

(B) The type and brand of sharp involved in the incident; and

(C) A description of the exposure incident which shall at a minimum include:

(i) The job classification of the exposed worker;

(ii) The department or work area where the exposure incident occurred;

(iii) The procedure that the exposed worker was performing at the time of the incident;

(iv) How the incident occurred;

(v) The body part involved in the exposure incident;

(vi) If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism, if applicable; and

(vii) Any suggestions by the injured employee as to whether or how protective mechanisms or work practice control could be utilized to prevent such injuries;

(3) A provision for maintaining a list of existing needleless systems and needles and sharps with engineered injury protections. The commissioner shall make the list available to assist employers in complying with the requirements of the standards adopted in accordance with this article; and

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(4) Any additional provisions consistent with the purposes of this article, including, but not limited to, training and educational requirements, measures to increase vaccinations, strategic placement of sharps containers as close to the work area as is practical, and increased use of protective equipment.

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§16-36-3. Needlestick injury prevention advisory committee.

[Repealed.]

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§16-36-4. Exception.

Until July 1, 2005, drugs and biologics regulated by the food and drug administration whose packaging, on the effective date of this article, includes needles and syringes, are considered to meet any standards promulgated under this article.

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